



BEUC's 8 Priorities for the  
**Swedish  
Presidency**



# **BEUC's 8 PRIORITIES**

## **for the Swedish Presidency**

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## BEUC calls on the Swedish Presidency to deliver a sustainable consumer policy

Sweden takes on the Presidency of the European Union at a very difficult and critical moment. There will be major changes in the EU political landscape with a new EU Parliament, a new European Commission, and perhaps the adoption of the Lisbon Treaty. All these changes will happen in an unstable economic climate with major job losses and a significant downturn in the EU and World economies.

While measures have been taken to save undertakings and jobs, consumers are still waiting for measures to restore their confidence in the functioning of markets. One of the main objectives should now be to restore consumer confidence by guaranteeing an appropriate level of protection.

We call on the Swedish Presidency to support the proposals for the establishment of an EU-level supervisor to cover all **financial services** and all financial institutions (banking and non-banking). Such a supervisor should ensure the appropriate national authorities fulfill the following functions: participate in control of advertising, check provision of financial information, regulate unfair practices (bundled and tied products), check the distribution of financial products (for example in the area of consumer credit), and manage an early warning system (inform consumers about the risks/risk category of various financial products on the basis of continuous enquiries).

The Swedish Presidency intends to make decisive progress in the negotiations on the proposed **consumer rights directive**. This piece of legislation should become a new milestone in EC consumer policy. It will directly impact on the everyday life of European consumers, as it covers all consumer shopping transactions, in the grocery store on the next corner or on-line with a business from another EU country. BEUC is very worried about the low level of protection as well as the across-the-board full harmonization approach in the proposed directive, which would jeopardize long established rights in some Member States and risks to freeze the evolution of consumer protection legislation. All efforts have to be made by the EU co-legislators to improve this paramount piece of consumer legislation. We call on the Swedish Presidency to do their best to work in this direction.

BEUC welcomes the recently published Consumer Scoreboard. It highlights the considerable problems consumers face in their everyday lives and validates a number of long standing BEUC demands. The most striking findings concern telecommunications, financial services, energy markets and the need for group actions at national and EU level to close the consumer protection net.

We call on the Swedish Presidency to make progress on the following dossiers, to ensure that:

- a high level of protection is guaranteed to all EU consumers in the area of **financial services**, especially during economic downturns, and that consumer interests are taken into account when designing measures to regulate financial markets;
- **energy is accessible and affordable** for all European households; informed choice between alternative sources of supply and of energy is easy;

- **consumer goods become more sustainable** and consumers are helped to make informed and more sustainable choices;
- the current rules for **consumer contracts** are updated and strengthened in offline as well as online markets;
- more possibilities are available to obtain **redress** in case things go wrong;
- consumers have sufficient information to follow a **healthy diet**;
- aggressive marketing of unhealthy food to children is addressed;
- disguised **marketing of pharmaceuticals** is tackled;
- more is done with regard to the safety of consumer products, especially with regard to **dangerous chemicals** or in respect to the unknown effects of nanotechnologies on health and the environment.
- access to **telecommunication services for all** and **protection of the consumer rights in the digital world**

With this in mind we have identified **eight main areas of concern** which we describe in this document, together with **numerous concrete proposals**. In the second semester of 2009, the Swedish government will be responsible for conducting discussions and negotiations on these dossiers. BEUC<sup>1</sup> and its Swedish member, Sveriges Konsumenter, call on the Prime Minister and on the members of his government to make these a matter of priority, and to concretely measure how its programme will benefit consumers.

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<sup>1</sup> BEUC, the European Consumers Organisation, is a federation representing forty-two independent national consumers' organisations in 31 European countries, including most of the new Member States. Our Swedish member is Sveriges Konsumenter .

## Objective Financial Services

### **A dynamic Internal Market for retail financial services**

The current financial crisis has clearly demonstrated that consumer rights have been systematically violated or simply not been taken into account. Financial service providers have been focusing on enormous profits rather than providing services tailored to individual consumer needs. Consumers have lost confidence in deposit, credit and investment service providers, which weakens the basis of the Single Market and prevents cross-border shopping for financial services. The new rules on deposit guarantee schemes take no account of the Internal Market dimension of the issue. This could discourage consumers from cross-border shopping for financial services. The financial sector does not operate in a competitive EU market, far from it.

The current financial crisis has generated an atmosphere of general mistrust. One of the main objectives should now be to restore consumer confidence by guaranteeing an appropriate level of protection. That means that consumer interests should be taken into account within all initiatives that are being discussed to solve the crisis and to avoid a new one.

### **I Enhance financial supervision and regulation**

National supervising authorities have not been capable of correctly detecting risks and imposing the necessary safety measures. Host state supervisors<sup>2</sup> have little to no influence over the regulation of passporting firms<sup>3</sup>. If national supervisors are not doing their job properly consumers are at risk. Cooperation between national supervisors with regard to the largest banking groups is supposedly already taking place, but smaller banks such as Landsbanki and Kaupthing bank seem to have slipped through the net. A number of outrageous financial swindles have been in the news recently (for example the Madoff scandal) which have obviously not been detected on time.

#### **Action to be taken:**

- More powerful and independent national supervisors are needed everywhere in the EU.
- In order to provide better protection to consumers, national supervisory bodies should fulfill the following functions: participate in advertising control, control of financial information, control of unfair practices (bundled and tied products), control the distribution of financial products (for example in the area of consumer credit), and take charge of an early warning system (inform consumers about the risks/risk category of various financial products on the basis of continuous enquiries).
- Since the development of financial services has led to the emergence of universal actors providing a wide range of financial services (for instance, together with their traditional role, banks offer more and more insurance

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<sup>2</sup> Country in which a foreign service provider is doing business.

<sup>3</sup> Firms having an EU passport are allowed to work freely throughout Europe regardless of their place of establishment.

services, investment products, etc.) it is not necessary to have a large number of supervisory authorities. A unique supervisor is needed to cover all financial services and all financial institutions (banking and non-banking). Therefore, there is a need to merge existing national supervisory authorities (bank/non bank credit, insurances, securities/pensions funds).

- Strengthen the cooperation between national supervisors and regulators: create a binding network between them (see for instance the Regulation on consumer protection cooperation).
- As financial systems and markets are becoming more and more integrated, it is necessary to create a financial supervision authority in charge of control of financial institutions operating at cross-border level, whatever their size is (for example Icelandic banks).
- Adopt binding rules at EU level so that all Member States are obliged to comply with them. Soft law has shown its limits especially in case of financial services. The regulatory gaps must be closed.

## **II Precontractual information on financial products and services**

The crisis has made it even more visible that the information offered to consumers is not adequate. Consumers have access to information which is often very long and not consumer-friendly (consumer-oriented); it does not help them to compare products and to make the right choice.

### **Action to be taken:**

- Provide information to consumers well in time before the contractual decision.
- Make information shorter (no more than 2 pages) but understandable, structured, and with comparable relevant information on all the key features.
- Create a single risk indicator for investment products. Such an indicator should include the following information:
  - Whether or not the invested capital is guaranteed.
  - Investment volatility.
  - Information on suggested retention period for the expected return to compensate for the volatility risk.
- Introduce stricter rules on marketing and advertising practices especially for investment products.
- Develop the concept of simplifying and standardising financial services, with features that can be easily recognised and compared.

## **III. Financial advice**

Financial products are more and more complex. The current crisis has unveiled the problems consumers have to face: even enlightened consumers have not been able to understand the financial products offered to them (see Madoff's clients). Moreover, everywhere in the EU there is a lack of independent advice that consumers can rely on. Advice is in general only given by financial service providers and is often not targeted to consumers' needs and expectations but is rather linked to the bank's commercial interests. This creates a situation which is to the detriment of consumers.

### Action to be taken:

- Independent advice is necessary to prevent consumers from taking unwise decisions, especially in case of major financial decisions.
  - Funding for independent advisors: should be provided partly by public authorities and partly by consumers; in any case, independent advice should be provided at affordable rates.
  - Advice could be provided by consumer organisations or other independent bodies.
- Responsibility of advisors (service providers and independent advisors):
  - Set up a MiFID profile (Markets in Financial Instruments Directive) for each investor. If the product does not match the profile, consumers should receive a warning.
  - Ensure information given to consumers is reliable.
  - Effective documentation of the advice should be given to the investor.
  - Make it easier for consumers to claim compensation (the burden of proof should lie with the advisor).

## 1) Credit - Responsible Lending

Irresponsible lending is one of the main causes of the current financial crisis. As a consequence, more attention should be paid to this issue. Lenders should be obliged to assess the financial capacity of consumers asking for a credit and check their creditworthiness.

### Actions to be taken:

- Regulate variable interest rates to protect consumer from a potentially increasing interest burden:
  - Cap variable interest rates to limit interest rate variations.
  - Improve information on variable rates.
  - Prohibit promotional rates, i. e. attractive (or fixed) interest rates that switch to higher (or variable) interest rates after a certain period of time.
- Foster consumer protection and responsible behaviour of credit institutions with legislation on mortgage credit: if the bank's decision is based on a poor quality assessment of the consumer's financial situation the costs of irresponsible lending should be taken on only by lenders and not by consumers (see Belgian law on responsible lending).
- Regulate crediting activities that seriously endanger the solvency of consumers (foreign currency credit, credit secured with mutual funds, Lombard credit, revolving credit...) as well as usury rates and excessive costs.
- Accompany and evaluate the implementation of the Consumer Credit Directive with a specific focus on the level of consumer protection (including the regulation of credit distributors), a responsible credit business and necessary adjustments in the future and monitor specifically the transposition and implementation of Article 8 (lender's obligation to assess the creditworthiness of the consumer).

## 2) Deposit Guarantee schemes

At the moment, deposit guarantee schemes work extremely inadequately at cross-border level, especially in the case of banks which have the European passport<sup>4</sup> in their home

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<sup>4</sup> Banks having an EU passport are allowed to work freely throughout Europe regardless of their place of establishment

country, but conduct 99% of their business cross-border. No lessons have been learned from the current crisis: the new rules do not take into account the Internal Market dimension of the issue. This could discourage consumers from cross-border shopping for financial services.

#### **Actions to be taken:**

- Make deposit guarantee schemes work cross-border:
  - Consumers' deposits should be equally guaranteed across Europe, whatever the service provider's location.
  - Payout procedure should be as easy as at national level, especially in terms of delay.
  
- Ensure maximum harmonisation of deposit guarantee schemes with complete coverage of deposits all over the EU, in order to avoid an uneven competition among schemes.

#### **IV Harmonisation of legislation on financial intermediaries**

Many financial intermediaries sell complex financial products without having any qualifications, and are not accountable in case of failure of the product.

#### **Actions to be taken:**

- Introduce rules to limit initial commissions.
- Ensure harmonisation of rules for intermediaries, regardless of what they are selling.
- Introduce rules on registration, qualification, transparency, liability and insurance.

#### **V Impose access to a minimum service for all consumers**

Financial exclusion is a problem for many European consumers, principally in the newer Member States. The result is that they do not have access to any basic financial services (current account, savings accounts, insurance). This often leads to social exclusion. There is also a European cross-border dimension: as a citizen who wishes to settle abroad must often overcome a real banking headache. In order to be able to open a bank account in a Member State, they must reside there; but in order to obtain housing, or rent it, a bank guarantee must be provided.

#### **Action to be taken:**

- Recognising the right of citizens to have access to basic banking services with a European scope.

#### **VI Facilitate payment services**

From lack of information to banks that try to dodge their obligations in the event of card theft, to excessive fees on cross-border transfers, we have all faced a problem with our payment services provider. Payment methods such as certain debit/credit cards or direct debits can still not be used everywhere in Europe in the same manner as at national level (no interlinking).

#### **Actions to be taken:**

- Ensure the correct transposition and implementation of the Directive on Payment Services, which aims to make
  - Domestic and cross-border payments reasonably inexpensive but also secure and practical;
  - Cross-border payments as efficient as domestic payments.

- Ensure that the Single Euro Payment Area (SEPA) provides concrete advantages to consumers.
- Ensure the implementation of the Regulation on cross-border payments in Euros and extend the principle of equality of charges on cross-border and corresponding domestic payments to cover direct debits.

## Objective Energy and Sustainability

### I. Promoting access, choice and affordable prices for all consumers

#### a) Towards a competitive energy market with clear bills and non-misleading “green” claims

The European energy market has been liberalised for almost two years and yet consumers are still not benefiting from real competition. In a survey carried out by BEUC on the functioning of the European gas and electricity markets, published in 2008<sup>5</sup>, BEUC’s members identified amongst others the lack of real choice, difficulties to switch and unclear bills.

Choice is a fundamental consumer right and is the prime feature of a competitive market. The Third Energy Package aims at making Europe’s energy markets more competitive and gives consumers the right to switch faster, obtain their personal data and to be more regularly informed.

Consumers and energy suppliers periodically “communicate” through the bills sent and received. Bills should make it possible for consumers to check what they pay for the services they use and that they receive information about their consumption. Furthermore, they are the starting point to compare other offers. Through the work to be carried out by the Citizens Energy Forum set up by the Commission we expect energy invoices to become a useful tool for consumers.

In addition, climate change and its impact are prompting many consumers to want to change their habits. But consumers can only make decisions in favour of sustainable consumption if reliable information is available, if procedures to switch operators are made easier and if prices are affordable.

#### **Actions to be taken:**

- Ensure a swift implementation of the 3<sup>rd</sup> energy package. The regulators should be as powerful as the companies they are regulating. They should be independent and take impartial decisions.
- Investigate ways to separate the ownership of production from that of energy distribution (described as “full ownership unbundling”) to make entry into the European Energy markets for new suppliers easier.
- Ensure offers on the market are comparable and understandable for consumers. Offers which claim “positive” environmental effects should indeed bring environmental benefits when consumers opt for these products and services.
- Ensure consumers can have access to their actual consumption, notably through Smart Metering.
- Make bills understandable and more informative for consumers. Look into the possibilities to have a standardised billing format at European or national level.

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<sup>5</sup> The full results of the study are available on [www.beuc.eu](http://www.beuc.eu)

- Ensure changing supplier is possible within a maximum of one month.

b) Consolidate and implement consumer rights

Apart from a lack of real choice and difficulties in changing supplier, BEUC's energy survey also identified problems with unclear bills, non-cost-reflective payment methods and difficulties for consumers to assert their rights. These findings are in line with the ERGEG (European Regulators Group for Electricity and Gas) report on the transposition of consumer rights, published in October 2008. The right to clear and more regular billing and cost-reflective payment methods is already written into the Electricity, Gas and Energy Services Directives.

As energy is fundamental for every single consumer in the Internal Market, attention should be paid to the vulnerable groups in our society. The Swedish Presidency has the opportunity to establish the basis on which the new European Parliament and the following Presidencies of the European Union can work. We all need energy and we do not have the option not to use it, but not everyone has access to it. Energy poverty is taking on dramatic proportions.

**Actions to be taken:**

- Allow the European Commission to develop guidelines for the implementation of Annex A of the Electricity and Gas directives<sup>6</sup>.
- Reinforce and implement consumer rights through a comprehensive and binding instrument (including compensation in the event of interruption of supply, the right to representation and user-friendly complaint mechanisms).
- Ensure access to energy also for the most vulnerable consumers, notably by providing social tariffs to vulnerable consumer groups.

**II. Promote sustainable choices through efficient measures and useful tools**

a) Encourage more sustainable design of products and phase out non-sustainable products from the market

More and more consumers are ready and willing to buy more sustainable products, in particular in terms of energy efficiency, in order to reduce their impacts on the environment. To achieve a reduction in energy and other natural resources' consumption in Europe and to move towards sustainability, it is essential to impose strict and ambitious product standards on industry, and to increase the number of sustainable products on the market. Yet the current Directive on Ecodesign, defining the principles, conditions and criteria regarding ecological requirements in product design, is limited to consumer energy-using products and their energy use.

In the summer of 2008, the Commission presented its much awaited Action Plan on Sustainable Consumption and Production and Sustainable Industrial Policy (SCP/SIP).

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<sup>6</sup> Annex A of Directive 2003/54/EC and Directive 2003/55/EC sets a series of consumer rights including receiving transparent information on applicable prices, tariffs and standard terms and conditions, having at their disposal a wide choice of cost-reflective payment methods, benefiting from transparent, simple and inexpensive procedures of dealing with consumer complaints, being informed about the right to withdraw from the contract when contractual conditions are changed, being supplied with gas of a specific quality at reasonable price and with electricity at reasonable, easily and clearly comparable and transparent prices.

## Actions to be taken:

- Ensure that the initiatives announced and the measures in the context of the SCP/SIP Action Plan are properly undertaken. It should involve all economic actors including industry, consumers and governments, and lead to the setting of ambitious regulatory goals in particular in relation to sustainable product standards.
- Extend the scope of application of the Ecodesign Directive to a greater number of products, including in the long term products that do not consume or are not related to energy, such as clothes or furniture. In addition to energy efficiency, it should also take account of all relevant environmental aspects of products, from 'cradle to grave', such as the use of raw materials or dangerous chemicals, as well as the product's lifespan and its potential for recycling.
- Elaborate specific eco-design requirements for the various product categories which would allow to regularly eliminate unsustainable products from the shelves, for example the highest energy-consuming products or products with the worst environmental performance.
- Promote the particularly important role of retailers in "choice editing", i.e. the withdrawal of non-sustainable or less sustainable products from their shelves, in favour of a broader range of sustainable products and services in all price ranges. This should be done within the Retail Forum which was set up by the Commission in March 2009. Ambitious objectives will have to be set up by the participants and independent monitoring of progress, possibly by consumer organisations, will need to be undertaken regularly.

### b) Promote clear and objective information on sustainability-related aspects of products

Even if consumers wish to turn to more sustainable products, the lack of clear, reliable and comparable information and the vast number of 'green' labels and self-claims used by industry without third-party verification often prevent them from acting.

The EU A-G Energy Label has been one of the few labels which has really pushed the market towards more energy-efficient domestic appliances, notably thanks to its simplicity, transparency and user-friendliness for consumers. A survey of 7,000 people across Europe commissioned by BEUC and other partners and published in May 2008<sup>7</sup> shows that between 97 and 99% of respondents identify "A" as the most energy-efficient household appliance. Other research<sup>8</sup> carried out i.a. on behalf of the Swedish government published in December 2008 showed again the clear preference of consumers for the A-G label layout compared with alternative proposals made by the Commission such as a double scale of letters and numbers. This survey showed moreover that consumers expect a rescaling<sup>9</sup> of appliances to take place. This process

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<sup>7</sup> ANEC, BEUC, Consumer Focus (formerly UK National Consumer Council), the UK Energy Saving Trust and the UK Department for Environment, Food and Rural Affairs (DEFRA) asked Ipsos MORI to carry out empirical research concerning consumers' perception of the A-G Energy Label. See: [http://www.mtprog.com/spm/files/download/byname/file/Full\\_MORI\\_summary.pdf](http://www.mtprog.com/spm/files/download/byname/file/Full_MORI_summary.pdf)

<sup>8</sup> Research on the consumer perception of the Energy Label and on a possible change of the layout carried out by Ipsos MORI on behalf of the UK, Dutch and Swedish governments and published on 16 December 2008. The research comprised two focus groups in each of six markets (UK, France, Netherlands, Italy, Poland and Sweden). See: <http://www.mtprog.com/cms/library-publications/>.

<sup>9</sup> Rescaling is a process by which the thresholds for the labelling classes (A-G classes) would be made more demanding over time. Thereby an appliance which is labelled "A" today would only be labelled "B"

of rescaling was not found to be confusing presuming a validity period would be given on the label.

Victim of its own success, with too many products in the top A of the scale, the Energy Labelling scheme Directive is under revision by the EU institutions. However, the characteristics of the layout are not mentioned by the Directive but will be decided upon by Member States in a Regulatory Committee. In parallel, the Ecolabel Regulation is also under revision by the institutions.

#### **Actions to be taken:**

- Give consumers the possibility to act in a more sustainable way when they purchase, use and dispose of products, by providing them with easy tools such as the A-G Energy Label and the Ecolabel.
- Recognise the European Ecolabel as a label of environmental excellence following a full life-cycle approach and promote the launch of an awareness-raising campaign at European level to familiarise consumers with it.
- Make the Energy Labelling scheme more dynamic, so that it can be easily adjusted to new developments on the market (for example by updating the criteria for the various label categories), whilst maintaining the current closed label design with classes from A to G.
- Ensure greater consistency between eco-design and the various EU eco-labelling schemes (in particular, existing ones such as the EU Ecolabel and the Energy Label).
- Promote sustainable products and more sustainable consumption through better targeted information campaigns (i.e. taking into account behavioural research).

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as soon as more demanding energy efficiency requirements entered into force because the technologies are available. This process of rescaling would ensure that the scheme is kept dynamic and that consumers always receive reliable information on the actual energy efficiency of products.

## Objective

### Consumer contracts

#### **Strong rules to properly protect consumers online and offline**

In October 2008 the European Commission adopted a proposal for a Directive on consumer rights, which revises four consumer directives<sup>10</sup>, merging them into one single horizontal instrument. The aim is to simplify and complete the existing rules on contracts between businesses and consumers buying products or services, and to achieve the full benefits of the Internal Market.

The minimum harmonisation approach (according to which Member States are able to maintain or adopt stricter consumer protection rules) is currently being blamed for having brought about different rules in different countries, and discouraging cross-border trade: it would be too complicated for traders to adapt themselves to different national consumer rules. The Commission therefore proposes to abandon the minimum harmonisation approach and replace it by full harmonisation (where Member States would lose the possibility to adopt or maintain rules going beyond the protection provided by the EU instrument). According to the proposal, the introduction of full harmonisation in the field of consumer law is necessary to increase the still limited cross-border trade and promote consumer confidence.

In reality, not only legal barriers prevent consumers from shopping outside their countries: there are also difficulties with language, hesitations due to the fact that in case of defective products, consumers have to complain to a foreign – and distant – supplier, lack of cross-border redress facilities or fears regarding security and data protection on the Internet.

As it stands, the proposals provides for maximum harmonization at a low level of consumer protection. In our view, European consumers should not have to pay the price of losing essential national consumer legislation in exchange for a superficially attractive, medium protection standard “one-size-fits-all” approach, which is mainly in the interest of business.

While the adjustment of certain inconsistencies in the current law is positive, a more profound update of the existing consumer legislation would be welcome, in particular for the digital environment. Given the lack of consumer confidence in online shopping, it is more important than ever to ensure that consumers are properly protected and that their rights are well respected.

#### **Actions to be taken:**

- Ensure that the future directive does not reduce, but improves the rights of consumers, by setting a high level of consumer protection, guided by “best practices” inspired by the situation in various Member States.
- Categorically reject the introduction of the mutual recognition principle, or the country of origin principle, as its application would lead to more uncertainty and to a downward evolution of consumer protection standards in the EU.
- Accept full harmonisation only in the following conditions:

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<sup>10</sup> Directive on contracts negotiated away from business premises (85/577), Directive on unfair terms (93/13), Directive on distance contracts (97/7), and Directive on consumer sales and guarantees (1999/44).

- it is set at a high level of protection which satisfies the expectations of European consumers;
  - it only applies in areas where the existence of different national rules is proven to create barriers to cross-border trade.
- ✿ Adapt the existing consumer legislation to the digital environment.
  - ✿ Introduce clarity as to the links between the proposal and general contract law and carefully consider the potentially negative consequences of a future split of consumer law (which applies when a consumer buys a car from a car dealer) and general contract law (when a consumer buys a car from his neighbor). The impact of the proposed directive on general contract law at a national level needs to be clarified. We are worried about creating a situation in which general contract law could evolve freely and be easily adapted to new market developments, whereas consumer law would be isolated and due to the ceiling imposed by full harmonization, stopped from evolving any further.

#### **Further concrete demands to improve the proposal:**

- ✿ Improve the proposed rules for unfair contract terms: as they stand, they would create important legal uncertainty and put at risk long established efficient national case law. Member States that have more extensive lists of unfair contract clauses would have to repeal these clauses from their black/grey lists. There is therefore a risk that in some Member States, contract terms currently considered as unfair - and therefore banned - would in the future have to be accepted.
- ✿ Improve the provisions in relation to legal guarantees: as they stand, they would reduce consumers' choice of available remedies if a product is faulty, and introduce a duty for consumers to notify a defect within a short period, which to date does not exist in many Member States. Also, in suggesting an EU wide guarantee period of two years, the proposal does not encourage the commercialisation of sustainable products.
- ✿ Make sure the particular needs of disadvantaged consumers are covered, in particular as regards the provision of information.
- ✿ Introduce a withdrawal period of at least 14 days, only starting when all relevant information has been provided to the consumer.
- ✿ Delete some broad and unjustified exemptions from certain rights, such as for example the right of withdrawal for car rental and leisure services bought at a distance.

## Group Action

### How to make consumer rights reality

Whilst existing legislation must be enforced and reinforced to improve the situation of consumers, this is not enough. Consumers must be in a position where they can implement the rights which they have been granted.

Very often, several consumers are victim of faulty or even dangerous goods or services sold by the same trader. Individual actions are useless, as the costs of such a lawsuit are higher than the compensation these consumers might receive.

A European Group Action is essential to enable groups of consumers to secure compensation for a loss resulting from the same trader by combining their claims into one single action. In countries where such a system exists, its efficiency no longer needs to be proven. Now all consumers in Europe must be able to benefit from it.

Contrary to what those who oppose it lead us to believe, a Group Action does not grant any new rights to consumers. It only provides new means to implement existing rights. It also does not impose any additional burden on companies. On the contrary, Group Actions will benefit those companies that respect consumer legislation. Europe needs and is ready for Group Action!

#### **Actions to be taken:**

- Define and put in place, as soon as possible, a European Group Action for violations of consumers' interests in order to:
  - give consumers access to justice in cases where individual redress is not suitable;
  - minimise litigation costs for both consumers and defendants;
  - reduce overloading of courts;
  - reduce inequality between consumers residing in different Member States as some can and others cannot benefit from group actions;
  - overcome difficulties for business due to varying national redress mechanisms leading to market distortions;
  - improve the functioning of the Internal Market, as consumers will have much more confidence shopping abroad.
- Support the implementation of European Group Action for victims of anti-competitive practices, recognising the right to compensation for all victims of such practices.

## Objective Food

### Healthy food for informed consumers

#### I. Help consumers to make the right choices

In some EU countries, over half of the adult population is overweight, and one child in five is obese. Cardio-vascular disease is the cause of almost half of the total deaths in Europe, and almost one third of these cases are due to diet. Type II diabetes, which is also closely linked to diet and obesity, is also on the increase. Although the solution to the problem of obesity involves many factors, the fact remains that diet plays a key role.

Even if more consumers are becoming aware of the link between what they put on their plates and their health, they are often bewildered when they look at the labels on food products. Either the nutritional information is incomplete, or they are faced with a variety of simplified labels on the front of the packaging which makes it difficult to make comparisons between products.

How can the right choices be made in these circumstances?

#### Actions to be taken:

- Make healthy products more available and more readily accessible to all consumers, paying particular attention to disadvantaged groups.
- Make it compulsory to include complete, back-of-pack nutritional information on the 'Big 8' nutrients (protein, energy, fat, saturated fats, carbohydrates, sugar, salt and fibre) as well as trans fats.
- Impose mandatory simplified front-of-pack labelling which is easy to understand and compare, showing the levels of key nutrients from a public health perspective (fats, saturated fats, sugars and salt). The use of a multiple colour coding system (green, orange and red) would show at a glance whether the amounts of these nutrients are low, moderate or high, and could be complemented by Guideline Daily Amounts (GDAs).
- Improve the legibility of the labels, in particular with regard to the size of the print and the contrast between the lettering and the packaging background.
- Introduce mandatory country of origin labelling, not only on foodstuffs consisting of a 'single' ingredient but also for 'significant' ingredients and 'characterising' ingredients in foodstuffs made from several ingredients.
- Ensure that the nutritional profiles are developed in an independent and transparent manner by EFSA. These profiles will make it possible to determine which foods can be promoted as healthy, what colour should be assigned to a particular level of nutrient on a label, or which foods can be advertised to children.

#### II. Protect children as a matter of priority

European Commission figures show that 14 million children in Europe are either overweight or obese. Studies by our member organisations show that most advertisements for foods and drinks targeting children are promoting products which are high in fat, sugar or salt.

Alongside 'conventional' advertisements in magazines or on TV, we are now seeing adverts on the internet, via sponsorship of sports gear in schools, in product placement at the cinema or in SMS competitions... This puts unacceptable pressure on children – and their parents – to make them eat unhealthy food, and goes against all the declarations made by Europe's decision-makers in support of the fight against obesity.

#### **Actions to be taken:**

- Ban TV advertising of food and drinks which are high in fat, sugar or salt from 6 am to 9 pm (based on the nutritional profiles to be defined by EFSA).
- Extend the restrictions on the advertising of food products to children to cover all forms of marketing techniques (e.g sms, viral marketing).
- Promote the adoption by the industry of the "Code on the marketing of food products and non-alcoholic drinks to children"<sup>11</sup> proposed by Consumers International, pending the setting up of a binding measure at European level.

### **III. Keep the level of food safety as high as possible**

Thanks to the work of EFSA and the application of, among others, the HACCP<sup>12</sup> principles, the European Union has a reliable, scientific basis recognised at international level to guarantee its consumers the safety of the food they buy.

Under pressure from the United States, the Commission is proposing to authorise the use of certain chemical substances for the antimicrobial treatment of poultry. This proposal, if it is adopted, would lead to an unacceptable relaxation of the hygiene measures applied during production, transport and slaughter, particularly in the case of imported products.

New technologies in food rearing and production processes may have an impact on food safety. Although consumers can benefit from these innovations, competitiveness and innovation must not be allowed to take priority over public health and safety.

#### **Actions to be taken:**

- Oblige all food companies, including small businesses, to apply the HACCP principles.
- Defend the principle of respect for the rules of hygiene 'from farm to fork' and categorically reject their replacement by 'chemical' treatment at the end of the production chain.
- Include on the list of 'novel' foods all those originating from a production technology not previously used, such as foods derived from plants, produced by non-traditional growing methods or modified by new production processes, such as nanotechnology and nanoscience.
- Ensure that all novel foods undergo a complete evaluation of their safety before being authorised on the European market.
- Ban animal cloning for food purposes.

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<sup>11</sup> Recommendations in favour of a Code relating to the marketing of food products and non-alcoholic drinks to children, Consumers International, March 2008.

<sup>12</sup> The HACCP system consists of Hazard Analysis and Critical Control Points in food hygiene.

## Objective Health

### Put in place a coherent and ambitious health policy at European level

Health is a fundamental human right. Decision makers must ensure that public health is protected and guarantee access to high quality and efficient health services. At EU level, pharmaceutical policies should be fully integrated into health policies and competence on medicines should be shifted within the European Commission from the DG Enterprise to DG SANCO.

#### I. Better health information

Patients need better information on diseases, treatment options, and medicines. It is essential that this information come from independent and reliable sources. It should not come directly from pharmaceutical companies whose commercial interests are in contrast with consumers' right to unbiased and comparative information. In order for consumers to be able to make an informed choice, it is imperative to maintain a clear distinction between information and advertising.

##### Actions to be taken:

Develop a health information strategy which:

- is based on an in depth assessment of consumers' information needs, on the way in which they are currently met and on any potential improvements;
- promotes reliable sources of information;
- allows consumers to choose and compare medicines and different treatment options;
- addresses inequalities in access to information from a wide public health perspective.

#### II. Safety of consumers in relation to side effects of medicines

Medicines save lives but can also have adverse effects which may sometimes prove to be fatal. To ensure patient safety, it is therefore of the utmost importance to have an efficient, transparent and proactive pharmacovigilance system.

##### Actions to be taken:

- Enable consumers to report side effects directly to the competent authorities.
- Put in place simplified and balanced pharmacovigilance procedures, with strict rules in case of non-compliance where a company doesn't report side effects, omits information in the pharmacovigilance master file, or doesn't define properly all parts of the risk management plan.
- Undertake independent research and post-approval safety studies on the potential long-term effects of medicines.
- Conduct public information campaigns to draw attention to the importance of reporting side-effects.

### **III. Counterfeit medicines and consumer safety**

Counterfeit medicines can be very dangerous for health. It is important that the supply of medicine is safe, more strictly monitored and more transparent.

#### **Actions to be taken:**

- Introduce safe track and trace technologies that do not generate an additional cost for consumers.
- Put in place specific measures against illegal sales of medicines on the Internet.
- Educate consumers about the risks posed by counterfeit medicines.
- Reinforce international cooperation.
- Impose stronger sanctions on counterfeiters.

### **IV. More certainty on patient rights**

It is essential for European consumers, who are increasingly mobile, to know what their rights are in the area of health services, both in their country of residence and abroad.

#### **Actions to be taken**

- Ensure that in all Member States consumers have access to high quality health care services, are aware of their rights and have the means to enforce them.
- Establish a clear legal framework for patients' rights in cross-border health care, namely on reimbursement, information provision, redress in case of problems and continuity of care.
- Ensure that the existing social security legislation on cross-border health care is effectively implemented.

### **V. E-health**

There is no agreed definition of e-health, but it includes a wide range of tools based on information and communication technologies (ICT) used in the prevention, diagnosis, treatment, monitoring and management of health. It also includes amongst others health information networks, electronic health records or telemedicine services. Major progress has been made in the area. All European consumers should benefit from the opportunities that the ICTs can provide to the healthcare sector.

#### **Actions to be taken**

- Ensure that new e-health applications bring concrete and tangible benefits to consumers.
- Take account of the patient's perspective in decisions regarding e-health.

## Objective Safety

**Safe consumer products - consumers and the environment  
protected against dangerous chemicals**

### **I. Ensure the safe developments of nanotechnologies.**

Nanotechnologies are newly emerging technologies. Using nanotechnologies is like working at a scale 10 thousand times smaller than the thickness of a human hair. Increased energy efficiency, a cleaner environment, more effective medical treatment and improved manufacturing production...there is a wide variety of existing and foreseen applications in various areas.

We understand that these applications of nanomaterials could bring benefits in particular for consumers and the environment. However, we are concerned about the potential adverse effects of nanomaterials on human health and the environment, both in the short and long term.

In this context, we are alarmed by the increasing use of nanomaterials in consumer products, particularly those products with which consumers come into direct contact on a daily basis (e.g. cosmetics and food products), and in products which lead to discharges to the environment. It is crucial that consumers are properly protected and can have confidence that any product containing nanomaterials (or made using nanotechnologies) on the market has been independently assessed and found to be safe before it is permitted to go on sale.

#### **Actions to be taken:**

- Undertake a review of all relevant legislation (such as REACH) by the end of 2009 in order to adequately address the potential risks of nanotechnologies for health and the environment.
- Impose a safety assessment and approval for all applications of nanomaterials in consumer products or in products leading to discharges to the environment.
- Develop an inventory of the nanomaterials and their use in products before and after their placing on the EU market and make this inventory publicly available.
- Require manufacturers to label consumer products containing nanomaterials, in particular cosmetic, clothes, household and food products.
- Prioritise funding and research toward environmental and human health aspects of nanomaterials.
- Launch a public debate on nanotechnologies with the European Commission and Member States across the EU in order to ensure that citizens are fully involved in the safe and sustainable development of these technologies.

### **II. Safe toys for children**

Children are the most vulnerable consumers and deserve the best protection possible, both from the authorities and the industry. The series of recalls of Mattel toys in August and September 2007 revived numerous legitimate concerns about the safety of toys on the European market.

Although a number of problems arise as a result of relocation of production to third countries, the responsibility for toy safety on the EU market lies with the economic players who produce toys in-house or import them and distribute them in the

European Union. They are the ones responsible for the compliance of their products with the European legislation in force. Unfortunately, even in the hypothetical scenario where EU legislation on toy safety was respected to the letter, it would not be sufficient to protect children. Its loopholes are such that toys posing unacceptable risks (of serious injury, exposure to carcinogenic chemicals or allergenic fragrances, etc.) are authorised.

We had high expectations for the work being carried out by the European Institutions on the Commission's new proposal on toy safety in 2008. Now that the new legislation has been adopted by the institutions, we will closely follow its implementation in the EU Member States. Furthermore, together with our sister organisation in standardisation ANEC, we will also closely follow the development of the new standards for toys and chemicals in toys. Finally, we will closely monitor the Commission's plan to evaluate the need for third-party testing of toys before they are placed on the market, as announced in early 2009.

**Actions to be taken:**

- Improve the efficiency of the RAPEX rapid-alert system by encouraging Member States to notify dangerous products and better exchange information with third-countries including the US and China.
- Ensure a proper implementation of the new Toy Safety Directive at the national level.
- Evaluate the need to put in place a mandatory independent third-party testing (EC-type approval) for all or certain categories of toys, for example toys intended for children under three years, toys which pose a risk that cannot be eliminated (for example, irons for children that actually heat up) or toys which have caused serious injuries in the past (such as those containing magnets or making noise).
- Reinforce market surveillance and control across the EU.

## Objective Digital & Telecoms

**Empower consumers to play a central role in a safe, fair and competitive digital market**

Information and communication technologies (ICT) have significantly changed consumption habits and make up an increasingly large part of household budgets. Although these technologies offer citizens a must-have tool to access information and participate in daily life, they are also giving rise to violations of a number of fundamental rights.

### **I. Ensuring access to telecommunication services for all**

#### a) The Review of the scope of universal services in telecommunications should allow all European citizens to have access to these services

E-government, e-health, e-business, user-generated content, e-learning such as online encyclopaedias and courses, job sites, web-sites to compare energy prices, social networks... These are only a few of the new services which broadband has made feasible. Driven by the increasing penetration rates – 50% of European households are using broadband now <sup>13</sup>- and increasing speeds, these services have become widespread. At the same time, not having access to these services leads to social exclusion.

The European Commission has announced a public consultation on the scope of the universal service provision in the telecommunications sector in the second half of 2009. As far as BEUC is concerned, we believe that it is time to widen the scope of universal services to broadband and to analyse whether at this stage, mobile telephony should also be included.

#### **Actions to be taken:**

- Stimulate a wide debate on the review of the scope of universal services in telecommunications focusing on the opportunities these services bring for all and what it means when consumers do not have access to them.
- Promote the inclusion of broadband in the scope of universal services in telecoms.
- Analyse to what extent mobile telephony should be included in the scope of universal services in telecoms.

#### b) Ensuring the Internet remains open and neutral

During the last year, the European Parliament and the Council have extensively debated the update of the telecommunications regulatory framework. The aim was to guarantee healthy competition, leading to a significant decrease in retail prices and better quality services.

In this context, more attention should be paid to the "network neutrality" principle; Internet Service Providers, telecom operators and content providers are increasingly vertically merging and cooperating so that they are technically capable of limiting

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<sup>13</sup> Eurostat 2008

access to content, to services or to applications which could represent competition for their own services.

It is critical to reinforce the powers and independence of national regulatory authorities, which must be able to intervene to protect consumer interests. This is all the more important if we take into account the inherent threat of abuse of dominant positions within network industries.

#### **Actions to be taken:**

- Ensure that telecom networks and service providers guarantee subscribers the right to access, send and receive any content and to use any service or application without discrimination against the latter's provider.
- Strengthen the implementation powers and independence of the National Regulatory Authorities, within which consumer interests must be adequately represented.

## **II. Protect consumer rights in the digital environment**

Digital technologies have given rise to new ways of promoting, buying and receiving goods or services. There is practically no area of consumption that is not affected by the rapid development of modern information and communication technologies. The Internet is also an essential way of accessing knowledge and online services (such as administrations or health services) as well as the public and democratic debate. It must therefore be ensured that consumer rights are really applied in the digital world.

#### **Action to be taken:**

- Recognise and enforce the six basic consumer rights in the digital world:
  - Right to choice, knowledge and cultural diversity
  - Right to the principle of "technological neutrality"
  - Right to benefit from technological innovations without abusive restrictions
  - Right to the interoperability of content and devices
  - Right to the protection of privacy
  - Right not to be criminalised

In particular, the two following issues should be high on the Swedish Presidency agenda:

#### a) The protection of personal data and privacy

The Internet opens the door to potential violation of the right to privacy without precedent. New technologies (including behavioural advertising) and new digital content platforms (for example social networking sites) allow notably players from the private sector to identify consumers by collecting and using their personal details and invading their privacy without their knowledge and approval. These same data are also exposed to online crime, such as ID theft and/or the diversion of sensitive information. In addition, radio-frequency identification (RFID) technology is likely to be decisive in the development of "ubiquitous computing" also referred to as "the Internet of Things" (the integration of IT into the environment and everyday objects). Its deployment could lead to a series of negative consequences for privacy (for example locating, targeting and profiling consumers) and security (for example theft, viruses, electronic eavesdropping).

### **Actions to be taken:**

- High privacy and security to be the default setting for digital products (“privacy and security by design”).
- Require companies to take the appropriate measures in order for telecom networks to be secure and reliable.
- Ensure that Internet Service Providers offer consumers adequate technology to resolve security issues, at reasonable prices.
- Oblige Internet Service Providers and Internet-based companies that process personal details (for example banks, health services) to inform/notify consumers of any violation of security that compromise their personal data.
- Give consumers access to efficient complaint and redress mechanisms in case their personal data have been compromised.
- Establish a general “opt-in” system for all types of automatic commercial communications (unsolicited e-mails/spam): consumers should indicate if they want to receive this.
- Impose transparency and respect of consumers’ choice in the use of RFID technology and in an ambient intelligence environment.

### **b) Intellectual property rights (IPR) and “graduated response”**

We fully acknowledge the need to ensure the protection of IPR – especially on the Internet – and for artists to get a fair remuneration for their works. We are opposed to the solution towards which France and other Member States seem to be moving, i.e., the “Graduated Response” according to which rights holders could ask Internet Service Providers to threaten to suspend Internet access for the presumed infringers of intellectual property rights. Whilst copyright must be respected, the same applies to the elementary consumer protection principles such as the right to fair licence conditions and the constitutional principles of respect for privacy and due process.

### **Actions to be taken:**

- Acknowledge the distinction between counterfeiting/piracy and practices carried out by numerous private consumers, at home, on a small scale and without commercial motivation.
- Respect elementary principles of consumer protection such as the right to fair licence conditions and respect for privacy and due process.
- Oppose any attempt to introduce the responsibility of the Internet Service Providers in terms of policing copyright violations: such a measure would be disproportionate, inefficient and, more importantly, would violate certain fundamental rights such as the right to the presumption of innocence, to a fair trial and to the protection of personal data. In practice also, numerous harmful effects are reported, such as identification of a computer rather than a person responsible and application of very strict rules, despite the fact that the distinction between legal and illegal downloading is far from simple and cannot be made automatically.
- When discussing Content Online, reflect on new business models and measures at European level in order to enable the inventors or designers of intellectual works – including users - to legitimately and fairly benefit and create value for their works, without consumers being unfairly wronged in the exercise of their own rights. In this respect, numerous creative avenues are to be explored and

developed, such as increasing legal offers available online; adopting new types of licence or financing; the use of interoperable technologies, etc...



- (AT) Arbeiterkammer
- (AT) Verein für Konsumenteninformation
- (BE) Test Achats – Test Aankoop
- (BG) Bulgarian National Consumers Association
- (CH) Fédération Romande des Consommateurs
- (CY) Cyprus Consumers' Association
- (CZ) Sdružení Obrany Spotřebitelů České Republiky
- (DE) Stiftung Warentest
- (DE) Verbraucherzentrale Bundesverband
- (DK) Forbrugerrådet
- (EE) Eesti Tarbijakaitse Liit
- (ES) Confederación de Consumidores y Usuarios
- (ES) Organización de Consumidores y Usuarios
- (FI) Suomen Kuluttajaliitto
- (FI) Kuluttajat-Konsumenterna ry
- (FI) Kuluttajavirasto
- (FR) Confédération de la Consommation, du Logement et du Cadre de Vie
- (FR) Organisation Générale des Consommateurs
- (FR) UFC – Que Choisir
- (GB) National Consumer Council
- (GB) Which?
- (GR) Ένωση Καταναλωτών η Ποιότητα της Ζωής – ΕΚΠΟΙΖΩ
- (GR) Γενική Ομοσπονδία Καταναλωτών Ελλάδος
- (GR) Κέντρο Προστασίας Καταναλωτών – ΚΕΠΚΑ
- (HU) Országos Fogyasztóvédelmi Egyesület
- (HR) Hrvatski Savez Udruga za Zaštitu Potrošač – "Potrošač"
- (IE) Consumers' Association of Ireland
- (IS) Neytendasamtökin
- (IT) Altroconsumo
- (LU) Union Luxembourgeoise des Consommateurs
- (LV) Latvijas Patērētāju interešu aizstāvības asociāciju
- (MK) Organizacija na Potrosuvacite n Makedonija
- (MT) Għaqda Tal-Konsumaturi
- (NL) Consumentenbond
- (NO) Forbrukerrådet
- (PL) Federacja Konsumentów
- (PL) Stowarzyszenie Konsumentów Polskich
- (PT) Associação Portuguesa para a Defesa do Consumidor
- (RO) Asociația pentru Protecția Consumatorilor din România
- (SE) Sveriges Konsumenter
- (SI) Zveza Potrošnikov Slovenije
- (SK) Združenie Slovenských Spotrebiteľ'ov

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