



The Consumer Voice in Europe

“Health – check” of the CESL Impact Assessment

Letter sent to Members of Parliament, 22 January 2013

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The Consumer Voice in Europe

European Parliament
Rue Wiertz

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22 January 2013

Subject: "Health – check" of the CESL Impact Assessment.

Dear Member of the European Parliament,

I write on behalf of BEUC, the European Consumer Organisation, to draw your attention to the European Parliament's evaluation of the Impact Assessment of the Common European Sales Law proposal which will be presented today, 22 January 2013, in the Legal Affairs Committee.

In BEUC's opinion, the Parliament's "health-check" clearly identifies the serious flaws of the Commission's impact assessment. It highlights that the assessment of the Commission is based on shaky methodological grounds and that for its most essential parts the **quality and credibility of the data are doubtful**.

Below we have listed the most important points in this respect:

1. The evaluation underlines that
 - a) the Commission itself says - and does not "dispute" - that the **data needed** for estimating the **real impact** of transaction costs deriving from contract law differences **are not available**¹ and that
 - b) the Commission's **heavy reliance on Eurobarometer surveys** to define the economic problem "could cast **doubt as to the accuracy of the scale of benefits calculated** by the Commission"² and that it is a '**weak method of data collection**'³.
2. The evaluation also criticises that the surveys carried out by the European Commission (SME and EBTP panel surveys) to calculate the transaction costs are based on companies' own estimations instead of their **actual** expenses.

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¹ See the Conclusions, p. 28.

² Interim Conclusions, p 26.

³ P. 18.

3. The evaluation furthermore criticises that *"the process by which qualitative data (the answers to questions in the Eurobarometer surveys) are transformed into numbers seems quite **speculative** and would require **further justification**."*⁴
4. Furthermore, the EP report brings **important contradictions** between the assumptions of the Impact Assessment and the data provided in the Eurobarometer to light: the European Commission stated that more than half of the 61 % sellers who refused offers from consumers in a mystery shopping exercise did so because of differences in contract law. Yet according to Eurobarometer data *'less than a tenth (8%) of EU consumers – who had used the Internet, postal service or phone to buy products or services from sellers or providers in other EU countries in the past 12 months - said that a supplier has refused to sell or deliver a service or product at least once during that time frame'*⁵.
5. When referring to the low level of B2C cross-border trader, the EP's evaluation also indicates that the statistics used **'does not demonstrate** that contract law differences per se are the reason behind this'⁶
6. Additionally, the evaluation is clear about the fact that the Commission's assumption that consumers do not buy cross-border because they are uncertain about their rights is **not based on clear evidence**. In this regard, the EP evaluation indicates that *'the Impact Assessment does not provide any information as to the extend to which consumers rank barriers that hinder them from buying goods abroad'*⁷.

These important findings provided in the Parliament's evaluation lead to the conclusion that the European Commission's impact assessment does not provide an appropriate and reliable base for EU legislators to support the CESL proposal as a tool to boost B2C cross-border trade, based on Article 114 TFEU.

The need for and the suitability of such an instrument have not been justified by clear evidence, as already pointed out by BEUC in our own assessment of the impact assessment⁸.

We therefore call on the European Parliament to draw the conclusions from this "health-check" , namely to stop work on the proposed Common European Sales Law and to ask the Commission to undertake a full new assessment of the real barriers to cross-border b to c trade, before any decision about the right policy tools to improve cross-border trade are taken.

Yours sincerely

Ursula Pachl
Deputy Director General

⁴ P. 24.

⁵ P 16 quoting EB 299a, p. 9.

⁶ P. 15.

⁷ P. 15.

⁸ See BEUC/X/118/2011 at www.beuc.eu