

# BEUC RESPONSE TO THE RETAIL MARKET MONITORING REPORT

“Towards more efficient and fairer retail services in the internal  
market for 2020”

**Contact:** Monique Goyens – [directorsoffice@beuc.eu](mailto:directorsoffice@beuc.eu)  
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BEUC, the European Consumers' Organisation  
80 rue d'Arlon, 1040 Bruxelles - +32 2 743 15 90 - [www.beuc.eu](http://www.beuc.eu)

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## Introduction

### **Retail sector key to deliver benefits to consumers**

The retail sector is key to deliver to consumers the products and services that correspond to their needs and expectations at the lowest prices. Retailers are the essential link between production and consumption. The role of the retail sector in making the internal market for consumers a reality is major and therefore BEUC welcomes the initiative taken by the Commission to monitor the functioning of retail markets in a global perspective.

### **Acknowledgement of the role of consumers to arbitrate markets**

The report, combined with the Commission staff working document contains a dense analysis of the problems faced by economic operators with regard to retail markets.

More specifically, it identifies, major problems or situations of dissatisfaction faced by consumers, such as price differences across markets and lack of valid price comparison tools, territorial discrimination, lack of cross-border enforcement.

In addition it acknowledges the role that consumers have to play in arbitrating retail markets through their preferences and their mobility, and recognises the need for improved consumer information tools and availability of valid information sources.

### **Scope of BEUC contribution**

While we welcome these elements, our response to this report will aim at contributing to the debate in putting some of the findings contained in the report in more consumer-specific perspective.

## **Adequate consumer information is key to promote a competitive internal market**

For consumers to be able to effectively arbitrate competing offers in the market, they have to be offer adequate information tools. In this context, it is crucial to engage into thorough analysis of information models and sources in order to assess their effectiveness and efficiency.

Consumer information policy must take account of the results of behavioural economics that indicate information treatment biases by consumers. This implies that more information is not necessarily better information. This implies also that one should not only concentrate on the content of the message, but also on its display, channels of communication, frequency and comparable terminology.

Comparison tools should not just be focused on prices, as consumer choice is not only based on price, but also on other elements of the product/service, eg availability of after sales service, cost of delivery, etc. This is specifically important in the context of cross-border contracts.

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Product and services comparison tools must be assessed with regard to their comparability, the accuracy and exhaustiveness of their data, their independence with regard to commercial suppliers.

Consumer information tools should not be left to the market alone. It is a duty of public authorities to correct market failure when it comes to make it possible for consumers to make well informed choices and in this way contribute to a competitive and healthy market.

Fundamentally, it should be acknowledged that the focus on consumer empowerment should not deviate policy makers, where necessary, to more stringent rules on suppliers' behaviour: in some instances, consumer information and empowerment are not sufficient to provide for consumer welfare.

This is particularly true in the context of food prices, where our members confirm the analysis made in the Staff working document about the high disparity in food prices. For example, one of our Greek members reports that food products and every day products are much more expensive in Greece than in Germany or Slovenia. This could be due to the activities of the multinational companies that sell their goods to their representatives in other member states (e.g. Cyprus) and then the goods are imported to Greece by the Greek representative of the same multinational. Thus Greek consumers pay the profit of the representative in Cyprus and the profit of the representative in Greece. On the other hand, retailers seem not to be allowed by multinationals to import these goods from another member state (e.g. Bulgaria) where prices of the same goods are cheaper. They must buy these products from the representative of the multinationals only in Greece.

## **Many shortcomings in the internet retail market to be addressed in order to provide full consumer benefit**

Despite the borderless character of the Internet, a number of regulatory barriers enable the fragmentation of the Digital Market. Furthermore, businesses use technology and commercial agreements to re-introduce obstacles in the online environment to the free movement of services and goods, despite this being one of the EU's fundamental guiding principles.

### **Territorial discrimination**

When shopping online, consumers often have the unfortunate experience that online traders refuse to accept orders from another country or apply dissimilar conditions and prices. In practice, examples include businesses using technology to exclude consumers from other countries to access 'e-offers' on the basis of their place of residence and so the user is automatically re-directed to a national website because of his or her IP address, different prices are applied to consumers from different EU Member States, traders refuse to sell or deliver across national borders, and in some cases, consumers may be faced with a rejection or non-acceptance of their offer to buy during the ordering process when giving their delivery address or bank details.

In practice, businesses are using technology to exclude consumers from other countries to access e-offers on the basis of their place of residence e.g. the user is automatically re-directed to national website because of his/her IP address, application of different conditions/prices to consumers from different member states, refusal to sell/deliver cross-border ... In some cases, consumers may be faced with a

rejection or non-acceptance of their offer to buy during the ordering process (e.g. when giving the delivery address or bank details) despite the fact that no relevant information/notice was given when accessing the trader's website

The entry into force of the Services Directive is crucial in addressing similar cases of territorial discrimination to the detriment of consumers. However, the European Commission needs to closely monitor the implementation by Member States to ensure the establishment of a coherent framework.

### **Vertical restraints-selective distribution**

Barriers to e-commerce may also stem from competition restrictions in the vertical relationship between manufacturers and suppliers. The European Commission has failed to address these challenges when revising the Regulation on selective distribution; allowing manufacturers to continue to impose a "brick and mortar requirement on their distributors before engaging in online sales is neither sufficiently justified nor in line with the European Commission's commitment to boost online commerce. On the contrary, such a requirement will reduce consumer choice and will have a negative impact on the development of innovative business models by pure-play online retailers that aim to bring greater choice at reasonable prices for consumers who want to make the full of the new technologies. It also fails to pass the test of promoting consumer welfare, which is central to the EC competition law.

In a competitive market, manufacturers and retailers should respond to consumers' preferences rather than dictate the terms on which consumers may access products. Although there might always be some products that consumers would prefer to buy offline because of objective reasons, such as the need to talk to an expert while sampling the goods, it should be the consumer who decides when this is appropriate and not the retailer. The new rules should not discriminate between the channel of distribution and between business models. Businesses must not control how consumers can purchase their goods or services.

Furthermore, the revised guidelines do not provide for legal certainty as regards categories of products for which restrictive distribution agreements may be justified, thus entailing the risk that selective distribution agreements are used for everyday products for which there would otherwise be no objective justification to be covered by selective distribution.

### **Copyright levies**

The territorial nature of copyright and the territorial management of copyright levies have been identified as the main factors for the low take-up of cross border e-commerce<sup>1</sup>. Furthermore, the need for urgent reform of copyright levies has also been highlighted by Professor Mario Monti in his report on the Single Market<sup>2</sup>. However, the European Commission in its report on retail markets has simply stated the difference in the price of consumer electronics<sup>3</sup> without referring to copyright levies as the underlying reason for such differences.

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<sup>1</sup> EC communication on cross-border e-commerce COM (2009) 557 Final.

<sup>2</sup> pages 45-46, "A new Strategy for the Single Market" report to the President of the European Commission, by Mario Monti, 9.05.2010

<sup>3</sup> Page 21 of the Commission Staff Working Document in retail services in the Internal Market.

E-commerce, and in particular cross-border e-commerce, is affected by copyright levies as a result of the way in which they are applied and managed. Due to the different levies' rates in each country, online retailers are obliged to price products differently depending on where a customer is located. For instance, the copyright levy on an MP3 player may cost between 13.5 € and 22.5€ in Austria, whereas only 2.56€ in Germany, which amounts to a difference up to 878.9% between two neighbouring countries. Consumers thus, suffer from discrimination on the basis of their country of residence. Subjecting customers shopping online from a retailer in another Member State to additional charges not only causes confusion and damages consumer confidence, but also deprives those consumers of the benefits in terms of choice and competition that the single market seeks to offer.

Furthermore, whereas in the off-line world the customer pays the levy of the country in which the retailer is based, for products sold over the internet, levies may end up being imposed twice - once in the country where the retailer is based and again in the country where the customer is based. As a result, online retailers are often obliged to refuse the selling of consumers in another Member State under the fear that they will have to pay twice a copyright levy for the same product. This results in customers being unfairly "penalised" and the benefits of e-commerce not being fully realised.

## **Consumer trust in crossborder contracts must be enhanced**

### *Legal fragmentation does not constitute a barrier to cross-border trade*

The report of the European Commission correctly highlights the need to enhance consumers' confidence online as a precondition for the development of e-commerce.

In this respect, the Commission identifies the legal differences between the national consumer law as a major if not the main obstacle for business to engage more in cross-border activities. For example, in its Green paper for a European contract law issued 1 July 2010, the Commission states that because of the legal fragmentation in consumer contract law, business rejects consumers' offer who want to buy cross-border.

It is crucial to underline in this context that there is **not sufficient evidence** that fragmentation through legal differences is a key reason for lack of cross-border trade. Recent Eurobarometer surveys show that most traders would not increase their cross-border sales even if the laws were made identical throughout the EU<sup>4</sup>. Other factors (eg. the lack of appropriate cross-border redress mechanisms, language barriers, Internet access, fears regarding security and data protection) influence consumers and businesses attitudes toward cross-border contracts much more<sup>5</sup>.

It is therefore simply wrong to claim that consumers do not buy cross-border because the laws are not the same in all countries as experience of consumer organizations across the EU as well as relevant consumer research demonstrates: For example, consumers shop cross border in border areas, because this is "local" (Strasbourg-Kehl

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<sup>4</sup> According to the 2008 Flash Eurobarometer (Flash EB nr 224) only 16% of traders would increase their cross-border sales if the laws were the same throughout the EU; in total 74% of traders claimed that harmonised laws would make little or no difference to their cross-border activities.

<sup>5</sup> 71% of consumers answered that it is harder to resolve problems such as complaints, returns, price reductions, guarantees, when purchasing from providers located in other EU countries compared to the ones based in their home country (2006 Eurobarometer). 59% of traders mentioned as an important barrier the perceived cost of the difficulty in resolving cross-border complaints (Special Eurobarometer 244, 2008)

for example) despite the fact that different legislation applies (for example, the fact that the right to a "garantie décennale"<sup>6</sup> does not exist in Germany, does not prevent French consumers to buy from German companies).

The often quoted Commission study on "Mystery Shopping Evaluation of Cross-Border E-Commerce in the EU" , which reported that 61% of cross-border consumer offers fail, does not indicate that legal differences between member states is the reason, or only part of the reason. The Report does not say why traders refused to serve the consumer. Consequently, the conclusion of the Commission, i.e. that maximum harmonisation will increase cross-border sales, is not a valid deduction of the report.

According to the figures provided in the Communication on the EU Digital Agenda, the top three reasons why consumers have not ordered online refer to payment security concerns, privacy concerns, and trust concerns.

#### *Payment security concerns*

According to the results of the survey by the International Telecommunication Union (2006), more than 40% of internet users are reluctant to buy online for fear of ID theft or other malicious activities, including the fear of credit card fraud. Nevertheless, in practice most websites only offer the possibility for payment by credit/debit card.

Several means of payment should be available for online transactions: payment of invoice by money transfer prior to delivery, e-services allowing payments and money transfers to be made through the internet, cash on delivery or pick up in stores, payment of invoice after delivery, e-banking or online banking, direct debit, cheques, gift vouchers. Consumers should have the choice without having to bear any extra costs or fees. Furthermore, issues related to payment via mobile phones should be considered.

#### *Privacy concerns*

European consumers are concerned about data protection, privacy and security issues. The Eurobarometer survey<sup>7</sup> revealed that 82% of respondents who were Internet users thought that data transmission over the Internet was not sufficiently secure.

When surfing the Internet, consumers' data is collected by different actors (e.g. Internet Service Providers, traders, web browsers, publishers, affiliation companies, social network platforms, ad-serving agencies...). The vast majority of consumers at the moment do not realize information about their web activities – such as the products they check online or that they order - is being collected. As shown by the mystery shopping commissioned by the European Commission, websites are requesting a lot of personal information from consumers email address, personal name and address but also gender (34% of offers), date of birth (27% of offers) and title (26% of offers)<sup>8</sup>. Some service providers only allow consumers to access their services if they agree that their data can be used for marketing purposes.

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<sup>6</sup> Specific legal guarantee in French law in the construction sector;

<sup>7</sup> Eurobarometer survey on data protection in Europe (February 2008).

<sup>8</sup> Mystery Shopping Evaluation of Cross-Border E-commerce in the EU, YouGovPsychonomics on behalf of the European Commission available at:

[http://ec.europa.eu/consumers/strategy/docs/EC\\_e-commerce\\_Final\\_Report\\_201009\\_en.pdf](http://ec.europa.eu/consumers/strategy/docs/EC_e-commerce_Final_Report_201009_en.pdf)



These practices potentially lead to a loss of consumers' control over their own data. Furthermore, companies are able, via the enhanced possibilities of profiling consumers, to discriminate against consumers (i.e. by offering the same products at different prices based on individual users' online profile).

The European Commission is currently reviewing the general framework on Data Protection, with the aim of assessing its effectiveness in light of new challenges. The principles of transparency of data collection, fair and lawful processing, purpose limitation and specification, data minimisation, consent, and the right to access, object, correct and withdraw one's data are still relevant and must be preserved.

Furthermore, fairness of terms and transparency of privacy notices need to be improved. Existing privacy policies discourage people from reading all the obligations forced upon them and exercising their rights. Policy notices need to be easily accessible and clearly displayed in plain and intelligible language. However, increased transparency of privacy notices alone will not improve consumers' awareness and resolve the current issues. In addition, it must be clear that posting policy notices on a website is not sufficient to conclude to have received informed consent from a consumer. The burden to demonstrate that consumers are well-informed should be on the business.

## **Availability of efficient redress is key for consumer confidence in the retail internal market**

The staff working document rightly indicates that one of the crucial questions concerning barriers to distant selling is that of enforcement of the rules. While the reflection in the Commission document is focused on distant selling because of the greatest need for consumer trust, it must be stressed that the challenge of effective enforcement of rights provided to consumers is a global issue to be tackled for all consumer contracts, but even beyond, when it comes to marketing practices, anti-competitive behaviour, product and services liability, etc. Those situations can arise at national or local level, or at crossborder level independent of a distance selling contract, and bear a particular dimension when the dispute takes on a crossborder dimension. In short, the concept of the internal market simply collapses when there is crossborder element in a litigation.

### **The need to provide for a system of crossborder enforcement**

Indeed, for the effective functioning of the EU retail market and consumer confidence in it, it is essential that consumers have easy access to redress in cases when their rights are infringed. This should be the case at crossborder level as much as at national level. National authorities or organisations that are qualified to defend the consumer interest in the context of the national redress mechanisms should also be given the means to do so in cases of disputes with a crossborder dimension. This implies that:

- consumer protection agencies should be able to address illegal behaviour of companies under their jurisdiction, not only in favour of national consumers, but also other EU consumers who have been harmed by that behaviour
- consumer organisations should be able to act on behalf of all EU consumers, and should have standing in all EU courts
- means should be granted and procedures should be implemented in order to foster cooperation and common actions in the area of enforcement of consumer

rights between consumer protection authorities in different Member States as well as between consumer organisations.

### **Brussels I – jurisdiction for online cross-border consumer contracts**

Consumers' right to take action in their own national courts in legal disputes arising from cross-border e-commerce transactions is crucial. The development of e-commerce is no reason to take away this right, which is a pre-condition to give consumers confidence in cross-border e-commerce. If something goes wrong consumers must have meaningful access to remedies, which includes the possibility of going to court in their own country as a last resort.

BEUC considers the arguments put forward by businesses that a broad interpretation would hinder the further development of e-commerce as unfounded. The risk of businesses being sued abroad is overstated and not substantiated by evidence. In practice, it is very rare for consumers to engage in litigation against a trader, let alone in another country, but rather try to solve the dispute through direct contact with the trader or through Alternative Dispute Resolution mechanisms, the efficiency of which remains ambiguous and is certainly not the most efficient redress mechanism for all cases. On the contrary, consumers will be willing to shop more cross-border when they will have procedural protection.

BEUC regrets the argument often brought forward that the consumer protective rule of Article 15.1.c might discourage businesses seeking to engage in ecommerce activities. As outlined by the European Commission's report on ecommerce<sup>5</sup>, a wide range of various obstacles have been identified as reasons why traders do not engage more in cross-border transactions, some of them are due to business practices, which tend to delineate their markets. In addition, such an argument is often used in an erroneous way, because it confuses the court's jurisdictional powers, governed by Brussels I Regulation, with the substantive law applicable to the electronic contract, which is governed by the Rome I Regulation. Any suggestion or proposal to change the current system of Art 15 by allowing business to use choice of jurisdiction clauses in consumer contracts must be strongly rejected. This would mean in practice that suppliers impose their own choice of court by using standard contract clauses, which consumers have to accept. Consumers would not have a real "choice" to accept or reject these jurisdiction clauses, because most businesses would use them.

### **The case for a collective redress mechanism**

When it comes to implementing a trustworthy Internal Retail Market a pan-European instrument on collective redress is a very important step. In our mass production and mass consumption society characterized by the harmonisation of standards, it is possible for sellers to touch a huge market (500 millions consumers in the Internal Market). Within such a market, non compliance with legal rules can easily affect a high, even very high number of consumers. European consumers suffering from a damage caused by the same trader should be able to join their claims together into one single action, whatever their nationality and their place of residence. Today, when European consumers look for compensation, they are not treated on the same foot. Collective redress mechanisms are being developed differently across the EU. In almost half of the Member States which do not have any collective redress mechanisms, consumers are left empty-handed when it comes to claims that cannot be satisfied under existing individual redress mechanisms. It is important to stress that only very few of the new Member States (namely Poland and Bulgaria) have introduced such procedures allowing for collective consumer redress.



The existence of such a European instrument on collective redress could help building greater consumers' confidence in e-commerce, and also benefit businesses in terms of legal certainty and transaction costs. To be effective and to correspond to consumer demands, this instrument should have a wide scope, aim at obtaining compensation, allow for standing of consumer organisations, cover both national and cross-border cases, foresee efficient funding mechanisms and give the court discretion over the admissibility of claim.

### **ADR-mechanisms to be adapted to the internal market**

Most ADR mechanisms, whether efficient or not, do lack consideration of the crossborder dimension of possible disputes. It is therefore crucial to rethink those mechanisms, very often established by actors of the retail sector, in a way that integrates the internal market dimension. We are looking forward to the soon to be published consultation process launched by the Commission in order to launch a EU debate on the need for and the characteristics of ADR mechanisms in consumer disputes in the Internal Market.

## **The retail market for pharmaceuticals needs additional regulation**

### **On line sales of pharmaceuticals**

#### *Need to provide tools for consumers to identify legal on line pharmacies*

The on line sale of prescription medicines is legal only in some member states (e.g. UK, Netherlands and Germany) while in other member states the on line sale is authorised only for non-prescription medicines (e.g. Belgium, Ireland) or in the form of mail order when the web site is linked to a "bricks and mortar pharmacy" (e.g. Denmark, Portugal).

Unfortunately it is not easy for consumers to identify legal internet pharmacies and illegal ones.

In those countries where on line sales of medicines are authorised consumers should be provided with appropriate tools to identify legal sources such as a public register of legal internet pharmacies and a specific logo as it is already done in some member states. In Germany for example the German Institute of Medical Documentation and Information (DIMDI) administers a registry of mail order pharmacies<sup>9</sup>, on behalf of the Federal Ministry of health. Consumers can easily verify if the mail order pharmacy is registered by clicking on the safety logo on the website of the mail order pharmacy. If the pharmacy is registered, a window opens that contains the essential data for this pharmacy, e.g. address and contact data. The internet address given then links (back) to the pharmacy website.

Consumers who decide to buy medicines on line from legal sources should be informed about the fact that it is always essential to seek information from their doctor and/or pharmacist especially regarding safety aspects and possible interactions with other medications.

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<sup>9</sup> <http://www.dimdi.de/dynamic/de/amg/var/index.htm>

### *The online sales of counterfeit medicines*

It is also important to consider that internet-based sales of pharmaceuticals are by far the major source of counterfeit medicines, threatening those who seek cheaper, stigmatized or unauthorized treatments. Illegal internet pharmacies operate internationally and sell unapproved or counterfeit products that have an unknown origin<sup>10</sup>.

BEUC members in different countries tested sales of medicines on the internet to verify the safety and reliability of this supply channel. They also made laboratory analyses to assess the quality of the products they purchased.

The results are worrying:

- in most cases they managed to buy prescription-only medicines without prescription;
- the laboratory tests revealed major quality problems, in addition to concerns regarding the storage and shipping of the products. A recent survey<sup>11</sup> published in October 2009 by the Dutch consumer association Consumentenbond, found that out of the 47 orders received, in 16 cases the dosage of active ingredient exceeded the standard dosage by more than 10% or fell short of it by more than 10%. In many cases the medicines contained the wrong substance or contamination of other substances;
- they received pills wrapped in newspaper sheets or loose bags;
- they didn't find any safety information on the web sites<sup>12</sup>;
- the medicines were not accompanied by the patient leaflet or the leaflet was an inaccurate translation;
- the web sites didn't disclose the origin of the products and declined any responsibility<sup>13</sup>;
- many of the web sites they used no longer existed two months afterwards.

The national competent authorities should launch ad hoc campaigns to warn consumers against the risk of buying medicines online from illegal sources as it has been done, just to give an example, in the Netherlands and <http://www.internetpillen.nl/>, in Portugal

[http://www.infarmed.pt/portal/page/portal/INFARMED/IMPrensa/CAMPANHAS/INTERNET\\_2008](http://www.infarmed.pt/portal/page/portal/INFARMED/IMPrensa/CAMPANHAS/INTERNET_2008)

and in Belgium <http://www.medicaments-par-internet.be/fr/>

Consumers' organizations also have a role to play in informing the public. Consumers should also be informed about how and to whom they can report suspected unlawful sale of medical products on the internet (for example to the competent health authorities or to their pharmacists). In the US the Food and Drug Administration (FDA) has a dedicated toll-free information line for these cases.

### **Prices and margins in the pharmaceutical sector**

In the pharmaceutical sector prices are not determined by market rules and they are the result of an agreement between the pharmaceutical companies and the relevant national competent authorities. The definition of prices is highly regulated in order to:

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<sup>10</sup> Illegal y arriesgada, OCU n.75, January 2008.

<sup>11</sup> Consumentenbond, October 2009.

<sup>12</sup> Salutest, Altroconsumo n.210, December 2007.

<sup>13</sup> Teste Saúde, DECO Porteste, n.70 December 2007.

- ensure that consumers have access to the necessary medicines
- maintain health care budgets under control and guarantee the sustainability of the health care systems
- stimulate innovation

Price and reimbursement decisions are a competence of the member states but they have to be in line with the Transparency Directive 89/105/EEC (timing, criteria, and publications). The Commission pharmaceutical sector inquiry (July 2009) identified some problems in the application of the Directive which need to be addressed.

The priority is to guarantee that all consumers have a rapid and equitable access to innovative medicines in all EU member states, that price and reimbursement decisions are transparent and that they take into account the added therapeutic value of the product.

It is also necessary to better ensure the correct functioning of the sector in those cases where competition between different products is possible, e.g. when generics enter the market (see pharmaceutical sector inquiry).

## **The EU needs to develop binding measures to achieve more sustainable retail markets by 2020**

The Commission report points at problems that impede the transition to a more sustainable retail sector but concentrates on retailers as energy users. Only very marginally does it refer to the fact that retailers have the unique opportunity to reach a large number of consumers on a daily basis and can influence their buying behaviour such as to engage in a more sustainable approach. For this reason the retail sector has a major responsibility to encourage and promote more sustainable consumption patterns<sup>14</sup>.

As the current levels of consumption in the EU are largely unsustainable, there is an urgent need for the EU to take concrete actions to achieve more sustainable retail markets. In particular the existing regulatory framework needs to be improved to ensure that consumers will have a choice of sustainable products and services at affordable prices. We see a need to take action in three areas that are set out in more detail below.

### **Developing a coherent set of instruments aiming at sustainable consumption and production**

In its Sustainable Consumption and Production Action Plan, the EU outlines several instruments aiming at providing greener products to consumers: Ecodesign, the Energy Label and the EU Ecolabel. The implementation and further development of these policies will be crucial to provide more sustainable products to consumers. However, we see an urgent need to ensure a better interplay between these different instruments. In addition, the scope of the EU Ecodesign Directive should be enlarged in 2012 to cover all products with a considerable environmental improvement potential.

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<sup>14</sup> UNEP (2004): Resource Kit on Sustainable Consumption and Production, <http://www.unep.fr/shared/publications/other/WEBx0008xPA/ads.pdf>.

### **Ensuring clear, comparable and credible information to consumers**

A recent Eurobarometer survey on European's attitudes towards the issue of sustainable consumption and production<sup>15</sup> showed that more than 8 in 10 EU citizens felt that a product's impact on the environment is important when taking a purchase decision. This survey shows that a very large part of the population is interested in buying more sustainable products. However, consumer research shows also that consumers often do not know which products are better for the environment<sup>16</sup> as they are confronted with an increasing and confusing number of labels and green claims.

To make good choices, consumers need clear, comparable and credible information about the environmental characteristics of products. Third-party certified labels of environmental excellence, such as the EU Ecolabel, are one example of labels that facilitate a good environmental choice for consumers. However, the positive effect of such credible labelling schemes is currently endangered by an increasing number of green claims that are partly not substantiated and exaggerate the value of the product for the environment. We therefore see an urgent need to prevent misleading green claims.

Among the labelling schemes, that are currently under development to address the negative effects of global warming are also different carbon footprint labels. However, as most consumers would not be able to understand the meaning of grams of CO<sub>2</sub> on a package, we are not supportive of stand-alone carbon footprint labels. To provide consumers with information about the environmental impact of products, it will be favourable to integrate the carbon footprint of products as one aspect into existing third-party environmental labels such as the EU Ecolabel<sup>17</sup>.

### **Ensuring an ambitious contribution of the Retail Sector towards more sustainable consumption patterns**

Retailers may help consumers to buy more sustainable products by choice editing. Choice editing is when retailers improve the sustainability of the current products on the shelves as well as removing the least sustainable products. This means consumer choice is limited to the more sustainable products in a category. However, we consider it important to underpin such a voluntary process by a regulatory framework that allows phasing out the least environmentally performing products mandatory, e.g. through ecodesign measures.

In this context, as sustainability goes far beyond environment protection, one should also check the sustainability aspects of goods imported from third countries, both in terms of their environmental impact and in that of other ethical considerations, such as working conditions.

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<sup>15</sup> Eurobarometer survey (2009): European's attitudes towards the issue of sustainable consumption and production, [http://ec.europa.eu/public\\_opinion/flash/fl\\_256\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_256_en.pdf).

<sup>16</sup> Consumer Focus (2009): Green expectations, Consumers' understanding of green claims in advertising, <http://www.consumerfocus.org.uk/assets/1/files/2009/06/Green-expectations-single-page.pdf>

<sup>17</sup> For more information see the joint position of ANEC/BEUC/ECOS/EEB on "Sizing up carbon footprinting", BEUC/X/094/2009.