

CONSUMER POLICY STRATEGY 2002-2006
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UNICE views

UNICE welcomes publication by the Commission of the Consumer Policy Strategy for the five-year period from 2002 until 2006.

UNICE is fully aware of the growing importance of a more coordinated approach to consumer protection policy at European level. It also recognises the need to take adequate account of consumer interests in the EU decision-making process.

From the business perspective, consumer trust and satisfaction is a key element that complements and enhances the competitiveness of EU companies. This is especially relevant in the current state of the European Union which is more conducive to cross-border trade and characterised by circulation of the euro, increased use of new technologies, globalisation, and the imminent enlargement of the EU.

For that reason, any proposal to achieve the full functioning of the internal market should strive to improve and boost business competitiveness and to ensure an appropriate level of consumer protection. This should result in a more satisfactory Europe for all, and is in line with the ideas of a more dynamic, effective and closer Europe set out in the European Governance and Better Regulation initiatives.

EU consumer policy has developed considerably during recent years alongside the creation of the internal market. The EU has booked important achievements with the result that European consumers now enjoy a genuine corpus of EU consumer protection law. It covers a wide variety of areas which shows its horizontal dimension as a fully fledged Community policy, as enshrined in article 153 of the EC Treaty.

UNICE recognises that there is room for further measures to reap the full benefits of the internal market and increase confidence. However, these measures should be justified by adequate evidence of the need for EU action and contribute to an environment of simpler and clearer rules, effective enforcement and adequate mechanisms for consumer redress and information.

The present paper aims at stating UNICE's general views on the three mid-term objectives of the Commission's strategy for consumer policy for the years to come.

I. "A HIGH COMMON LEVEL OF CONSUMER PROTECTION"

UNICE acknowledges that dynamic markets and the prospect of enlargement call for simplification and reduction of the regulatory burden in the European Union. A simple and predictable legal framework which strikes a fair balance between the interests at stake is the trigger for increased confidence in the market. This is a key element that will help the EU attain the world-class competitiveness agreed at the Lisbon Summit in March 2000.

It is also indisputable that rules must ensure an appropriate level of consumer protection across Europe. Nevertheless, UNICE is concerned about proposals for EU action intended for completion of the internal market by means of further harmonisation in the field of consumer protection which lack a genuine internal market justification. In this regard, UNICE believes that EU action to promote the internal market should provide added value for European companies' competitiveness and consumer well-being.

In the light of the Treaty, the joint reading of articles 153 and 95 provides for competence to legislate in the field of consumer protection when it aims at the completion of the internal market. UNICE therefore believes that any EU proposal using those legal basis should respect to the following criteria:

- the principles of subsidiarity, necessity and proportionality,
- provision of substantial evidence of the need for Community action
- identification of the existing barriers hampering the internal market,
- provision of adequate information about the impact on the relevant *acquis communautaire* and the main stakeholders concerned (i.e. business and consumers)
- provision of sufficient evidence and guarantees as to viability and effectiveness of the measures to achieve the objectives sought.

UNICE is very keen on efforts to improve the current EU law-making process and supports the use of alternative regulatory models as a complement to traditional legislation. Decisions on the instrument or mix of instruments to be used must be assessed on a case-by-case basis and supported by objective and transparent criteria.

The ongoing discussions on governance and better regulation seek to stimulate a more coordinated approach to those issues and have revealed that there is currently no general framework for the use of co-regulation or self-regulation processes in EU decision-making. UNICE encourages the Commission to work with the relevant stakeholders to elaborate a clear voluntary set of guidelines for better and more uniform use of alternatives to traditional legislation applicable to all EU policy areas.

One of the chief actions planned to meet the present mid-term objective is the proposal to harmonise existing rules concerning the fairness/unfairness of business-to-consumer commercial practices. UNICE remains sceptical about the viability of the intended reform and has fundamental reservations regarding the justification and need for this proposal. Its latest views on this debate can be found in its response of 30 September 2002 to the follow-up Communication on EU consumer protection*.

II. "EFFECTIVE ENFORCEMENT OF CONSUMER PROTECTION RULES"

As a matter of principle, UNICE believes that consistent and effective enforcement of rules is essential to the functioning of the internal market. Improved enforcement mechanisms will also allow a thorough examination of effectiveness of rules. This would constitute an important tool to increase confidence and reduce the need for new or further regulation.

In this context, UNICE welcomes proposals to enhance cross-border co-operation between enforcement practitioners and authorities in order to ensure consistent application of EU consumer protection legislation. Special attention should be paid to ensuring that candidate countries put in place the necessary and adequate administrative structures and enforcement mechanisms to implement and monitor the consumer protection *acquis*.

UNICE believes that any proposals in this respect should take account of the different nature of existing enforcement bodies which range from public administrative bodies to judicial and extra-judicial bodies as well as private bodies. UNICE also thinks that the existing informal co-operation arrangements between public bodies should continue to be supported and combined with some degree of formal co-operation.

This could be complemented by information exchange and data collection initiatives as well as education projects which would facilitate the collection of systematic feedback from all parties involved in enforcement of the relevant rules.

In close connection with the issue of enforcement, UNICE wants to stress the importance of correct transposition of Community rules in national systems. Further efforts should be made to ensure that member states transpose promptly and respect the spirit of Community rules.

* Full text of UNICE position is available at www.unice.org

Finally, UNICE encourages the Commission to continue its work on development of more effective and easier extra-judicial mechanisms for resolving cross-border disputes. The establishment and progressive consolidation of instruments like the European extra-judicial network (EEJ-Net) or the FIN-Net for financial services is a step forward. Particular attention should be paid to the field of e-commerce and other forms of distance selling.

III. "GREATER PARTICIPATION OF STAKEHOLDERS IN DECISION-MAKING"

UNICE supports promotion of consumer representatives' participation in decision-making processes for issues that directly affect the rights and demands of those whom they represent. Participation of civil society representatives in the preparation and elaboration of rules can add expertise and legitimacy to the decision-making process.

It also agrees that consumer concerns should be integrated and taken into account in all decisions that have direct implications for EU consumers. It is therefore a corollary that legitimate representatives of consumers' interests can provide an input into the development of such decisions.

However, greater involvement of consumer associations in EU policy-making machinery raises fundamental questions about representativeness, role and responsibilities, accountability, adequate expertise and resources of consumer representatives; these need to be carefully examined before consumer representatives can be given these greater responsibilities. It is essential that representatives truly speak for consumers in Europe. UNICE has already indicated which are the criteria for a representative European organisation in its position on European Governance*.

Likewise, public proposals to fund, train and equip consumer associations should be examined cautiously so that they do not compromise their independence and objectivity.

UNICE believes that a greater voice of consumers vis-à-vis the public authorities and the decision-making process is important, but it is equally important to improve and promote better dialogue between industry and consumer organisations at European level in order to improve understanding of each other's needs and concerns. At present, there is not a genuine culture of dialogue.

Business would favour promotion of more dialogue which is issue-oriented and restricted to those representative stakeholder organisations which can effectively contribute to a solution and are mandated to act on behalf of their constituents.

UNICE is confident that concerted efforts from stakeholder representatives and public authorities in that direction will pave the way for a dialogue to help prevent conflicts and to create consensus on issues where consumer interests are also at stake.

UNICE calls upon the European Commission to foster more informal dialogue between stakeholders at European level. It may take a variety of forms such as interactions between stakeholders in informal roundtable sessions, conferences, joint events, etc.

The Commission should play a more active role in ensuring that fora or events which have been traditionally used to discuss various issues amongst consumer representatives are opened up to business stakeholders. This will certainly contribute to creation of a culture of dialogue at EU level.

More particularly, UNICE believes that some degree of business involvement should be guaranteed in the following cases:

- Events organised on the occasion of the European Consumer Day (15 March)
- Activities of the European Consumer Law Group
- Cooperation with the Consumer Committee
- Cooperation with the Inter-service Group on Consumer Policy.

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* UNICE position of 28 February 2002 on the Commission White Paper on European Governance.