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UNICE VIEWS ON EU CONSUMER POLICY

1. INTRODUCTION

Consumer policy is key for a well-functioning Internal Market and plays an important role for realisation of the Lisbon goals. A strong economy and competitive companies are highly dependent on consumer confidence and satisfaction. The market does not work if consumers do not feel confident to shop. This is why companies strive to do their best to meet consumers' needs and expectations.

Enlargement of the EU offers new opportunities and challenges to both business and consumers in a rapidly-changing environment characterised by greater use of new technologies and globalisation.

A sound and balanced consumer policy that ensures an adequate high level of consumer protection and promotes competitiveness of companies can also help to reap the full potential of the Internal Market.

2. RECOMMENDATIONS FOR A BALANCED EU CONSUMER POLICY

Better regulation and regulatory simplification:

UNICE supports the Commission's approach seeking full harmonisation of national consumer laws when appropriate. This will result in increased legal certainty, a more common level of consumer protection and less regulatory burden. Before adoption of a new proposal, stakeholder consultation and impact assessment are necessary. Also the Commission should assist and monitor Member States during the transposition phase (good example: SANCO's directive on unfair commercial practices).

Effective and even enforcement:

Disparate enforcement of consumer protection rules between national jurisdictions may lead to distortions of competition and undermine the confidence of market players. This is of paramount importance in an enlarged EU (good example: SANCO's regulation on consumer protection cooperation).

Promotion of alternatives to traditional legislation:

Consumer protection is an area where self-regulation and co-regulation can offer a more suitable alternative to traditional legislation. Codes of conduct have proved valuable and innovative tools to enhance responsible business self-discipline and to offer added value for consumers in a fast-changing market. Effective codes of conduct must remain voluntary, flexible, and transparent, and should be coupled with appropriate review, monitoring and enforcement mechanisms (good example: in the advertising sector).

Promotion of informal dialogue between business and consumers:

Dialogue between business and consumer organisations at EU level should be promoted. Such a culture of dialogue will help mutual understanding, reduction of confrontation, sharing of expertise and will pave the way for further dialogue and productive debate. This dialogue can be articulated in different ways: a consumer/business exchange day, workshops, seminars, expert groups, etc.

Improve consumer information and education:

In addition to the initiatives led by companies and consumer organisations, EU and national authorities should invest more in education and information campaigns from school onwards making use of modern technologies and online educational tools. Well-informed and responsible consumers are good news for companies.

Consumer data, statistics and knowledge:

More efforts are needed to streamline collection, use and assessment of meaningful information on consumer patterns and attitudes. Better cooperation and exchange of experiences between existing sources should be ensured and procedures harmonised. Accuracy and representativeness of data is central if information collected is to serve as a basis for policy proposals.

3. PRIORITY AREAS FOR UNICE:**3.1 *Review of the acquis communautaire on consumer policy***

- It should adhere to the principles of the EU Better Regulation Agenda and pursue simplification and clarification of existing rules and reduction of red tape.
- Revision or creation of new rules must ensure a level playing-field and avoid gold-plating. Full harmonisation should be sought when appropriate.
- It should be proportionate, practical and targeted; and review proposals must be based on real evidence of need for better functioning of the internal market.
- It should be backed up by impact assessments based on a competitiveness test
- It must strike the right balance between the competitiveness of companies and an appropriate level of consumer protection.
- The review process must be open and transparent, with full consultation of stakeholders.
- Proposals for judicialisation of consumer enforcement powers (class action, etc) must be treated with extreme care. UNICE is in favour of improving and reinforcing non-judicial mechanisms such as arbitration, mediation, complaint-handling and information schemes (SOLVIT, etc.).

3.1 European Contract Law

- UNICE supports the European Commission's objective of increasing the overall coherence of European contract law as a contribution to a fully operational internal market and in the spirit of the better regulation agenda.
- UNICE does not object the idea of creating a Common Frame of Reference (CFR) in European Contract Law setting out principles, definitions and model rules of contract law. It will be a handbook or toolbox providing elements that could be of assistance when revising or elaborating new legislation containing contract law provisions.
- However, UNICE has major concerns about this ambitious project:
 1. It is led by academics often ignoring the real needs of the market. The Commission must set clear objectives and priorities. Proper coordination between the different DGs concerned must also be ensured.
 2. The linkage with the review of the acquis on consumer protection is not clear.
 3. New focus on consumer issues is welcome but implications in the area of business-to business contracts should not be underestimated. The freedom of contract must be fully respected.
 4. Use and legal status of the CFR remains unclear: UNICE is firmly opposed to the idea of developing a European civil code or any binding instrument.