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CONSUMERS IN THE DIGITAL ENVIRONMENT

Ladies and Gentlemen,

First of all I would like to thank you for inviting BUSINESSEUROPE.

This panel is about consumer rights in the digital environment

Development of a digital-powered economy

- Development of the digital economy in past decade has permitted the creation of many new goods or services,
- and has also dramatically changed the way goods and services are provided, distributed, traded and consumed.
- Habits of consumers and companies are changing.
- Over 40% of EU consumers bought goods and services over the Internet in 2010, compared to 37% in 2009 and 26% in 2006.
- In many EU countries (UK, FR, DE, Lux, Nordic) 45% to 65% of internet users are online buyers.

Advantages for both companies and consumers

This has led to important structural changes in the economy and represented:

- For consumers: an increase in choice, diversity, rapidity and better prices.
- For companies: the opening to new markets, reduction of distribution costs and an extra incentive to go across borders.



The awaited potential

If fully developed the internet powered economy would represent an increase of EU GDP of 4% by 2020¹. This increase is equivalent to the one provided at the beginning of the 90s with the creation of the Single Market.

But still a lot has to be done so that both consumers² and companies³ can draw more benefits from the internal market and ecommerce

Challenges

There is still work to be done to boost ecommerce:

- In the last years less than 10% of EU consumers bought goods and services via the Internet from a seller/provider located in another Member State (2009 – 8% and 2010- 9%)⁴
- 2/3 of online traders still do not offer the possibility of selling to another Member State
- The proportion of **retailers selling to other EU countries fell to 22% in 2010** (25% in 2009), even though the rewards for cross-border commerce are significant⁵.

Explanations of different nature

- Consumers' perceptions seem to be a major barrier to cross-border e-commerce⁶:
 - 62% are worried about **fraud and scams**
 - 59% cite concerns about **what to do when problems arise**
 - 49% are put off by expected **delivery problems**
- Language barriers (e.g. rarely websites operate in more than one language)
- Payment systems (e.g. costs, lack of interoperability) and postal systems (not flexible enough, makes it hard to ensure rapid and competitive delivery)
- VAT (difficulties to register and submit VAT declarations)

¹ Digital Agenda communication.

² Shopping online presents many advantages, as for example 53% of European consumers claim that while shopping online they find products they cannot find anywhere else (*Western European Online Retail Forecast, March 2010, Forrester*).

³ These are among the main findings of a 2010 Eurobarometer survey on business attitudes towards cross-border sales.

⁴ Data provided by the Spring Consumer Scoreboard 2011.

⁵ Data provided by the Spring Consumer Scoreboard 2011.

⁶ Data provided by the Spring Consumer Scoreboard 2011.



The case of legal fragmentation

Another great obstacle is the fact that consumer laws differ widely from Member State to Member State:

- It is difficult for consumers to ascertain their rights, which deters them from contracting with a foreign trader;
- Companies, on the other hand, need to incur in great costs (e.g. legal fees) to be able to apply a mosaic of 27 different consumer protection regimes. SMEs are particular vulnerable because they are not able to afford legal costs.
- The recent ECJ decisions on the Pammer and Alpenhof cases have made the situation more unclear. The Court dwelled on the question of whether by having a website a company directs its activity to all Member States. It did not go too far as saying yes but this fact made the call for legal certainty even more vital.

Consumer rights directive as a remedy to solve fragmentation

- We believe the consumer rights directive, under a full harmonisation approach, would help establishing a better level playing field whilst ensuring a high level of consumer protection.
- Discussions are very difficult in the Parliament and Council but we are positive that this directive can bring a real added value to the internal market. Legal certainty will create more consumer confidence. In particular, online consumers will also see their rights being improved:
 - 14 days right of withdrawal
 - provision no say no pay
 - unique withdrawal form
 - specific information requirements for distance contracts: which guarantees, when, how to withdraw
 - which right in case of lack of delivery and when does the risk pass to consumer (not yet regulated at EU level)

The case of consumer confidence and redress

Another of the reasons why consumers hesitate or refrain from online cross-border purchases is on what to do if they experience a problem or a dispute with a foreign trader:

- where to go?
- who to turn to?
- How to obtain quick, cost-effective and reliable redress



Alternative Dispute Resolution (ADRs) as means to provide effective redress

BUSINESSEUROPE believes that ADRs can help providing a well-suited answer to these questions. Alternative dispute:

- **Saves time:** often a solution can be found in a matter of months, even weeks (while bringing a lawsuit to trial can take a year or more).
- **Saves Money:** When cases are resolved earlier through ADR, the parties may save in attorney fees, court costs, and experts' fees.
- **Increases Control Over the Process and the Outcome:** In ADR, parties typically play a greater role in shaping both the process and its outcome. In most ADR processes, parties have more opportunity to tell their side of the story than they do in trial. It encourages creative solution that better suits the parties' objectives.
- **Preserves Relationships:** ADR can be a less adversarial and hostile way to resolve a dispute.
- **Increase Satisfaction:** In a trial, there is typically a winner and a loser. ADR can help the parties find win-win solutions.

Room for improvement

We acknowledge that there is still work to be done in terms of creating awareness and more coverage of ADRs, in particular in the online environment.

However, one should not lose sight of what already exists at European level in terms of dispute resolution (e.g. ECC-net, FIN-Net, Solvit,) and try to improve and promote it. There are also available ADR initiatives dealing with the online world complex problems (e.g. ADR.eu dealing with .eu related disputes).

Conclusion

The digital environment:

- Huge opportunity both for consumers and companies
- Challenges need to be overcome
- Fast-evolving environment that requires
- finding the right balance between:
 - Necessary rules
 - Need for flexibility to allow this digital environment to continue to develop