



European
Commission

ECCG 2014

12 -13 March 2014

Health and Consumers Directorate-General

European Consumer Consultative Group

ECCG - DRAFT REPORT 12 MARCH

1. AGENDA AND DRAFT MINUTES OF ECCG OCTOBER 2013

The agenda of the meeting and the minutes of ECCG 28 October 2013 were adopted without modifications.

2. UPDATE OF DG SANCO Initiatives

The Commission reported on the state of play of ongoing legislative and non-legislative initiatives of DG SANCO and expected and planned to be concluded before the end of the mandate of the current EP.

PRODUCT SAFETY AND MARKET SURVEILLANCE PACKAGE – STATE OF PLAY

Since October 2013 the work continued in the Council working groups discussing the Proposals on Market Surveillance and Consumer Product Safety. The major stumbling block remains the proposed mandatory country of origin marking which, due a division of positions between Member States, prevents the file from moving ahead. The Commission explained that mandatory origin marking is one important element to enhance traceability which will allow better market surveillance and use of RAPEX.

The European Parliament is to adopt legislative resolutions on the two proposed Regulations in the last Plenary session of its mandate on 15 April which will conclude the first reading.

In the meantime, the Commission continues its work together with national authorities on the implementation of the 20 actions of the Multi-annual Plan for Market Surveillance. One of the actions is targeted at enhancing the safety of products sold on line.

MEDICAL DEVICES PROPOSAL

The Commission recalled that after the EP consolidated its position in 2012 Member States are still discussing the proposal in the Council. The work is challenging as the proposal touches upon issues linked to consumer safety, as it concerns safety of devices, the definition of high risk medical devices, and the control that bodies certifying medical devices. The adoption and entry into application of the new legislation will take more time.

In order to bridge the gap, the Commission and the Member States have agreed to implement a plan of immediate action under the existing legislation in order to tighten up controls and improve patient safety (so called PIP Action Plan).

This plan focuses on four main areas: the functioning of notified bodies; increased market surveillance; vigilance and follow up of serious incidents; and coordination and transparency of the notified bodies.

A Staff Working Document detailing the progress made and the further steps that we propose to be taken will be published in April 2014.

COLLECTIVE REDRESS

The Commission intends to initiate a discussion with all Member States in order to see how they intend to follow the Commission's Recommendation of 11 June 2013, both as regard to the substance and to the timing. To this end, a special session will be dedicated to this topic in the next CPN meeting on 22 May 2014. In preparation to the above session, we have invited Member States to share with the Commission the texts of legislative measures regarding Collective Redress as defined in the Recommendation, planned or being already in place in their national systems. The ECCG in June will be debriefed on the outcomes of this discussion with CPN.

PROPOSAL FOR A DIRECTIVE ON ANTITRUST DAMAGES

The proposal for a Directive on Antitrust Damages Actions covers only actions for damages for breaches of the EU antitrust rules. It leaves to Member States whether or not to introduce collective redress actions in the field of competition law.

The proposal (under the responsibility of DG COMP) is in the final stages of the ordinary legislative procedure. The Trilogies commenced on 10 February 2014; if institutions agree on a text, the proposal could be adopted in first reading still under the current Parliamentary mandate.

CPC REGULATION REVIEW

The public consultation ended in mid-February. The Commission received 211 replies and 28 responses came from the consumer associations, and is conducting a thorough analysis (both quantitatively and qualitatively) of the responses.

The preliminary results are encouraging; stakeholders show a support for:

- an enhanced engagement of consumer associations and European Consumer Centres that would allow detecting and alerting national enforcement bodies and the Commission about emerging market trends and threats to consumers;
- additional powers for the national competent authorities to deal with infringements in the digital age (for example, the power to carry out test purchases, to name infringing traders and to request penalty payments from the traders to recover illicitly obtained gains); and
- an enhanced EU-level coordination mechanism to tackle EU-relevant infringements.

A discussion on the results of the public consultation and the role of the consumer associations will be held at the next ECCG meeting in June 2014.

The Commission also referred to the meeting of the CPC of 10 March where a CPC common position and coordinated actions targeting in app purchases were discussed (press release http://europa.eu/rapid/press-release_IP-14-187_en.htm).

With the facilitation of the Commission, the CPC and industry representatives will present and discuss together the ways to address 1, enforcement of consumer rights 2, the issue of financial harm caused by misleading practices inbuilt in in-app purchases and 3, the modalities to improve consumer service contacts when they face problems.

The Commission plans to carry out of the same action in the transport sector.

MULTI - STAKEHOLDER DIALOGUE ON ENVIRONMENTAL CLAIMS AND CONSUMER MARKET STUDY ON ENVIRONMENTAL CLAIMS FOR NON-FOOD MARKETS

Regarding environmental claims the Commission continues the dialogue with stakeholders, and launched a study on green claims level.

As a follow-up to the report of the Multi-stakeholder Dialogue on Environmental Claims, DG SANCO has been conducting a dedicated study on EU consumer markets and environmental claims for non-food products

The study examines the presence of green claims in different markets (several market and product groups in a selection of countries via mystery shopping and advertisement database), consumer understanding and behaviour aspects (via online survey and behavioural experiment), the level of compliance with EU legal requirements (in particular the Unfair Commercial Practices Directive), and different enforcement and self-regulatory instruments in a selection of EU and third countries.

A meeting with the Multi-Stakeholder Dialogue on Environmental Claims held in March discussed the final results and conclusions from the study and attempted to agree on a “list of future actions, including for 2015 and beyond” and the priority of those actions. These can be actions for the MDEC group in particular, but also possibly for the different stakeholder groups.

MULTI - STAKEHOLDER DIALOGUE ON COMPARISON TOOLS INCULding IN STUDY ON COMPARISON TOOLS

The conclusions of the Multi-Stakeholder Dialogue on Comparison Tools were presented at the 2013 European Consumer Summit. They include a first set of recommendations to ensure the transparency, reliability and user friendliness of comparison tools and called for further research to be done in this area.

On this basis, the Commission (DG SANCO) has launched a study to gather more in-depth information on the number and types of comparison tools available throughout the European Union and on existing third-party verification schemes. The study will also look at how consumers use and trust comparison tools and how some of their parameters (e.g. ranking order, feature of user reviews) influence their decision making. The findings of the study, expected by July 2014, will inform our decision on the way forward.

Recommendations and findings from the MSDCT report have also fed into some sector specific proposals, for instance in the recent proposals on bank accounts and on the telecoms single market where provisions have been included to ensure that Member States establish a voluntary accreditation scheme for comparison websites to guarantee their reliability.

The MSDCT met on 5 February and 5 March this year with the aim to present the on-going study on comparison tools (as well as the one on user reviews) and look at recent developments in Member States. The MSDCT will meet again once the study on comparison tools is finalised and we will then start discussing any potential follow-up action.

STUDIES

The Commission highlighted that the studies should facilitate the work of ECCG members and their involvement therein. This could also be reflected in the ECCG Work Programme.

STUDY ON VOLUNTARY FOOD LABELLING

The study on voluntary food labelling schemes has been published. It examined how food labelling schemes operate for consumers, in terms of their numbers, classification and adherence to the Commission guidelines from 2010; how consumers understand information provided by schemes; and what impact logos or text have on their purchasing decisions.

- Highlights of results:
 - over 900 voluntary food labelling schemes were identified across the 30 countries covered by the study;
 - the products most widely covered by voluntary food labelling schemes are meat, fruit and vegetables, and the most common ones are origin schemes
 - consumers are aware of schemes, but don't always understand them – 40% of respondents have difficulty with understanding such labels;
 - results from the behavioural experiment indicate e.g. that respondents are more likely to pay a premium price for minced beef and cheese with an origin label, and for chicken and eggs with an animal welfare label than they are for margarine and yoghurts with a health label.

The results will mainly be used in DG SANCO work on food labelling and DG AGRI work on quality agricultural products.

THE STUDY ON THE FUNCTIONING OF THE MARKET FOR SECOND HAND CARS

The study on the functioning of the market for second hand cars from a consumer perspective began in July 2013, and will be completed in 2014.

It covers purchases of second-hand cars by consumers from franchise dealers, independent dealers, and auctions (particular emphasis will be given to cross-border aspects of this market and to internet car portals) and is looking into:

- practices at second-hand car dealerships and the extent to which they are complying with the existing regulatory framework for selling second hand cars;
- whether consumers are able to make informed choices when purchasing a second-hand car (information received by the consumer in terms of transparency, accuracy and level of understanding);
- the main consumer problems, the handling of complaints post-purchase, the quality of after sales customer care/service and redress.

STUDY ON CONSUMER CONDITIONS IN ENERGY

The study on energy will closely look at market conditions for electricity consumers (including availability of better offers, level of competition and quality). Its result shall provide a comprehensive picture of EU electricity market in terms of competition at retail level and whether the benefits of competition reach consumers, especially the vulnerable ones. The study should measure the impact of the implementation of the 3rd Energy Package on consumers.

The study will be a review of the 2009-10 electricity study and will be focusing on:

- the impact of the recently implemented energy legislation on market functioning for consumers,
- consumer capacities to actively take part in the market and
- their capacity to understand and make the right choice when presented with competing offers.

Consumer organisations at EU and national level will be consulted in order to better assess the situation per Member State. The study will conclude in time to present results for the forthcoming Commission, but early results will also feed into the Commission's thinking about the future of retail energy markets.

STUDY ON CONSUMER VULNERABILITY ACROSS KEY MARKETS IN THE EUROPEAN UNION

The Commission has recently launched a study mapping vulnerability patterns across key consumer markets: energy, financial services and digital services/electronic communication.

The study should provide concrete recommendations amongst others on how to refine the Commission's evidence gathering and analysis to better reflect and report on the issue of consumer vulnerability in the Single Market. Intermediate results are expected by autumn 2014 while the final report from the study is expected for the spring 2015.

STUDY ON MARKETING TO CHILDREN THROUGH SOCIAL MEDIA, ONLINE GAMES AND MOBILE APPLICATIONS

Under the same frame of research on consumer vulnerability DG SANCO has recently launched a study that will explore the awareness and understanding by children and adolescents of marketing content directed at them through social media, online games and mobile applications.

The study will provide evidence to support the Commission's efforts in assessing the need for self-regulation or further regulation aimed at guaranteeing an appropriate level of protection of children acting as consumers in the online sector. The final report from the study is expected by March 2015.

REPORT ON CONSUMER POLICY AND INTEGRATION OF CONSUMER INTERESTS INTO EU POLICIES

The 2nd Report on Consumer Policy covers the period from January 2012 to December 2013 and presents the state of play and progress achieved in the policies and measures announced under the four pillars of the

European Consumer Agenda. The Report will be published in April 2014 in a form of a Staff Working Document and accompanied with communication material (paper and web brochure).

QUESTIONS AND REPLIES

DK pleaded the Commission to send a summary of the SANCO initiatives updates possibly in advance of the meetings. The Commission agreed to circulate possibly on the day of the meeting a summary of the updates of SANCO initiatives.

Regarding the participation in the work of consultants who work on studies/consultations of the Commission, DK - supported by ES and LUX- said that answering consultants is very time consuming and it is not a priority in the daily work of consumer organisations.

LUX also highlighted that consumer organisation have limited expertise, and that the level of expertise in consumer organisation should be mapped out and consultants should be informed.

In relation to the study of 2nd hand cars, LUX pointed out that the actual impact on competition between after sale servicing of new cars and 2nd hand cars has never been looked at.

ANEC referred to the GPSD and inquired what the Commission intends to do with the Article 7- country of origin after the EP vote of 16/04.

3. UPDATE OF DG JUST INITIATIVES

The Commission reported on the state of play of the revision of : Package Travel Directive; The Review of Misleading Advertisement Directive, Awareness Raising Campaign; the Report on the implementation of the Timeshare Directive; the Guidance and on-line pre-contractual information model for the Consumer Rights Directive; the Revision of the 2009 Guidance on application of the Unfair Commercial Practices Directive and the Assessment of the Legal Guarantee overall effectiveness of the guarantee.

REVISION OF THE PACKAGE TRAVEL DIRECTIVE

The proposal aims to extend the protection to (online) customised combinations similar to packages e.g. different travel components selected from an online travel agent and charged at an inclusive price; to provide lower level of protection for looser combinations of travel services, "assisted/linked travel arrangements". (Invitations to book additional travel services (e.g. a hotel room or car rental) from a linked website and to insolvency protection.

Regarding the institutional negotiation process, the file is advanced both in the Council and EP. The 1st reading was completed during the Lithuanian Presidency; and working group meetings carry on taking place under the Greek Presidency.

CONSUMER RIGHTS AWARENESS RAISING CAMPAIGN

The aim of the Campaign is to raise the awareness with a focus on key horizontal directives, with a view of obtaining better awareness of the rights and obligations of consumers and traders. The Campaign focuses on Consumer Rights Directive, Unfair Commercial Practices Directive; Unfair Contract Terms Directive; Consumer Sales and Guarantees Directive.

The Commission hopes to maximise the opportunities of close cooperation with all stakeholders, in particular relevant national authorities; consumer associations, outreach with consumer organisations and business associations and ECCs

The timing of the campaign is scheduled from March to December 2014 and targets 8 Member States: Bulgaria, Cyprus, Greece, Italy, Latvia, Poland, Portugal, Spain. The Campaign materials are available online and can be used by MS. Subject to a favourable assessment of the campaign the Commission may consider its prolongation and /or extension to other countries.

TIME SHARE DIRECTIVE

The Commission recalled that a complete transposition check was carried out in 2013 and a number of EU Pilot projects were launched as a result. The Commission welcomed that several Member States have already agreed to adjust certain aspects of their national transposition laws.

A report on the application is due in 2014, and in parallel a research on the practical application of the Directive by the Centre for Strategy & Evaluation Services is ongoing (December 2013 to May 2014) and includes a series of interviews with stakeholders. To this end the input and assistance of consumer organisations in this exercise would be important.

The focus of the practical implementation of the Timeshare Directive; covers Pre-contractual information; Right of withdrawal and ban on advance payments; Staggered payment procedure for Long Term Holiday Products (such as discount holiday clubs).

STUDY ON TIMESHARE DIRECTIVE

A study is under preparation outside the scope of the Directive but with a strong relevance for the existing timeshare owners, such as:

- New commercial practices and types of fraud ("reclaim" services, fake offers to represent owners in disputes with sellers etc.)
- Undue restrictions on the owners' rights regarding, e.g., private sale, renting, exchange of their timeshare
- Termination of long-term contracts, access to services, unfair contract terms regarding management / annual fees etc.

CONSUMER RIGHTS DIRECTIVE (CDR)

The Commission recalled that the transposition deadline of the Directive was 13 December 2013. To date, 14 Member States sent their notification of transposition; infringement procedures have been opened regarding those who are late. Transposition measures will apply to contracts concluded as from 13 June 2014.

A guidance document is under preparation to facilitate a uniform application across the EU, including a voluntary model for the online display of consumer information for digital products.

UNFAIR COMMERCIAL PRACTICES DIRECTIVE (UCPD)

Updating the UCPD Guidance is one of the priority actions identified in the Consumer Agenda and the UCPD Communication in order to step up enforcement and ensure a consistent implementation of the Directive

To that end, the Commission is organising thematic workshops with national enforcers. Three meetings already took place in May and October 2013 and February 2014 focusing respectively on online issues, travel and transport, and immovable property and financial services; a 4th one is foreseen early May and will address environmental claims. In parallel, the Commission has conducted bilateral meetings with a number of Member States. We also invited stakeholders to send position papers and we are considering organising a meeting with a selected number of consumer associations and businesses on specific issues in May.

The Commission plans to adopt the revised Guidance by October 2014.

New issues for the revision include:

- Novel advertising techniques including on Social Media (targeting, profiling – dynamic pricing - interplay with data protection)
- Customer Review tools, Price Comparison web-sites and "Group Buying"
- Pricing issues in travel sector (interplay with the Air Services Reg. and the CRD)
- Marketing of commercial warranties
- Environmental claims
- Immovable property (clarification of the notions of transactional decision, average consumer and material information)
- Interaction between the UCPD and sector-specific legislation

THE CONSUMER SALES AND GUARANTEES DIRECTIVE

The Commission informed that about 10% of the 32 000 complaints are related to cross-border purchases and received by ECCs in 2012 were related to the legal guarantee.

26 enquiries about the legal guarantee were received by Your Europe Advice service of the Commission in 2013.

39 mutual assistance requests concerning Directive 1999/44/EC were filed in the Consumer Protection Cooperation system for 2007-2010 but there were many more related to misleading advertising of guarantees.

The issues identified in legal guarantees are:

- Misleading advertising of guarantees, e.g. related to the relation between the commercial and the legal guarantee. - Proof of lack of conformity at the time of delivery after 6 months at the time of delivery
- Problems with the choice of remedies, e.g. when the consumer has the right to have the contract rescinded or the price reduced.- Application of the legal guarantee to digital content products by national courts on a case-by-case basis.
- Lack of traders' awareness that there is a compulsory 2-year guarantee.

As a next step, the Commission will launch a consumer market study in 2014 on consumer legal guarantees to evaluate amongst others the difficulty for consumers to claim their rights.

The outcomes of this study will feed into the evaluation, announced by the recent "REFIT" Communication, of the EU consumer acquis in terms of its regulatory fitness and in order to explore the simplification potential.

QUESTIONS AND REPLIES

LUX informed about the transposition of the CRD and reported that LUX ECCG was about to launch a full awareness campaign as own initiative, and would also use the materials of the consumer campaign run by the Commission.

Regarding the Package Travel Directive, LUX asked for clarification of the type of meetings with the Greek Presidency. COM said that the meetings were regular Council working group meetings with a view to finalising the 1st reading under the Greek Presidency.

MT also reported on the transposition of the CRD in Malta, and inquired if a MS when transposing the directive could adopt a wider definition of "consumer" than set out in the directive. The Commission confirmed that the notion of "consumer" must be transposed in the same manner in each Member State.

MT asked if the new Package Travel Directive would affect the old Directive's insolvency regime. The Commission explained that as the scope of the package is changed as opposed to assisted travel arrangement the insolvency protection will apply and will be granted for consumers buying the "new packages".

CY expressed interest in participating in the awareness raising campaign. In relation to the consumer guarantees directive CY said that it would welcome a more specific directive on guarantees. The Commission asserted that a lot could be done with the enforcement with the current one.

ES inquired if the Commission planned to evaluate the benefit effect of general information campaigns and if so had there been results to its effectiveness. ES pointed out that targeted campaigns (e.g. Air Passenger Rights) have a better effect as to enchainning consumer rights information. The COM explained that general campaigns attempt to pass general messages in a simple way and their effectiveness and outreach also lie with the consumer organisations.

4. WORKING TOGETHER

ECCG WORK PROGRAMME 2014

The draft work programme (a living document) outlines the areas of cooperation of the ECCG Members primarily until the end of 2014. It concentrates on policy initiatives in line with the Consumer Agenda DG SANCO are working on until the end of the mandate of this Commission.

Once the new Commission establishes new priorities, ECCG Members will have the opportunity to reflect on adjusting the work programme. ECCG members were asked to input into the first draft after the meeting with a view of adopting it at the June meeting.

REPORTING OBLIGATION OF ECCG MEMBERS – CONSULTING NATIONAL CONSUMER ORGANISATIONS

ECCG members are requested to report on the information dissemination and consultation mechanisms they put in place and use to systematically inform consumer organisations at national level about the activities of the ECCG. The Commission asked members to submit the first report of Members by 1 April 2014.

PRESENTATION OF THE KEY FINDINGS AND RECOMMENDATIONS OF THE STUDY ON VEHICLE FUELS FROM A CONSUMER PERSPECTIVE

One of the key results of the study is that labelling at the pump is the primary source of information for consumers with regard to both general characteristics of fuels, as well as fuel-vehicle compatibility. The Commission is working on a Staff Working Document which will be published jointly with the study during the first semester of 2014.

PRESENTATION OF THE RESULTS OF THE LATEST MARKET MONITORING SURVEY

The 2013 edition of the Market Monitoring Survey will constitute the main source of statistical information for the 10th edition of the Consumer Scoreboard, to be published by the Commission in May 2014. It monitors the performance of 52 markets as assessed by end consumers and based on overall satisfaction with respect to expectations; trust in the seller, comparability of offers, problems experienced with products/services purchased and complaints; for relevant markets, it also looks at choice and switching.

5. PRESENTATION OF THE KEY FINDINGS AND RECOMMENDATIONS OF THE STUDY ON VEHICLE FUELS FROM A CONSUMER PERSPECTIVE

One of the key results of the study is that labelling at the pump is the primary source of information for consumers with regard to both general characteristics of fuels, as well as fuel-vehicle compatibility. The presentation will summarize the key results on such topics as consumers' understanding and decision making, consumer choice in the market, consumer problems and redress. It also looks at price differences within and between countries.

The Commission is working on a Staff working document which will be published jointly with the study during the first semester of 2014.

Background

The 6th Consumers Market Scoreboard identified vehicle fuels as a poorly performing market from a consumer perspective ranking second-lowest among the 21 goods markets in terms of overall MPI score.

6. PRESENTATION OF THE RESULTS OF THE LATEST MARKET MONITORING SURVEY

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The presentation will first provide a short general overview on the latest results of the survey for all consumer markets, and then focus in more detail on financial services.

The market performance of financial services will be analysed, both considering the composite indicator on and its components, in relation to that of other service markets, and differences across Member States will be outlined.

7. UPDATE ON FINANCIAL SERVICES

The Commission stressed the importance of the Commission's work in the area of financial services.

7.1. PAYMENT ACCOUNTS DIRECTIVE

The Commission informed about the state of play of the negotiations with the Council and European Parliament.

The Commission explained that it had to face the opposition from the Council on a number of elements of its original proposal. One of the main issues related to the insistence by the Council (and to some extent by the Parliament) that consumers who want to open a basic bank account should demonstrate a genuine link. It is not in line with the commission's initial proposal and would in its view be in contraction with fundamental freedoms guaranteed by the Treaty.

In addition, the Council's current position would open the door of the implementation of the Directive through voluntary agreements at national level, which is not acceptable from a legal point of view; this is an issue BEUC highlighted as well. Regarding switching, the Council opposes the inclusion of cross border switching while for the Commission it is important as it is linked to the Single Market and to the mobility of consumers.

On the transparency of payment accounts,, the Commission stressed the need for the fee information document to focus on the fees of the most representative services; on the other hand, the EP r insists on an exhaustive list of fees, which in the Commission's view would defeat the purpose of such a document since consumers would not read such a document. Finally, the Commission insisted on the importance of the obligation by Member states to set up a t least one comparison websites (private or public) meeting quality criteria. The Council is not in favour however and opposes the Commission's proposal to set up an accreditation scheme for private websites.

QUESTIONS AND REPLIES

BEUC expressed support for the Commission proposal, and reiterated their opposition to the Council's and EP's demand to establish a genuine link for the access to basic bank account. BEUC, supported by DE, also opposed the self-regulatory approach as a way to implement the Directive. BEUC underlined the importance of comparison websites and of the accreditation of private websites.

BEUC also expressed its preference that the EU standardised terminology be established through a Commission delegated act rather than through a Regulatory Technical Standard by the European Banking Authority (EBA).

PT supported by CY – also echoed the importance of comparison sites, and reminded that some consumer organisations had already put these tools in place and run them as well. Any accreditation scheme should not jeopardize these already well-functioning tools.

Regarding the genuine link DE suggested that the Commission try to qualify what is meant by a genuine link. The Commission reaffirmed that any compromise should be in line with the Treaty.

7.2. PAYMENT SERVICES DIRECTIVE 2 (PSD2)

The Commission informed about the important changes for consumers in the PSD2:

- extended scope of the directive
- coverage of transactions not only within but outside of EU
- extended to all currencies

The PSD2 is an evolution of the original Directive, providing for:

- more level playing field on the coverage of the Directive (positive scope and exemptions);
- regulation of “third party service providers” (which provide a software bridge between the account of the consumer and the account of the merchant, allowing for convenient and fast online payments) including by providing them with appropriate information on the availability of funds on the payers’ bank account;
- increased payment security (payment service providers need to comply with several new security requirements e.g. make a risk assessment, define security policy and security measures, put in place security incident reporting mechanism etc) and strong customer authentication requirement for electronic payment transactions becomes the rule (payment service providers that do not provide for strong customer authentication in case of online payments cannot hold the payer liable for unauthorised payments, unless it is proved that consumer acted fraudulently; if the strong authentication is not supported by online merchant, the liability rests on the merchant).
- better protection of consumers (consumers become better protected against fraud, possible abuses and payment incidents e.g. in case of disputed and incorrectly executed payment transactions; liability of the consumer in the event of an unauthorised payment is harmonised across MS and reduced to maximum 50 EUR; “no questions asked” refund right for direct debit, complaint resolution mechanisms with clearly set deadlines).

The PSD2 proposal has been voted in the ECON Committee of the EP and is expected to be on the plenary’s agenda in April. The Council Working Group has started its work on the file on 26 February; best case scenario is to reach a general approach by June and start trilogue negotiations under the Italian Presidency.

QUESTIONS AND REPLIES

DE mentioned the issue of unconditional refunds of direct debits covered by the SEPA guide book and cautioned to remain mindful to distinguish between the right of the seller and the right of the consumer to act and stay in control of his/her bank account to carry out a payment. DE also mentioned potential fraudulent activities on a website of third party service provider (TPP). The Commission replied that in the case of unconditional refunds, the rights should be split between the seller and the consumer without banks getting involved in disputes. On TPP, banks have their own level playing field because these services compete directly with the credit card services and banks are not interested in developing efficient online services. As regards fraud in the activities by third party service providers, the Commission mentioned that any online bank service could be subject of hacking, not only TPP.

On 3rd party payment initiation DE underlined the potential risk of such a service for consumers’ without questioning the usefulness of this service. DE linked the issues to consumer education emphasising the risks by revealing personal data and credentials.

UK asked about the relationship between the CRD and the PSD2 and reported on a very successful campaign in the UK which lead the UK government to introduce sections of the CRD earlier on excessive charges. The Commission explained that the relationship between the CDR and PSD 2 apply to those cards that are not covered by the Proposal (Amex/Diners Club's); Art 19 will apply.

7.3. CONSUMER CREDIT DIRECTIVE

The Report on the implementation of the CCD is planned to be adopted in April.

The main preliminary conclusions of the report are the following:

- The enforcement of the CCD is not satisfactory and the creditors in different MS do not fully respect the CCD
- Efforts should be made to improve financial awareness of consumers

To address the issues identified in the Report, the Commission will continue monitoring the enforcement of the CCD in the Member States, starting with an assessment of their supervisory practices.

Concerning the information campaign on consumer credit (in four Member States: Cyprus, Ireland, Malta and Spain) The Commission mentioned that the campaign ended in February.

The aim of the campaign was to raise consumers' awareness of their rights when they take out credit. In parallel an evaluation exercise was also launched to measure the impact of the campaign and assess its effectiveness, efficiency and relevance. Based on the results, (expected in June) the Commission will decide whether to extend it to more Member States.

QUESTIONS AND REPLIES

IE flagged a serious and growing issue of concern for consumers in Ireland in respect of consumers who had not understood the terms of their credit contracts. These cases are dealt by the financial ombudsman who finds only a limited percentage of these cases in favour of consumers. The fact that consumers are forced to understand the specifics of their contracts is challenged to a degree of unfair treatment of consumers.

The UK brought up the issue of pay day loans, unauthorised overdrafts and high charges. In this context the UK inquired about the study on over indebtedness, and what policy plans could be considered by the next Commission on consumer credits, and the inclusion of an analysis of payday loans.

ES supported IE and UK, and explained that the understanding of consumer credit contracts is a serious problem in Spain as well. SI said that the issue of incomprehensible contracts is not only the matter of low financial literacy, but that contracts are deliberately written in a complex way. The solution is not only how to educate consumers on a very technical language. The Commission should prevent the breaches of legislation and put pressure on the financial services regulators.

COFACE agreed with SI that financial education was not the only solution and added that pressure should be put on banks to explain consumers the content of contracts. Some consumer organisations offer such services by an external expert, but banks should provide this expertise and service.

As regards the quality of contracts, the Commission said that from meetings with Member States it emerged that some Member States control some of the contracts. Contracts can be complicated because the products are complicated, but innovation should not mislead consumers. In relation to the UK's remark on easy access to credit and the new rules to restrict pay day loans, the Commission said that the study on over indebtedness was currently being discussed internally and that it would be published in the next months.

7.4. MORTGAGES – MORTGAGE CREDIT DIRECTIVE

Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property was adopted on 4 February and published in the OJ on 28 February. The 'Mortgage Credit Directive' aims to create a Union-wide mortgage market with a high level of consumer protection. It applies to both secured credit and home loans. Member States will have to transpose its provisions into their national law by March 2016.

The main provisions of the Directive include:

- consumer information requirements: standard info will have to be given as in the CRD. European standardised fiche – general information, to compare the offers and better understand them.
- principle based rules and standards for the performance of services, e.g. conduct of business obligations, competence and knowledge requirements for staff
- a consumer creditworthiness assessment obligation
- provisions on early repayment
- provisions on foreign currency loans
- provisions on tying practices
- some high-level principles, e.g. those covering financial education, property valuation and arrears and foreclosures
- a passport for credit intermediaries who meet the admission requirements in their home Member State

QUESTIONS AND REPLIES

IE asked under which jurisdiction the consumer is protected in case e.g. an Irish lender using the services of an intermediary in the UK. The Commission replied that such cases are regulated by the "Rome Regulations"; the rules applicable are the ones where the credit is concluded as a result of the creditor directing its activities, in other words the country of the consumer's residence.

BG inquired about the compensation for early repayment in particular as to who would decide on fair and objective compensation. The Commission said that this would depend on the way MS transpose this provision, however the Directive contains some safeguards such as compensation for possible costs directly linked to the early repayment, but this should not impose a sanction on the consumer.

7.5. PACKAGED RETAIL INVESTMENT PRODUCTS

The PRIIPS proposal, adopted by the Commission in July 2012, aims to improve the quality of information that is provided to retail consumers when considering investments. Its purpose is to make even complex products more understandable to retail investors. This aim is to present relevant product information in a standardized form, rendering different investment propositions comparable.

The proposal is focused on so-called ‘packaged’ products – notably all retail investment funds, insurance-based investments (such as unit-linked life insurance contracts), and all retail structured products offered by banks. The PRIIPS proposal is currently in the final stage of the co-decision. During the trilogies, legislators agreed broadly on the structure of the document outstanding issues to close the issues in the coming 3 weeks.

QUESTIONS AND REPLIES

AT asked about the scope and the type of insurances included such as standard life insurance was to be included or only fund related life insurance. The Commission replied that the package covers investment products, thus life insurance is excluded. Of course, the ones with an investment element, (everything that depends on the movements of the market) are included. Classic pension scheme is for example excluded but pension schemes with an investment element are included; the 3rd pillar pensions are not included.

7.6. INSURANCE MEDIATION DIRECTIVE

The proposal aims to ensure a **high level of consumer protection**. Insurance sellers must meet requirements on **transparency**, both as regards the advice they give on the products they sell, as well as regarding the **remuneration** they receive.

The proposal aims to ensure various types of **level playing field**:

First, a level playing field between **all persons or undertakings selling insurance products** to consumers: ancillary sellers of insurance products, employees of insurance companies, and insurance agents and brokers must all follow the requirements of IMD2.

Secondly, a level playing field between products: the rules relating to the sale of **insurance-based investment products**, as laid down in MiFID II, should be applicable to those insurance sellers that offer insurance products with investment elements to their customers.

- Furthermore, the IMD2 proposal also has a **significant internal market dimension**. The requirements that the Commission considers most important relate to the **professional qualifications** of persons selling insurance products and passporting requirements, all of which are designed to enhance the cross-border provision of insurance services.

The main novelty is that insurance based investment products are included but the requirements are stricter. Classical insurance is excluded; the ones with an investment element are included. The novelty investment elements insurance products have higher consumer protection rules, additional consumer protection requirements.

QUESTIONS AND REPLIES

IE asked if a ban on commissions would affect only monetary commissions. The Commission said it would mean both in kind and monetary.

FR made a remark on the scope of the proposal referring to the attempt of the EP proposal to improve the deceptive effect linked to small insurances. These are a source of problems because consumers actually do not need them because they are already covered by a different insurance scheme.

FR also reported that in the new French consumer law an article is included that prior to concluding an insurance contract the consumer can check if she/he is covered by a similar insurance, and if so has a 14-day withdrawal period. The Commission confirmed that it was aware of the issue of double coverage in the case of small insurances.

The UK raised the joint law making linked to ADR and expressed concerns over the tabled EP amendments where it seemed that references to ADR were not in line of the adopted text. The UK asked the Commission to ensure that any new amendment would be in line with the adopted ADR text. Otherwise, the amendments would seriously undermine the work of the financial ombudsman. The Commission agreed that the reference in the EP amendments must adhere to the text of the ADR directive and the Commission will ensure that wording is adjusted during the trilogues.

7.7 3RD PILLAR RETIREMENT PRODUCTS - RESULTS OF THE PUBLIC CONSULTATION

The Commission informed about the outcome of the consultation was published on 5 March 2014.

The main outcomes touch upon the following:

- Definition: most agreed that the one proposed by the EC was good starting point. Request for common terminology consistent between the three pillars
- Consensus on the need to look at shortcomings stemming from information asymmetry but different views on the most effective way; and
 - Little support for self-regulatory codes

The ECCG was invited to comment on the results presented in the feedback statement and discuss the appropriateness to develop an opinion on consumer protection in third pillar retirement products ideally by ECCG October meeting.

Questions and replies

The UK mentioned the two ongoing debates in the UK regarding the possible capping of pension charges and the establishment of an independent board. UK also referred to the need to provide consumers with impartial advice to allow them to compare products. LV indicated that it has a problem with tying practices (when banks offer packaged products not needed for consumers).

8. CAPACITY BUILDING OF CONSUMER ORGANISATIONS

BEUC presented the new programme Capacity Building for European Consumer Organisations funded under the Consumer Programme 2014-2020 and carried out by a consortium of three partners. As a follow-up of the former successful TRACE programme, it takes capacity building to the next level with a broader approach.

The new Framework Contract was put in place in September 2013. It will provide training aimed at building the capacity and effectiveness of consumer organisations (European, national, regional). It will offer tools to promote exchange of practices between their staff members. Particular focus is on Member States, EEA and candidate countries where consumer organisations are not sufficiently developed or which demonstrate a relatively low level of consumer confidence and awareness (as evidenced by monitoring on consumer markets and the consumer environment in the Consumer Scoreboards).

The outcome of the branding exercise – CONSUMER CHAMPION- reflects the holistic approach towards capacity building with the use of alternative tools such as web networking platform, e-learning and class teaching. The content will be available in multiple languages for professionals working in the field to interact with each other online and in person to increase the level of networking and thus strengthen the consumer movement.

9. EUROPEAN CONSUMER SUMMIT 2014

The Commission informed that the Consumer Summit of 1-2/04 focuses on “The EU Consumers in the Digital Era”.

The discussion planned to be structured around six major themes:

- “*Connectivity - preparing the grounds for tomorrow’s need*” with the aim to explore consumers’ needs for broadband connectivity in the EU in the next five years and ways to avoid a digital divide.
- “*EU rights for online consumers – progress, gaps, and future challenges*” with a view to explore potential gaps in the existing regulation and the ways of stepping up their enforcement.
- “*Online payments - are they safe and beneficial for consumers?*” in order to look at the current landscape concerning online payments, to estimate developments ahead and assess risks and benefits for consumers in the take-up of these payment forms, for instance in relation to the protection of their data during transactions.
- “*Digital Literacy - what skills do consumers need in on-line shopping and social media?*” with the aim to look at how to help consumers distinguish paid or sponsored content from other content and how to help them understand and manage online tracking and online behavioural advertising.
- “*Trust online – Enhancing trust through intermediaries, trustworthy consumer reviews and beyond?*” with a view to look at how third-parties such as trustmarks can help increase consumer trust in e-commerce, how the trustworthiness of on-line consumer reviews can be ensured and whether other alternatives to foster trust online can be identified.
- “*New and fairer deals*” where we will focus on identifying key challenges to improve consumers' choice in digitally-enabled deals and to present existing practices and innovative solutions for consumers to pro-actively address these challenges

In the afternoon of 2 April Commissioner Mimica will host a dedicated seminar on Better Deals for Energy Consumers, ECCG members and ECCG sub-group on Energy members are invited to the Seminar.

13 March

1. AT ECCG MEMBER'S COUNTRY PRESENTATION

The Austrian ECCG member presented the consumer landscape in Austria.

2. UPDATE ON POLITICAL PRIORITIES OF DG SANCO - DIRECTOR GENERAL OF DG SANCO, PAOLA TESTORI COGGI

Director General of SANCO, Ms Paola Testori Coggi provided a snapshot of current priorities and activities of DG SANCO in the food safety, public health and consumer policy domains. Regarding food safety and fighting food fraud, she recalled the horsemeat fraud and the Commission's response to the scandal. She has as well elaborated on origin labelling of fresh meat and the role of DG SANCO in ensuring the safety of the EU's food supply. Regarding GMOs she comprehensively explained about GMO production for feed and food. In this context she informed that the Commission is engaged in important initiatives to ensure that Member States' have a margin of manoeuvre over GMO cultivation and so that consumers can make informed choices. Concerning Public Health, Ms Testori Coggi referred to the Decision on serious cross-border threats to health, and mentioned in detail the progress on pharmacovigilance and the setting up of the system to report adverse reactions on medicines. Furthermore, she mentioned the new guidelines on cancer screening and Member States' national cancer plans, finally informed about the work in nutrition and physical activities mentioned the launching of the Action Plan on Childhood Obesity.

Regarding Consumer Policy she stressed the importance that consumer rights are respected, implemented and enforcement actions are coordinated. As a latest example she drew attention to the joint enforcement action on in-app purchases in games targeted at children. Concerning redress she referred to ADR and ODR and underlined the benefits these systems will bring to consumers. In addition she drew attention to the 2nd Consumer Policy report to be published in April.

As regards consumer safety, she recalled the state of play of the legislative proposals on product safety and market surveillance, and in particular highlighted the origin labelling issue. She stressed that mandatory indication of the product's origin was important for product traceability. At the same time, meaningful information on the origin would enhance consumer choice. In this respect, she regretted that BEUC did not actively support origin labelling and noted the split of member states over the legislative proposal.

Linked to safety, she mentioned the successful ban of animal testing in cosmetics in Europa and the promotion of our good model e.g. that these measures are also followed by international partners such as India.

On energy, Ms Testori Coggi stressed that integration of consumer interest achieved the most in particular in transparency in retail energy markets; paper and electronic energy billing; complaints handling; and in personal energy data management. Work will continue in the areas of energy and consumer rights. She added the information regarding the study on the functioning of electricity markets for consumers

Finally referring to the Transatlantic Trade Investment Partnership, Ms Testori Coggi underlined that the support of the consumer organisations was important and stressed that high level European consumer protection levels e.g. in product safety, food will not be compromised. She also mentioned the launch of a public consultation on draft provisions on investment protection and investor-state dispute settlement by DG Trade.

QUESTIONS AND REPLIES

Questions from members after the speech touched upon the following issues: Safety of services (CZ); origin labelling of products and “Made in EU” (CY); the upcoming regulation of ecological agriculture (DE); anti microbiological package (FR).

LUX suggested that the Commission fosters the coordination of transposition activities promoting clustering of Member States sharing the same legal traditions (e.g. FR, BE and LUX). Ms Testori Coggi reminded that the Commission is not in a position to promote regional clusters of Member States.

The UK referred to the issue of nutrition labelling and the situation of colour coded food labelling scheme and pleaded the Commission for support the UK to continue using this voluntary colour scheme (dubbed traffic lights) that does not go against the Single Market and helps consumers to make more informed choices. In this context the UK asked if the Commission foresees to intervene between retailers and suppliers (who buy food products and label them as own brands in supermarkets). Ms Testori Coggi recalled the ongoing debates in the Council whereby numerous Member States report that their products can't enter the UK market because they do not use the same colour scheme. The voluntary scheme should not be used as a disguised trade barrier.

BEUC welcomed that the proposed Consumer Product Safety Regulation aims at enhancing traceability but argued that origin labelling was not a tool for consumer safety. Ms Testori Coggi said that the provision intends to enhance product traceability and thus safety while also increasing the level of consumer information. As regards safety of services, Mr Testori Coggi referred to a green paper in preparation on the safety of tourism accommodation services and explained that the Commission decided to target this specific sector due to its important cross border dimension.

Regarding anti-microbial resistance she mentioned two points: First, the Commission managed to secure financing for a new action under the Research programme targeting to develop new antibiotics for frontline diseases. Secondly, in the area of misuse of antibiotics in animal farming, the Commission will introduce measures in the new legislative proposal on veterinary medicine and medicated feed.

Regarding the proposal for a regulation on ecological agriculture, it was agreed that SANCO sends information.

3. RO COUNTRY PRESENTATION

The Romanian alternate ECCG member presented the consumer landscape in Romania.

4. UPDATE ON THE CITIZENS ENERGY FORUM, 20-21 October 2014; UPDATE ON ENERGY INITIATIVES

The Commission reported on the Citizens' Energy Forum 2013 London, 16-17 December.

The Conclusions of the forum link to the following aspects:

1. Implementing EU Regulatory Framework: Collaborative enforcement; Price transparency and comparability; RASP (reliability, affordability, simplicity, protection/empowerment)

2. Consumer Engagement and Empowerment: Role of collective initiatives: switching, demand-side participation; WG on consumers as market agents

3. Consumer Information, Rights and Protection of Vulnerable Consumers: E-billing and Vulnerable Consumers reports; Consumer Awareness about Rights; Data Security, Privacy Protection

4. Role of Market Players: Cost-efficiency and consumer interest in DSO operations; Facilitation of new services and market entrants

The Commission under the mandate from the 6th Citizens' Energy Forum has created a new Working Group on Consumers as Energy Market Agents: focus on collective switching, self-generation, joint energy purchases, energy cooperatives. The Commission also informed about the recently launched public consultation on retail energy. ECCG members are invited to contribute to the public consultation and could consider issuing a statement.

5. FR COUNTRY PRESENTATION

The FR ECCG member presented the state of play of the French consumer law.

6. AOB - CONSUMER ORGANISATIONS RESPONSE AND PARTICIPATION IN CONSULTATIONS, CAMPAIGNS AND STUDIES

To follow up the issue of consumer organisations, receiving a type of a remuneration when interviewed /consulted by a contractor to give input into different consultations, campaigns and studies managed by the Commission, The Commission (Agency) informed that tenderers cannot be obliged to name subcontractors as they should be free to decide with whom they wish to work/collaborate. The Commission's vademecum on public procurement is very clear on this, "*It is up to the candidates/tenderers themselves to choose to have subcontractors or not as they wish.*"

However, as the selection criteria is applied not just to the main tenderer but also to any subcontractors, there is room for describing the type of expert that needs to be involved in the project.

Next meeting: For information: next meeting in 4-5 June with a dedicated session on structured dialogue and CPC review.