



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

Directorate E: Consumers
Unit E.1 : Consumer Policy

Brussels, 20 March 2017

European Consumer Consultative Group (ECCG)

22 February 2017

1. Welcome by the chair

The chair announced that the Deputy Director General of DG Justice and Consumers has been appointed as Acting Director for the Consumers Directorate until the appointment of a new Director takes place.

The members adopted the draft agenda and approved the minutes of the previous meeting held on 1 December 2016.

2. Adoption of the ECCG Rules of Procedure

The proposed ECCG Rules of Procedure were adopted taking into account received comments and suggestions from members.

BEUC asked how the ECCG members could use the ECCG opinion issued under art. 5 of the Rules of Procedure, in particular, the interest could be in promoting the ECCG opinions through social media (ex. making links on Twitter). The Commission confirmed that the promotion of the ECCG opinions, also via social media, is not only possible but also welcomed, since it can be a good way to show national governments the work and efforts of consumer organisations.

The ES member raised some concerns, deeming number of meetings envisaged by the Rules of Procedure (two to three in a year) as short and scarce. The Commission however clarified that longer or more meetings could be organised as necessary and appropriate.

The LU member, commenting on art. 1.1 of the ECCG Rules of Procedure (“The ECCG [...] *may* be consulted by the Commission [...]”), requested the Commission to provide regular and frequent information to members and to regularly have an exchange of views on the implementation of consumer related legislation. The Commission welcomed this request and committed itself to organising such meetings and also thematic discussions.

Due to the start of the mandate of the current composition of the ECCG on 18 August 2016, the deadline for the annual reports by members was set for 15 September 2017, covering the

period from 1 September 2016 to 1 September 2017. The Commission will circulate a template and some examples of good reporting.

3. Clean Energy Package

a) Presentation of the Clean Energy Package

The Commission presented the consumer rights and interests entailed in the Clean Energy Package, divided into five main groups:

- **Better information:** provisions are in art.18 of Electricity Directive and the new Annex II of this Directive; it states the information elements that consumers should find in their bills. DG JUST underlined that the Commission is accelerating the Smart Meter roll out (art.21) and it has also proposed a right to have Smart Meters also in Member States which do not plan to roll out such meters. Another important Directive on information given to consumers is the Energy Efficiency Directive; especially art.9, which is about the ways used to improve individual metering of heating and cooling, as well as warm water. Finally, it was underlined that the proposed Directive improved the quality reliability of Energy Performance Certificates (art. 8 and 10 EPBD).
- **Switching:** this issue is about consumers finding in their bills the necessary information on their tariffs and their subscription code that is needed to switch provider. It is important to remember that to find an alternative supplier people need also to compare offers from various providers: this is why the Directive includes an obligation for Member States to provide at least one comparison tool that meets specific certification criteria (obligation for each Member State).
- **Renewables:** it is proposed to give households the right to have installations to produce renewable energy. Local energy communities (art.16 of the Directive) are also called to play a role. Consumers will also have the possibility to verify the origin of the energy they purchase by means of green energy contracts.
- **Data protection:** new provisions to ensure the security and the protection of personal and consumption data. Generally, access for third parties should be possible only with the express consent of the consumer.
- **Energy poverty:** the package provides a new obligation for Member States: to define criteria to monitor energy poverty each year; they additionally have to report the results of their initiatives in this area in the National Energy Efficiency Action Plans (NEEAPs).

The members generally welcomed the Package. They stressed the importance of enforcing consumer rights in case this will be delivered. They expressed willingness to contribute and to help the Commission in promoting the consumer rights in the negotiations on the Package.

COFACE stated that there is no sufficient interest from the consumer side in smart meters. He also asked how the Commission is thinking to promote self-generation, as many national Governments are against that. He asked also more information about the local communities and also what the Commission mean when they speak about self-generation. The Commission replied that smart meters are necessary for the Package to deliver for consumers. As regards local communities this could include municipalities and other groups of building owners or inhabitants of apartment blocks who decide to participate in generating and sharing energy.

The LU member asked in which way the package will be discussed by the EP (legislative proposals separately or as a package?). The Commission replied that the package includes several legal instruments and the way of organising their discussion will depend on the organization and on the timetable of Council and the EP.

The SK member stated that the energy crisis is on the top of the country's political agenda, so this is why it would be difficult to discuss the package for them in the Council. The Commission is recognising the problem and informed that Vice President for the Energy Union Maroš Šefčovič's is going to visit Member States (including Slovakia) to discuss the package.

The CY member expressed satisfaction for the presentation.

The NL member asked if and how the energy poverty would be defined. He also asked about the data protection dimension in the package. The Commission answered that it suggested criteria which would define energy poverty, but did not provide a specific definition and left it up to the Member States. As regards protection from disconnections, DG JUST said that the Commission in its proposal did not include the disconnection moratorium (e.g. during unusually cold or hot weather), but an obligation for suppliers to maintain a close relation with costumers that are at risk of disconnection.

The NL member suggested introducing the concept of universal energy service to fight against energy poverty with social policy.

The DE member thanked the EC for the proposal, having noticed that it is rich in details. For them it is important that the EU take the leadership in this field. They asked also a question on the EC's intentions, in particular they asked how the consumer associations can help the EC in supporting the initiative. The Commission answered that on the practical side DG JUST is already following closely the decision making process in order to provide input to the Commission's position. The Commission took the opportunity to thank the ECCG because of the help given during the adoption phase.

The BE member wanted to know firstly if there will be organisations which will provide the certification for comparison tools and secondly who is the owner of the data (the supplier or someone else?). The Commission replied that the term used in the proposal is "tools that meet the certification criteria" set out in the Annex to the proposed Directive. Member States are expected to make sure that at least one tool in their country conforms to these criteria. As regards data protection the EC clarified that it is not possible for anyone to own personal data (e.g. a trader cannot sell your name). In order to access consumer data it is necessary to ask for the consumer's consent and the suppliers have always to comply with the Data protection Regulation.

The SE member stated that the Energy Package is an excellent initiative and underlined that self-generation is very much focused on private houses and to them it is not very clear how this is going to work for apartment blocks where inhabitants do not have private ownership. As a second observation, the SE member asked if the EC has taken into account the different situations of each country as regards the heating since the centralised management by the building owner or a maintenance company is more efficient and enabled Sweden to reduce overall energy consumption more than by means of individual heat regulation. The

Commission agreed with the SE member that this is a challenge but added that some problems are applicable to some specific Member States and not to others.

The BG member mentioned heating monopolies in their country, and mentioned that there is a project to oblige consumers to buy smart meters, raising some concerns about the management of this objective in a monopolistic context, like the one in Bulgaria.

The DK member stated that they need more competition, more active consumers and efficient comparison tools and asked if, among the criteria given, there is one criterion about independence from electricity producers.

The IT member underlined that there is a lack of European crowd funding and asked what the Commission wants to do for vulnerable groups. Additionally, they asked if there is just an economic criterion to fight energy poverty or maybe it is possible to consider also health conditions for people.

The CY member stated that they pay the most expensive bills, also because they have a specific monopolistic market structure, and wondered how it is possible to apply these new proposed rules in such a structure. As regards vulnerable groups, the Commission stated that several criteria are used, not only the income. The Commission is going to address the problems of "energy islands" to increase interconnections and promote renewable energy (that Cyprus has a lot of).

The LV member asked if now consumers are able to disagree in giving energy data on consumption to companies and also they wanted to know what will happen to all the information collected in the last years. They also asked if there are any other standards to ensure security of data and any solutions for consumers to make sure that data are correct. The question was posed because Latvia received consumer complaints about the fact that after the installation of smart meters the bills have increased.

The UK member commented that subsidiarity was maintained in the package. For vulnerable consumers the Competition and Markets Authority made a recommendation about the need for surveillance of transitional prices and they asked how the EU can force Member States to ensure sufficient levels of enforcement.

The EE member made a remark on smart meters: the energy network operator has replaced an old system with smart meters already and this process has taken time (4 years).

The ES mentioned that in Spain it is already a duty to share information on sold energy; as regards the installation of individual self-generation systems, it was underlined that they have many problems also in the communities because the investment is large and you can only see results after many years. In general, ES is positive about the package, also because they would like to see a decrease in the prices of the bills in Spain.

On technology and data security the Commission stated that there are several provisions in the package: all the data collected have to be managed in conformity with the General Data Protection Regulation. As regards the cost of installation and amortisation of smart meters it expects the situation to improve.

The Chair thanked the delegates and she said that the EC wants to push for an important change to make people more independent on energy, more aware of and active in energy efficiency, and to push for green energy at reasonable cost.

BEUC underlined that it is true that ECCG is a consultative group, but maybe it should be more proactive in the process of the Inter-Institutional negotiations. It is really important to have an ECCG opinion because this proposal is really ambitious and many MS might be reluctant to endorse all consumer benefits due to a strong lobbying by energy companies.

The Chair said that the Commission is open to organisations' suggestions and will take into account the fact that the situation is different in each MS. The Citizens' Energy forum will take place at the end of May and it would be useful to have the ECCG opinion ready by then.

The group agreed to prepare a draft ECCG opinion with the help of the ECCG subgroup on Energy and it was agreed that BEUC would act as a rapporteur for the work. The opinion is to be finalised and agreed by the main group before the Citizens' Energy Forum in London (30th -31st May).

4. Empowerment of Consumer Organizations

A discussion on empowerment of consumer organisations followed, based on a presentation by the SI member on capacity-building efforts of Consumer Organisations in CESEE EU Member States and following on an intervention by BEUC on the challenges of the financial sustainability of consumer organisations.

a) Capacity-building efforts of consumer associations in Member States in the CESEE

The main problematic aspects of consumer organizations' empowerment in CESEE countries are: lack of expertise, lack of capacity, financial constraints, a huge dependence on projects and limited engagement in tackling relevant consumer problems. In her presentation the SI member highlighted the need of external support to consumer organizations and provided examples of successful projects, co-funded by EU, developed in her county. In particular:

- A three years' project for upgrading existing consumer magazines and websites. Following this project, some questions are to be posed: whether there are better ways than magazines to involve and inform consumers (for instance web platforms) and whether a joint work among consumer NGOs can be the right way to engage experts.
- A two years' project for better cooperation between Slovenia's consumer organization and the national television. A consumer TV program was established under this project. She underlined the importance of the role of television for consumers in CESEE: the idea of similar projects in other countries could be considered.
- A two-year project on comparative tools for financial services. This project consisted of assisting consumer organisations in developing technical capacities on banking products with the aim of helping consumers in their choices. An online comparison website for four banking products was created. She stressed the

importance of comparative information for consumers in this sector that can be a driver of sales and membership.

- Information campaigns on consumer rights. Developing efficient channel of communication with consumers and media is key for the development of consumer organisations and further action of the Commission on this topic would be welcomed.
- COJEF project on capacity building. It was run by BEUC and it helped CESEE countries to build up more competence for potential own enforcement activities. It focused on European integrated enforcement.

b) Current challenges to financial sustainability of consumer organisations and how to address them

BEUC presented the challenges that consumer organizations are currently facing. Now more than ever consumer interests need to be represented in the enforcement phase and not only at the legislative stage. The example of "spying dolls" was brought to participants' attention. Feedbacks from consumer organizations of all countries are strongly needed at the present time. Consumer movements in some countries are still struggling. Finally, BEUC expressed disagreement with the request for public funding for initiatives that are not going to be successful and effective in reaching their goals. In BEUC's view, efforts to identify specificities of modern consumer's needs should be done. New business models for the sustainability of the consumer organization, in this regard, are the right way forward.

There followed comments and observations of other members of the ECCG. In particular, a discussion on different "business models" of consumer organisations, with specific regard to financing aspects, was initiated.

A group of members were strongly in favour of more independence of consumers organisations from public financing. In their view, the key for empowerment is a "business model". According to LU member, too strong reliance on public funds leads organisations to become sort of "political arms". Also the PL member, after having welcomed the presentations made, added some comments on the financing issue: her organisation built a "business model", she explained, by means of issuing certificates and training SMEs on consumer rights for instance, in order to be more independent from government. "Business dependence", on the contrary, should not be necessarily seen in a bad light in her view.

The BG member agreed with the previous intervention, stressing that in Bulgaria and in some other Eastern European countries there is a wide attitude to understand non-profit organisations, including the consumer, as "charity" organisations providing free services; on the contrary, some source of financing is crucial for organisations to survive.

The PT member agreed with the view that a key for empowering consumer organizations is the business model, and added that it should be something always open to rethinking. He explained that his consumer organization has a huge recognition by stakeholders and most of its incomes are coming from its members. He further expressed full agreement on the need of separation between politics and consumer organizations. Also the UK member explained that her organisation is proud of being fully independent.

The ECCG recognises that a strong independence from public financing is not easy to reach and requires a rethinking of the way in which some consumer organisations work nowadays. The HU member explained that, even if a “business plan” is the right way forward and it is being implemented in the country, finding investments is often critical. The SI member stated that in order to be empowered and independent from public financing, consumer organizations need to precisely define their business and engage themselves in deep reflection on the reasons why they exist; a focus on real goals and positive approach should be maintained.

Despite agreeing with the statements made on the independence from public money, the SE member flagged that both methods can successfully co-exist if correctly managed.

A group of participants, on the other hand, did not fully agree with the idea of a "business plan" model and underlined, on the contrary, the constant need of financial support from authorities for consumer organisations. These members stressed in particular the fact that consumers shall never pay to have their legitimate rights enforced. The CY member expressed this view and encouraged the Commission to promote a real "European Union of consumers". Also the LV member partially shared this view. Despite certain problems linked to it, public financing is still necessary. It was stressed that any possible discussions about business models can only advance further if the Commission grants political support to organisations, due to the problem of misunderstanding the role of NGOs in some Member States.

The DK member highlighted the importance of public financing as it allows to provide services for all consumers. The DK organisation, for instance, has developed a business plan but relies also on public funding and this does not hinder its political neutrality.

The majority of members agreed on the need to find the right ways to satisfy the "new needs" of the consumers. BEUC noted that in the more recent Member States, for instance, even if consumers are not fully willing to pay for services offered by consumer organisations, there is willingness to pay for other products or services; for these reasons new attractive solutions that constitute a "win-win" for consumers and organisations should be found. The FR member agreed with this opinion and underlined that nowadays, in a connected world, consumers can find information everywhere; as a consequence consumer organisations have to question their roles and try to understand the new needs of consumers in terms of services offered by consumer organisations.

The ES member noted that while the young generation is attracted to environmental issues, it seems that consumer issues are not generally so appealing anymore. Consumer organisations in her view need to better market themselves. The importance of creativity in finding new solutions was stressed. The DE member and the SK member highlighted that digital aspects should be considered a key part of organisations' models.

As a conclusion of this discussion, BEUC clarified that there is certainly no "one size fits all". In any case it encouraged the development of organisations' models that are sustainable, built for people and planned to exist in the long term. On the contrary, a model that makes an organisation being dependent on the charisma of specific people at specific moments should be avoided.

On the financing issue, the Commission recognised that public funding is very important but that it should not impede organisations from applying other models to improve sustainability. In any case, it recognised that there is no wrong model, since every country is different. While in some countries there is better coordination between consumer organisations, in some others there is a need to partially reinvent models and the Commission is aware of its role as facilitator in this. The fact that consumer organisations can add value and put problems on the table of governments and public authorities is to be welcomed.

It was concluded that the different environments in the Member States require different approaches to the development of "business" plans of consumer organisations. To get an overview of the current situation in Member States, the Commission will circulate a short questionnaire to the organizations to take stock of the situations of the consumer movement in the Member States. This overview will help to design follow-up actions. Member organisations will be consulted on draft questions to be included in the questionnaire by mid March.

5. The role of Consumer Policy in the EU

The Commission clarified that the EU wants to have a strong consumer policy. Represented by the DG Justice and Consumers Deputy Director General, the Commission highlighted that even if there are still some gaps in certain policies, nobody should take the achievements obtained for consumers in the EU for granted. This was followed by interventions of BEUC and the LU member on the role and importance of consumer policy in the EU:

a) EU consumer policy as a tool to bridge the gap between EU and its citizens

BEUC introduced the discussion stating that there is huge EU scepticism: one of the reasons is the practice of many national governments to attribute unpopular actions to "Brussels", and positive actions to their own Member State. European institutions are perceived as representing an intellectual elite; this is why positive outcomes for citizens should be put more clearly forward. She stressed the need of contributing towards a more positive image of Europe. In BEUC's view, people take things for granted and seem not to realise that the EU is the safest place for products, chemical regulations and legal guarantees.

b) Achievements & prospects of EU consumer law

The LU member said that over the years EU consumer law (for example the reversal of burden of proof, the law on intermediaries, the legal obligations for product safety and so on) brought strong fundamentals of consumer policy. Nevertheless, the implementation and enforcement is still weak and it should be strengthened. Consumer organisations have a role to play in helping the Commission to understand what can be done. On subsidiarity issues he noted that like national parliaments can deliver reasoned opinion when they think subsidiarity is not respected, a similar procedure could be proposed for consumer issues whereby the consumer organisations would have a possibility to raise a "yellow card". On national implementation, he proposed that countries, starting with those with similar traditions, could be grouped and they could deliver some ideas on harmonization.

He further commented on the role of the European Court of Justice and on the fact that not many are aware of it but the ECJ is the best defender of consumer interests while interpreting the consumer related legislation.

Based on the two presentations given by LU and BEUC ECCG members agreed that, in different ways and at different levels, the European Union framework, consumer acquis and relevant legislation in several sectors, have had an important role in the improvement of national consumer policy and legislation.

Members also agreed that implementation and enforcement of consumer law in Member States must be strengthened. Members stressed the importance of the constant involvement of national consumer organizations in EU action, in particular on checking the implementation of directives at national level. The Commission agreed to consider organizing meetings taking this into account, whenever practically feasible and also, as in the past, organising thematic discussions on specific files. Members and the Commission agreed to keep one another informed and updated as much as possible on respective files.

The Commission highlighted that in the consumer law area it is organising implementation workshops with Member States and trying to promote best practice workshops. The Commission stressed that consumer organisations should be the first to raise an alert when there is a lack of implementation in their Member State.

For the UK, the move towards maximum harmonization of EU consumer law is problematic in the UK and also in other Member States, as this brings all Member States to the lowest common denominator.

The ES member expressed agreement on the fact that EU has brought many positive results for consumer protection in the MS, but stressed that the real problem is not the legislation, but its implementation and enforcement; similarly, the IE member agreed on the lack of implementation at national level.

The SI member noted that after the enlargement process was completed, implementation of EU consumer policy and enforcement of European legislation in the more recent Member States was not anymore a priority. She encouraged the Commission to do more on this issue.

The AT member stressed that due to very different traditions in Member States, the narrative of the Commission, considering Europe as "United States", goes in the wrong direction. She reported the example of the two years' guarantee that is seen positive in some countries but not in others.

The NL member noted that, thanks to European Union law, consumer law in the Netherlands improved, saying that the most symbolic achievement is the paradigm shift in perception of consumer law from private law to public law, with consumer enforcement bodies.

Additionally, the DE member explained that they have huge problems of implementation, too; nonetheless, she thinks that criticism of the EU should not go too far. She noted that passenger rights and roaming are two examples of very visible, full harmonization and good European policies and that those initiatives should be better communicated to citizens in Member States. The PT member agreed with the DE member on passenger rights and

roaming, but stated that maximum harmonization in Portugal would not have positive effects on consumer policy.

The PL member explained that it was thanks to the EU that the country started to have a system of consumer law: before EU membership, the word "consumer" had a negative meaning. They stressed that consumer policy needs protection, especially now, because of economic and political problems.

The DK and LV members agreed on considering the effect the European Union has had on consumer protection as positive.

The Commission stressed that better enforcement is a top priority for the Commission as well. He further made a comparison between consumer protection and data protection: the latter is currently used to create a business friendly environment, while before it was perceived as an obstacle for businesses. He assured the ECCG that more involvement of consumers and consumer organisations is one of the points that the Commission welcomes.

Finally, the Commission stressed the role and the importance of consumer organisations as lobbyists in National Parliaments, and the need to make good use of the ECCG in general.

Both the Commission and the ECCG members agreed that rebuilding trust of consumers in the European Union requires the EU to propose changes that matter for consumers in their daily life, such as roaming or passenger rights. Consumer organisations would like to participate as actors working towards a positive change.

Collaboration between the Commission and consumer organizations will be further advanced by both sides in the framework of the ECCG and its meetings to support this ambition. The Commission, based on the discussions in this meeting, will consider appropriate follow-up.

6. Concluding remarks

The Commission will circulate a document listing relevant ongoing consumer files (including on collective redress) and their state of play.

It was agreed that the next meeting will take place on 14 June 2017.