
Closing the Gap: Consumer Policy in a Globalized World

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In 2007, the European Union celebrated 50 years of progressive development and cooperation since the signing of the Treaty of Rome. This half century has seen a community of six grow into today's union of 27 member states. While this anniversary gives us cause to recognize and celebrate the progress of the last half century, it also presents an ideal opportunity for us to refocus our sights on how best to meet future challenges both within the EU and in the wider world. In addition to strengthening consumer confidence by placing it at the heart of all EU policies and regulations—as well as educating consumers about their rights—the EU hopes to enhance cooperation with its trading partners, particularly the United States.

The EU consists of a market of 493 million consumers, accounting for 58 percent of EU Gross Domestic Product. By comparison, consumer spending accounts for some 70 percent of U.S. GDP, which means there is room for consumers to play a greater role in the EU economy. Consumers are the main drivers of the EU's growth and job creation, and it is as consumers that citizens experience many of the benefits of the EU. This underpins the European Commission's motivation for creating, for the first time, a portfolio dealing specifically with consumer issues. It aims to ensure that the internal market is open, fair, and transparent; to allow consumers

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to exercise real choices; to exclude dishonest or “rogue” traders; and to help consumers and businesses take full advantage of the market’s potential.

The Internet revolution has created new markets and cross-border competition. Thanks to wireless technology, consumers can now shop from their laptops or mobile phones while on the move, from everywhere across Europe and even beyond. This increased globalization of markets produces both a challenge and an opportunity for the EU. The challenge lies in the emergence of rogue traders acting across borders; and the importation of faulty products can be an unwanted side effect of this—an effect that is tackled by EU authorities through, for instance, food and non-food rapid alert systems and cross-border consumer law enforcement networks. The opportunity lies in the potential to improve market performance through increased competition. The untapped potential for increased cross-border trade is clear: last year, 50 percent of EU consumers with an Internet connection at home bought online, but only 12 percent bought from outside of their home countries.

While distance selling—via e-commerce or digital TV—boosts the trend toward market openness and integration across Europe, a residual lack of confidence in cross-border (especially online) shopping severely reduces its potential. The European Commission hopes to make the most of that potential by simplifying the regulatory framework governing consumer contracts. By moving from 27 different sets of national rules and standards to a more uniform set of rules at the EU level, the EU will help its citizens have better access to essential services at an affordable price. By the same token, companies—especially small and medium-sized enterprises—will benefit from lower compliance costs. Recent EU initiatives to improve consumer outcomes have been implemented in the fields of energy, air transport, post, and telecommunications.

The European Commission’s new Consumer Policy Strategy, issued in March 2007, is a blueprint that outlines how to face these challenges in practice. The Strategy is built on three overarching objectives: empowerment, welfare enhancement, and consumer protection. The first objective seeks to create the right market conditions for consumers to make informed and considered choices about the goods and services they purchase, and it provides them the necessary tools to do so. The second objective seeks to enhance consumer welfare by giving consumers a greater say in the design and implementation of policies in which they hold an interest—including areas such as energy, telecommunications, and transportation policy. The third objective seeks to safeguard consumers against elements outside of their control while equipping them with the necessary tools to deal with situations that they can and should address themselves.

A REGULATORY FRAMEWORK FOR EUROPE

The European Commission aims to create a single set of consumer rights and obligations throughout the EU. In the area of marketing, the adoption of the Unfair Commercial Practices Directive, which was scheduled to enter into force in the EU Member States by the end of 2007, has been a successful first step. This directive aims to protect consumers from misleading advertising and other unfair commercial practices before, during, and after a transaction. The Commission is currently reviewing and consulting on another important part of EU consumer legislation as well: the rules regulating consumer contractual rights, such as the right to withdraw from a contract and the right to information prior to the conclusion of a contract.

Parts of the existing regulatory framework were adopted in the 1980s and 1990s and therefore need to be updated to reflect changing market conditions and needs. Simplifying rules to make them easily understood requires overcoming inconsistencies. Technological developments, such as the growth of e-commerce, will require adaptation of current rules. Perhaps most importantly, the varying minimum standards applied in the EU until now have constituted a regulatory patchwork that creates problems both for consumers and businesses. These 27 different sets of rights and obligations mean that issues in Italy, Sweden, Bulgaria, France, or the United Kingdom—all members of the same European market—are dealt with in different ways.

The current situation carries a significant cost by confusing consumers who typically do not know their rights when conducting transactions across borders. This acts as a disincentive that holds people back from shopping in other EU countries, including over the Internet. It also carries a cost to businesses in terms of compliance. It can be a daunting proposition for a small company to have to study and understand the different rules of 27 disparate countries, which effectively dissuades businesses from offering goods or services in countries other than their own. This is particularly problematic for small and medium-sized companies that do not have the means to establish themselves elsewhere in the EU.

In 2008, the Commission aims to put on the table a single legal tool that streamlines consumer laws regulating contract-related issues. Common rules would allow all Europeans to benefit from the same high level of protection across Europe, whether in their countries of residence, when traveling in other EU Member States, or when making cross-border online transactions.

Enforcement and Redress

Good law is pointless if not properly enforced. Consumers will not be able to enjoy the full benefits of a unified market without effective systems in place to address complaints and to give them the means for adequate redress. In Europe, it has been too easy for rogue traders to evade consumer protection laws by hiding behind national borders. The Commission has taken steps to tighten its guard against breaches of EU consumer rules by establishing the EU Consumer Protection Network of national enforcers, which facilitates cooperation between enforcement authorities. Member states are under a legal obligation to cooperate with one another.

In addition, the EU needs effective mechanisms of redress to deal with problems that may arise; this is an area that merits particular attention. The

..... case for effective redress is straightforward enough. Well-functioning markets are in consumers' interest. But a pan-European market will only work well if consumers have the confidence to shop across borders and if companies have a level playing field throughout Europe. To bring this about the European Commission needs a simple and uniform set of rules on certain key

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issues. It needs to have the tools to enforce those rules and needs effective mechanisms of redress when things go wrong.

The Commission has already increased the opportunities for individual consumers to take up alternative dispute resolution mechanisms, such as mediation or conciliation, and it has been examining the question of collective redress. Lumping small claims together when it is not cost-effective to pursue them individually is a logical means to ensure that all customers can seek redress for wrongs. This need not be a U.S.-style system of class action. Redress, including collective redress, is not punitive in nature; it is a remedy to set right a transaction when some part of it has gone wrong. Reputable companies must accept that by rewarding the good operators and helping to weed out the bad ones, redress will facilitate healthier markets.

Informed and Educated Consumers

Consumers can be easily deceived by misleading information and confused by the overflow of news, heavy-handed advertising, the fog of

complexity, or the rapid pace of market developments. Therefore, reliable information and sound education are essential elements of consumer empowerment.

The Commission has taken action in a number of areas: through regulation, to achieve a better balance in consumer protection; through information campaigns, to make citizens aware of their rights, in particular within the member states that have recently acceded to the EU; and through other awareness-raising initiatives.

Perhaps the most ambitious priority in this area is to put consumers at the heart of EU policies. The impetus for this comes from the Commission's Citizens' Agenda, which was launched by the President of the European Commission, José Manuel Barroso, in May 2006. The Citizens' Agenda focuses on policies and actions that are both tangible and visible to EU citizens. It marks the dawn of the second phase of the European internal market—extending consumer input and influence into competition, telecommunications, energy, and transport policies.

In the energy sector, for example, the Commission adopted a legislative proposal last September to open up European electricity markets to greater competition. This is a very important initiative: Europe needs a more efficient energy sector. But to make these kinds of choices politically sustainable, mechanisms must be in place to ensure that the efficiencies are passed on to consumers. It is for this reason that the Commission is placing great emphasis on monitoring consumer markets.

Better Data for Better Monitoring

Sound policymaking requires accurate data. The Commission is focused on developing indicators and compiling statistics on consumer issues to provide the analytical and factual basis needed to increase the weight of consumer interests in all EU policymaking and implementation. For example, the Commission is developing a European Consumer Market Watch, a “scoreboard” that compares different consumer indicators and key figures across the EU such as price, safety, affordability, switching, and complaint handling. This scoreboard will help determine which markets are delivering for consumers and which ones are not. Moreover, it will point to areas where stronger enforcement of existing rules, revising the regulatory framework, or closer cooperation between national authorities is called for in order to ensure that market outcomes to consumers in terms of price, choice, quality, and safety are maximized.

TRANSATLANTIC COOPERATION

An important priority for Europe is to secure better protection for consumers in international markets. Within the context of globalization, the Commission is acutely aware that it cannot just operate in a European bubble. The Commission recognizes the commonality of a range of consumer issues with its international partners, including, and perhaps especially, with the United States.

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policy. Bilateral trade between the EU and the U.S. accounts for 40 percent of all global trade. The EU-U.S. economic partnership is the deepest and largest bilateral trade and investment relationship in the world. Cooperation in this field takes place both directly between U.S. and European counterparts and also under the wider umbrella of EU-U.S. regulatory cooperation.

In April 2007, the EU-U.S. Summit gave fresh impetus to this drive with the creation of a Transatlantic Economic Council. This Council, which met for the first time in November 2007, is composed of EU commissioners and U.S. officials and cabinet members responsible for EU-U.S. relations. It aims to foster economic integration and regulatory convergence and to make transatlantic cooperation more transparent by providing a channel for stakeholders to voice their views. Cooperation on global product safety will be a priority of the future work of the Council.

Cooperation on Product Safety

Consumers on both sides of the Atlantic have a shared primary demand: they want to be able to trust what they buy and use. Product safety is a particularly topical issue now, following the recent large-scale recalls by manufacturers of toys and other consumer goods.

The need for such recalls raises fundamental questions about the governance of product safety in a globalized economy, in which the supply chains of most consumer goods span the entire world. EU Member States and businesses must shoulder their full responsibilities with regard to the enforcement of consumer safety rules. Manufacturers and importers must

only place safe products on the market, while regulatory agencies must effectively catch those unsafe products that, regrettably, slip through the safety checks of the producer. Product safety cannot be outsourced.

In the aftermath of the recent toy recalls, EU Member States have placed consumer product safety even higher on their agendas. Market surveillance and joint cross-border actions have been reinforced, and several EU Member States have developed best practices to target recalls more effectively.

There is a compelling logic for us to work together on this issue. The EU and the U.S. have conducted a simultaneous stocktaking exercise, reviewing the existing rules and drawing out lessons to be learned in particular from the recent product recalls. It is important for both partners to exchange the results of these analyses. There is also an obvious interest to ensure the highest possible compatibility of all follow-up actions. If one partner were to take measures unilaterally, the other partner would immediately feel the impact in trade flows.

Safety issues with Chinese products are clearly a common concern. The EU has adopted a constructive dialogue approach with China, underlining that no compromise can be accepted in the area of safety. Cooperation is built on clear reporting, increased technical cooperation, and effective enforcement. The Memorandum of Understanding of January 2006 and the Roadmap for Safer Toys of September 2006 are the pillars of European cooperation with China.

The EU and the U.S. both seek improvements to Chinese market surveillance and export controls. The Commission has a shared interest in delivering consistent messages to the Chinese government regarding its expectations and the need for concrete results on preventive actions within China.

The cooperation between the Commission and the U.S. administration is largely based on "Guidelines for information exchange and on administrative cooperation" between the U.S. Consumer Product Safety Commission (CPSC) and the European Commission Directorate General for Health and Consumer Protection, agreed upon in February 2005. Full cooperation has, however, been compromised by difficulties relating to the exchange of confidential information between enforcement agencies. The work of the current U.S. Congress on the CPSC Reform Act will hopefully lead to better exchange of information between the U.S. and the EU when faulty or dangerous products are discovered. The Commission is also keen to develop greater consensus on the methodology for assessing risks associated with consumer products, particularly in the case of chemicals.

Cooperation on Consumer Protection

Another area that would benefit from closer cooperation is the enforcement of consumer protection rules—the battle against rogue traders. With the U.S. Safe Web Act, passed in late 2006, the U.S. now has a legal basis to seek cooperation with authorities in third countries in their enforcement actions against rogue traders.

The Commission's priority is to work together to explore possible options and areas for EU-U.S. cooperation on enforcement under the parallel EU legislation on enforcement, the Regulation of Consumer Protection Cooperation. The objective would be to work together more closely to clamp down on—and to stop—deceptive practices. For example, if the U.S. and EU could develop a system to share data on fraud, the combined effectiveness in taking the fraudsters to task would be enhanced significantly.

CONCLUSION

Consumer policy in Europe has come of age. Ensuring safe products, efficient markets, and streamlined, unified regulations is the key both to economic success and to political credibility; and overcoming the obstacles to full transatlantic cooperation could be mutually beneficial.

The world is getting smaller. Interdependence between markets in the global environment demands that we seek common solutions to shared problems. Common solutions also allow consumers to maximize the benefits to be derived from the highly integrated transatlantic economy and the increasingly integrated world economy. Given the many similar challenges we face on both sides of the Atlantic, the European Commission looks forward to further cooperation with the United States on shared consumer policy objectives. We have much to gain from this, much to learn from each other. ■

ENDNOTES

- 1 *EU Consumer Policy Strategy 2007–2013*, COM(2007) 99 final, Brussels, March 13, 2007, <http://ec.europa.eu/consumers/overview/cons_policy/doc/EN_99.pdf> (accessed December 15, 2007).
- 2 *A Citizens' Agenda: Delivering Results for Europe*, COM(2006) 211 final, Brussels, May 10, 2006, <www.ec.europa.eu/commission_barroso/president/pdf/com_2006_211_en.pdf> (accessed December 15, 2007).
- 3 *Guidelines for Information Exchange and on Administrative Cooperation Between the U.S. Consumer Product Safety Commission and The Directorate-General Health and Consumer Protection of the European Commission*, 2005, <www.ustr.gov/assets/World_Regions/Europe_Middle_East/Europe/US_EU_Regulatory_Cooperation/asset_upload_file656_7235.pdf> (accessed December 15, 2007).