Minutes of the European Consumer Consultative Group (ECCG)  
30 September – 1 October 2008

BRUSSELS, BORSCHETTE BUILDING, ROOM 3A  
CHAIR: EUROPEAN COMMISSION

1. Opening and approval of the agenda (ECCG2008 042)

The Commission (Ms Minor, DG Health and Consumers) paid tribute to the memory of István Garai, ECCG alternate member for Hungary who passed away on 1 September 2008. The Commission welcomed Helen McCallum, new ECCG member for the UK and Emil Bojin, new ECCG member for Romania. The Commission thanked Anne-Lore Koehne, German member of the ECCG who will retire this autumn, for her active and long-standing work in the ECCG.

The meeting agenda was approved. The ECCG member from Spain requested to speak about the functioning of the ECCG under AOB.

2. Commission proposal for a directive on patients' rights in cross-border healthcare (ECCG2008 065 – 092)

The Commission (Ms Chaze, DG Health and Consumers) presented the Proposal which was adopted by the Commission on 2 July 2008. Some ECCG members were of the view that this Proposal has an interest for consumers. Replying to a question on healthcare privatisation, the Commission said that privatisation is not covered under the scope of the Directive and remains a national issue.

A member asked questions regarding price differences, post-treatment, complaint handling system, costs and data protection. The Commission replied that the Proposal will not change the existing national security systems but addresses the cross-border aspects of health care. If a treatment can be reimbursed in a country, the same treatment outside could be reimbursed similarly. The Proposal provides for the publication of treatment and health care costs. Some Member States reimburse the transport costs, others do not.

Follow-up: Specific questions on the issue can be sent to nathalie.chaze@ec.europa.eu

3. Presentation on consumer policy priorities

Commissioner Kuneva presented achievements and current priorities in the area of consumer policy.
During the discussion, some ECCG members were pleased that Commissioner Kuneva considers climate change, energy and sustainable consumption as key aspects of consumer policy. They stressed the need to inform consumers and help them to change their behaviour. One member warned against likely "rebound effects", e.g. money saved in energy savings being used on air flights.

Some members hoped that the Commissioner would propose an initiative on consumer collective redress in favour of consumers. A member also stressed the need to pursue serious discussions with China and the US on product safety.

Some ECCG members expressed concerns regarding the draft proposal for a Directive on consumer rights, stressing notably the following aspects:

- This Directive would be problematic since several countries have more protective consumer legislations. This Directive would mean that the level of consumer protection would go down in these countries.
- The proposed legal guarantees of 2 years would be a step backward in certain countries, in particular for long-lasting goods.

The Commissioner replied that the Proposal will aim at achieving the best balance between consumer and business interests. The Commissioner added that she is open to additional information and feedback from consumer organisations on this matter.

Some ECCG members asked what the Commission can do to ensure that Member States implement and enforce consumer laws and invest sufficient resources to consumer policy and organisations. The Commissioner replied that she always highlights these aspects during her visits to Member States. The Commission can also monitor and benchmark national consumer policies but cannot substitute itself national policies.


Following a presentation by the Commission (Mr Abbamonte, DG Health and Consumers) on this draft proposal (to be adopted in October), ECCG members made the following comments:

- The majority of ECCG members were of the view that the draft proposal does not reach the right balance in terms of consumer protection. They felt that the draft proposal is mostly based on business needs and that consumers are considered as by-products of the elimination of barriers for traders. While the draft proposal aims at improving business mobility, they regretted that the text does not enhance consumer mobility, e.g. by introducing joint producer/seller liability or by not putting the major financial risk on consumers during the withdrawal period. In addition, they found the text very complicated implying that the objective to simplify and clarify consumers’ rights would not be achieved.
- Some members said that maximum harmonisation could be a good thing for horizontal issues (e.g. definition) but highlighted that it was a threat to national consumers’ rights which have been in place for a long time. It was not clear to them which national laws would still be applicable or not. They also fear that national jurisprudence and interpretation of these national rights would not be applicable. One member said that consumers are not confused because of different national legislations but because they do not know what to do if something go wrong when buying cross-border.
Several ECGC members raised questions aimed at clarifying the scope of the draft directive. The Commission replied that provisions on pre-contractual information requirements, unfair contract terms, the black/grey lists apply to services (e.g. energy supply contracts). It added that pre-contractual information requirements apply to real estate contracts with certain exceptions. The provisions on unfair contract terms apply to financial services; contracts for the sale of mortgages are covered by the provisions on door-step selling but other financial services are covered by specific rules. The black and grey lists can be modified through comitology.

Some members criticized the fact that contracts concluded at fairs are not included in the draft proposal as off-premises contracts. They regretted that the impact assessment only took account of business interests on this aspect.

The Commission said that it has listened to consumers and will continue to do so. The Commission expressed its belief that the overall balance of the draft proposal is in the interest of consumers and retailers alike and that full harmonisation is the best tool to create a retail internal market. The draft proposal aims to reach an optimal level of protection and to remove remaining internal market barriers. The Commission clarified that the European Court of Justice is the only body which has the competence to interpret EU rules when adopted. National judges are required to interpret national rules in a manner which is in line with Community law including previous ECJ rulings.

Follow-up: The Commission will send the proposal when adopted (press material and proposal sent on 8/10).

5. Consumer Scoreboard: consumer empowerment (ECCG2008 080-090)

The Commission (Mr Mair, DG Health and Consumers) presented several aspects of the work on consumer empowerment in the consumer scoreboard:

- Last August, the Commission sent a consultation document to the ECGC regarding a European Household survey, i.e. a project seeking to develop a statistical portrait of EU consumers. The Commission would welcome the help of ECGC members to draft questions for this survey.

- The Commission also invited consumer organisations to express their views on the obstacles to cross-border online shopping for consumers in the EU by replying to a questionnaire. The objective of this questionnaire is to assess whether the Internal Market for e-commerce is functioning for consumers. Replying to a question, the Commission said that the Commission will not propose a legislative proposal next year against the territorial segmentation of the internal market.

- At the Council request, the Commission is preparing a study on food prices. In this context, the Commission would like to receive views on the consumers’ perspective, especially their experience with food price inflation and market practices. Some members would be happy to contribute given their work on this issue at the national level.

Follow-up: The Commission will send the questionnaires by e-mail (done - ECCG2008 093).
6. Competition and consumer policy

- report of the ECCG sub-group on competition (ECCG2008 087)

The Commission (Mr Riviere, DG Competition and Mr Dölling, DG health and Consumers) informed the ECCG about the work of the sub-group. The sub-group met four times during 2007-2008, three times with the consumer correspondent's network of national competition authorities. Participants have generally showed an interest in the debates and there have been several useful discussions. The number of consumer organisation representatives participating in the meetings has been limited, due to several reasons like overlapping meetings and other priority activities of their organisations. The Commission invited the ECCG for their feedback. Several ECCG members expressed their support to pursue the work of the sub-group although they would like the work to be more focused and concrete. They found contacts with national competition authorities very positive.

Follow-up: The Commission will pursue the organisation of the ECCG sub-group on competition with focus on specific sectors and subjects and will inform the group about future proceedings

- presentation of the new Consumer Unit in DG Competition

The Commission (Ms Jambor, DG Competition) presented the new unit created within DG Competition in charge of consumers' relations. The unit wishes to make the link between competition policy and consumer interests by explaining competition to consumers in a more accessible and less technical manner and by developing dialogue and cooperation with consumer organisations.

- Several members welcomed the creation of this unit and offered to share their experiences of work with national competition authorities.
- ECCG members from countries, where consumer and competition authorities are merged, expressed mixed views. Some said that it leads to a lack of consideration for consumer issues, other indicated this merging of competences was positive.
- A member asked whether this new unit was working closely with other units within DG COMP so that consumers' concerns collected by the new unit are passed on to other units as well. The Commission answered positively.
- A member suggested that part of the fines to companies breaching competition law could be used to finance consumer organisations' projects (e.g. information campaigns).
- Some members pointed out that energy liberalisation has not worked in the interest of consumers and that competition is being biased in favour of energy suppliers.
- Another member mentioned the difficulty to bring complaints to its national authorities due to a lack of resources necessary to gather hard evidence.

- preliminary results of the consultation on the Commission report on car block exemption (ECCG2008 089)

The Commission (Mr Simon and Mr Clark, DG Competition) presented the main conclusions of the evaluation report on the block car exemption regulation introduced in 2002 (due to expire in 2010) and the subsequent consultation on the Report. There was only one comment
from consumer associations during that consultation. The results of the consultation should be available on DG Competition's website in November. A meeting is planned with national competition authorities in December to discuss the various options. The Commission should adopt a Communication on this issue next spring.

Some ECCG members noted that it was not easy to identify whether consumer complaints are connected to the implementation of this Regulation. Others stressed the need for spare parts to be safe and at reasonable prices but not necessarily from the Original Equipment Supplier. In some countries, car dealers only honour the warranty if all servicing has been done in the authorised network.

The Commission concurred with the idea that competition law is a rather technical field hence the necessity for competition advocacy, simple rules and developing dialogue with consumer organisations. The Commission replied that the explanatory brochure of the Regulation explains that the very fact that a service has been done by an independent repairer cannot be used to refuse warranty repair as long as no clear link is established between the failure and the service. The Commission invited ECCG members to stay in touch with both national competition authorities and DG Competition on this issue. The Commission welcomed ECCG members to communicate consumer questions / concerns to DG COMP.

- Commission study on conveyancing services in the EU (professional services) (ECCG2008 084)

The Commission (Mr Madill, DG Competition) presented the results of a study on conveyancing services in the EU (professional services). From a consumer perspective, it is aimed at assessing the link between the level of regulations and market outcomes. One of the conclusions of the study is that there is no major variation in the level of quality across regulatory systems and no empirical evidence to support hypotheses that high regulation is needed to assure quality. The Commission will raise these facts with Member States. Commissioners Kroes and McCreevy have written to Member States asking them to review regulation and to indicate where it is justified. Consumer organisations input is welcome in this debate.

An ECCG member spoke about its national experience and said that less regulation is not bad but that quality should be watched. Several members expressed concerns that the quality of these services could decrease if there is less regulation. Quality should be a paramount criterion when assessing the impact of regulation. A member stressed there is a risk that more competition results in conveyancing services not being independent anymore. Another member was positive towards increasing competition in this profession. He also criticized the fact that complaints regarding prices in his country can only be lodged with the association of notaries that give prices recommendations and which are therefore both judge and jury.

7. Possibilities to support capacity-building activities under the structural funds (ECCG2008 083-088)

The Commission (Mr Bender, DG Employment, Social Affairs and Equal Opportunities) presented the possibilities to support capacity-building activities for consumer organisations under the Structural Funds. Support to consumer NGOs could in principle be covered in certain Member States or regions (Convergence objective). National authorities have the
responsibility for selecting projects. The Commission invited ECCG members to be in touch with their national authorities with regards to these possibilities and informed members that country specific information is available on DG EMPL's website.

Several members expressed concerns about the likeliness of getting funding for consumer organisations under the ESF and the difficulties of liaising with national authorities in charge of ESF programmes. Some said that national authorities tell them that criteria are decided at the EU level. Another member said that the national authorities did not consider consumer organisations as possible applicants to ESF funding. A member added that Member States were sometimes opposed to the development and thereby financing of consumer NGOs. A member suggested that the Commission could influence the ESF funding for consumer organisations via the setting of priorities. Another member stressed that the most important costs for consumer organisations are operational costs. Funding is needed in some countries to allow the development of independent consumer NGOs.

The Commission replied that structural funds are managed in partnership by the Commission and Member States. Member States are responsible for the implementation of programmes, i.e. notably for selecting projects. ECCG members should "lobby" national authorities in charge of the ESF. ECCG members that face problems with national authorities in charge of the ESF can also contact country units in DG EMPL. The Commission informed the group that the list of national authorities in charge of ESF is on DG EMPL website. Concerning a question on the possibility to fund consumer NGOs and develop institutional building in candidate countries, the Commission replied that a financing instrument exists, the IPA (Instrument for Pre-Accession), in particular Component I managed by DG ELARG. The Commission proposed to address the situation of national consumer organisations, including their role and funding needs, at a future meeting with ESF national managing authorities.

Follow-up:


See link on ESF in Member States

- DG EMPL organisation chart is in annex:

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8. Information from the Commission on ongoing/upcoming initiatives of interest to consumers e.g.:

- Consumer collective redress

The Commission presented a short update on two studies on consumer collective redress that will be published this year. Concerning the benchmark consultation on collective redress mechanisms, a feedback statement is available on DG SANCO's website. All the information gathered in these studies will be used to prepare a Green Paper to be published by the end of 2008.
The Commission (Ms van Lamsweerde, DG SANCO) gave feedback on the creation of the ECCG sub-group on energy. The sub-group will have two main functions: to advise the ECCG on consumers and energy issues and to represent energy consumer interests in the Citizens' Energy Forum. Vincent Labarre (Test-Achats) was appointed coordinator and will coordinate the consumer input of the ECCG energy sub-group into the Citizens’ Energy Forum. The sub-group will report at the next ECCG meeting on the results of the first Forum meeting.


The Commission (Mr Mateo, DG Information Society and Media) presented status and progress of the draft Recommendation on RFID (to be adopted in the autumn). It seeks to clarify the existing European legislative framework and to provide guidance to stakeholders on how to implement RFID. An ECCG member asked whether there was a possibility for the consumer to check if the tag is de-activated or not. The Commission replied that the draft Recommendation provides for such possibility of checking the tag.

Mr Skehan (European Retail Round Table - ERRT) presented the RFID technology and the possible applications it offers for the retail sector. The European Retail Round Table would favour a balanced recommendation that strengthens privacy and data protection but allows the technology to evolve and develop.

During the discussion:

- ECCG members were generally of the view that RFID has economic benefits but few consumer benefits. An ECCG member insisted that the central issue with RFID is trust. According to surveys, consumers do not trust retailers and are scared about the privacy issues raised by RFID. Therefore, the possibility of de-activation is crucial. He asked how long it would take to develop a quick and easy de-activation technology.
- Another member expressed its support to the Commission's recommendation as it is currently drafted and insisted that de-activation should be the compulsory counterpart of the introduction of this new technology. This member also asked why business was invited to the ECCG meeting while the agenda is very busy and hoped that consumer organisations will also be invited to Commission Committees composed of business representatives.
- Several other members concurred on the need to be cautious with consumers' privacy and to inform consumers on the impact of the introduction of this technology.
- Other ECCG members were concerned about the impact of the technology on price increases or in job losses.
- Another member pointed out that RFID might be associated with health hazards and regretted that this has not been taken into account in the recommendation. This member also asked for the results of privacy impact assessments to be made publicly available.
- Some members asked what information is on the chip and whether RFID could be used in favour of consumers to compare prices or to guarantee food safety.
The Commission replied that ERRT participation aims at offering an opportunity for dialogue and added that it is also useful for consumer representatives to participate in Commission Committees composed of business on issues of mutual interests. This has already happened in the past.

Mr Skehan replied that developing a quick de-activation technology across all points of sale would imply significant costs and would also delay consumers at checkout. Given the tag and reader costs, there are still few RFID applications. Tags offer opportunities to track back products. He added that retail prices depend upon market conditions as well as local costs, taxes, etc. Replying to a concern that privacy would not be respected because of the introduction of portable RFID readers, Mr Skehan noted that pirating via portable readers would be difficult because this also implies access to the retailer's or manufacturers’ databases.

The Commission said that information on RFID tags can be variable. For the typical retail application, it would be a simple long digit. It clarified the idea of opting in/opting out RFID. An opt-in would imply de-activation by default at the cashier when the product is scanned. An opt-out would imply the existence of a secondary system whereby deactivation could be done upon consumer's request. The Commission clarified existing deactivation mechanisms: soft mechanisms (such as password deactivation) can be difficult to deploy organisationally but should, in the long term, be cheap from a hardware point of view; physical mechanisms (such as removing the tag or cutting the antenna) are currently the most used ones as they tend to be easier to deploy (and currently cheaper). With regards to health risks, the Commission indicated that, although no provision appears in the recommendation, the Commission is working on this issue in parallel. The Commission is considering the idea of making available a summary of privacy impact assessments.

Follow-up: The Commission will send the Recommendation when it is adopted.

10. Draft Commission Communication on the review of the scope of universal service in e-communications and reflections on the future (ECCG2008 091)

The Commission (Mr Koistinen, DG Information Society and Media) presented the recent Communication on the review of the scope of Universal Service, opening the debate on the future of Universal Service.

- A member indicated that broadband internet access should be considered as a Universal Service, but noted that the household equipment in PCs and terminals was a bottleneck for a wider take-up.
- Another member insisted that the review of the scope of Universal Service should also deal with the quality of the internet access, and not only coverage, price and penetration. This member also raised the issue of possible restriction or deterioration of service linked to infringement of copyrights, and finally noted that the Commission should also include in the evaluation other forms of connection sharing (and not only individual penetration rates).
- Another member supported a "one-size-fits-all" approach which would benefit most countries and asked about existing cost-benefits analysis on the different options for the future of Universal Service (i.e. with broadband internet access included, without etc.)
- Another member stressed that there are more than 10% of "digitally excluded" people in his home country, and the government has launched an e-Skills programme to help people
acquiring the necessary skills to use internet. He also stressed specific problems related to
switching of internet providers.

• Finally, a member stressed that proposals aiming at billing received phone calls (i.e.
breaking with the "caller party pays" principle) would disproportionately affect low-
income consumers, who are mainly receiving calls, and asked whether the telephony
market had really delivered for low-income consumers.

The Commission replied that many concerns raised were already addressed in the e-
communications legislative package (quality of service, transparency of price), that a
reflection on costs of a Universal Service extended to internet broadband should still be made
(and the consultation should help in this). He reminded that copyright enforcement issues
were not covered by telecommunications rules.

Follow-up: ECCG members are invited to send their comments on the Communication either
collectively or at national level (see ECCG2008 091).

11. Commission initiatives on copyrights (ECCG2008 082)

The Commission (Mr Lueder, DG Internal Market and Services) presented the proposal for a
directive amending Directive 2006/116/EC on the Term of Protection of Copyright and
Related Rights and the Green Paper on Copyrights in the Knowledge Economy (deadline for
comments: end of November). The proposal notably extends the term of protection for
performers and sound recordings to 95 years.

• Some ECCG members stressed the need to reach a balance between artists' remuneration
and consumer access to knowledge. They would have hoped other ways of remunerating
artists than a term extension.

• Several ECCG members expressed doubts that the term extension Proposal would not
result in price increases for consumers and in increase of levies charged for private
copying.

• A member added that if prices of online music are similar, it means that competition in
this area is not working.

• Some also expressed concern about consumers being criminalised more and more, e.g.
young people making music copies for themselves at home.

The Commission replied that empirical evidence at this stage shows that a term extension has
no significant effect on consumer prices, in particular given the small share of the performer
in the end consumer price. One study, sampling sound recordings that are protected and those
where protection has expired, concluded that there was no systematic difference between
prices of in-copyright and out-of copyright sound recordings. In addition, all online offers of
sound recordings did not charge different prices for those in-copyright and those out-of
copyright. Even true 'public domain' recordings (where both the musical composition and the
sound recording were no longer protected) were sold at € 1 per track, a price identical to
tracks where the music was still protected by authors rights and the sound recording still by
those rights covering performers and record producers. The Commission added that the
proposal to extend the term for sound recordings will not have an impact on the calculation of
levies since levies are calculated on the basis of variety of parameters, none of which are
related to the number of protected performances. Levies are calculated on the basis of
recording capacity, recording speed or storage capacity of the equipment that produces copies.
The Commission said that there was competition in the online music market and thus the rates for online music did not reflect monopoly rents. The Commission also answered that it does not wish to penalise young people who are downloading copies to their PCs.

12. Information from consumer organisations on ongoing/upcoming initiatives

Information on 2 seminars on EU Consumer Policy for Italian consumer organisations (Milan - 12/9/08; Rome 26/9/08) (ECCG2008 083): together with the Commission representation to Italy, the ECCG member for Italy organised 2 seminars for Italian consumer organisations on EU initiatives of interest to consumers.

13. Any other business

The next ECCG meeting will be held on Monday 8 December (full day) and Tuesday 9 December (full day).

Some ECCG members were of the view that there are generally too many topics on the ECCG agenda and not enough time for policy discussions and dialogue. Therefore, it was agreed to focus future meetings on fewer subjects to allow more in-depth discussions. The Commission will propose possible agenda items for the next meeting on which ECCG members are invited to give their priority rating. The next ECCG meeting will also devote 1/2 day to the functioning of the group. In order to increase interactivity, the Commission also suggests that, at each meeting, at least 2 issues (national initiative or topic of general interest) are led and presented by ECCG members.

Some members of SANCO Stakeholder Dialogue Group will attend the next meeting as observers.
ANNEX: ATTENDANCE LIST

MEMBERS
Austria Mr Max REUTER
Belgium Mr Hugues THIBAUT
Bulgaria ----
Cyprus Mr Petros MARKOU
Czech Republic Mr Karel PAVLÍK
Denmark Ms Benedicte FEDERSPIEL
Estonia Ms Linda LÄÄNESAAR
Finland Ms Gun WINTER
France Mr Daniel FOUNDOULIS
Germany Ms Anne-Lore KÖHNE
Greece Mr Konstantinos DAGOS
Hungary ----
Ireland Mr Dermott JEWELL
Italy Mrs Anna BARTOLINI
Latvia Ms Silvija VIKSNINA
Lithuania Mr Rimantas ZABARAUSKAS
Luxembourg Mr Bob SCHMITZ
Malta ----
Netherlands Mr Rogier KLIMBIE
Poland Ms Małgorzata NIEPKULCZYKA
Portugal Ms Margarina MOURA
Romania Mr Emil BOJIN
Slovakia Ms Božena STAŠENKOVÁ
Slovenia Ms Breda KUTIN
Spain Ms Conchy Martin REY
Sweden Mr Jens HENRIKSSON
United Kingdom Ms Helen McCULLUM
ANECE Ms Nina KLEMOLA / Mr Stephen RUSSELL
BEUC Ms Monique GOYENS

OBSERVERS
Norway Mr Audun SKEIDSVOLL
Iceland ----

ASSOCIATES
COFACE Mr Nicolas REVENU
EUROCOOP Mr Rodrigo GOUVEIA

EUROPEAN COMMISSION
Commissioner KUNEVA
Ms Andriana SUKOVA-TOSHEVA
DG Health & Consumers
Ms Jacqueline MINOR
Mr Giuseppe ABBAMONTE
Ms Maija LAURILA
Mr David MAIR
Mr Gosta PETRI
Ms Nathalie CHAZE
Mr Anders DOLLING
Mr Bartosz HAKBART
MsAngela D'ELIA
Ms Marie-Charlotte van LAMSWEERDE
Ms Malgorzata FRYZE

DG Information Society Mr Manuel MATEO GOYET
Mr Petri KOISTINEN
DG Internal Market          Mr Tilman LUEDER
DG Employment             Mr Thomas BENDER
DG Competition            Ms Zsuzsana JAMBOR
                          Mr Juan RIVIERE y MARTI
                          Mr John MADILL
                          Mr Stephan SIMON
                          Mr John CLARK

EXTERNAL SPEAKERS          Mr Paul SKEHAN (ERRT)