



UGAL POSITION PAPER ON

EU GOVERNANCE WHITE PAPER

UNION DES GROUPEMENTS DE DETAILLANTS INDEPENDANTS DE
L'EUROPE

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UGAL is the European association bringing together groups of independent retailers in the food and non-food sectors. At the outset, the purpose of these groups was to provide their members with better purchasing conditions. Today, the objective pursued is essentially to bring the associated retailers the technical and material resources and the necessary know-how to contend with the competition and develop efficient businesses, in order to respond effectively to the expectations of consumers. The activities of the majority of member organisations have now developed into a cooperation which is entirely or mostly vertical. UGAL represents more than 357,000 retailers with more than 446,000 sales outlets and a total employment of more than 2,068,000 people, with a retail turnover of more than 453 billion euros and a wholesale turnover of more than 238 billion euros.

UGAL welcomes the White paper on European Governance presented by the European Commission as well as the opportunity to respond to it.

The White paper is particularly timely given the recent introduction of euro coins and notes as a major European cohesive factor, the recent Constitutional Convention as well as the imminence of the forthcoming EU enlargement. In this regard, UGAL endorses the basic aim of the White Paper, which is to make the Union more transparent and bring it closer to its citizens and to implements its projects more effectively and coherently.

UGAL comments are developed from the experience of working with the European institutions over many years. As UGAL is the European association bringing together groups of independent retailers in the food and non-food sectors we focus therefore on EU governance role within the European Union rather than on the EU contribution to global governance.

UGAL responses are intended to make the governance process as efficient as possible. Thus, UGAL suggestions are fully consistent with the principles of good governance contained in the White Paper.

BETTER INVOLVEMENT

→ Consultation of socio-economic players

UGAL fully supports the Commission in its wish “*to open-up the policy-making process to get more people and organisations involved in shaping and delivering EU policy*”.

One of the Community’s main problems is its democratic deficit. Here, the Commission’s assessment can only be endorsed as well as the importance of civil society’s role that the White paper fully acknowledges.

In this sense, UGAL agrees that the social partners play an important part in voicing the concerns of citizens and interested partners, also vis-à-vis the European institutions.

However, the White Paper provides little details of what its commitments for consultation would involve as well as it does not present any objective guarantees in order to ensure that there is no possibility of creating a “privileged” group of stakeholders which enjoy special rights to be consulted.

Moreover, it should be pointed out that interest’s group representatives have no democratic electoral mandate and are not subjected to parliamentary supervision. Therefore, although it is important to involve them systematically and formally in community decision making process, careful attention should be paid to avoid that decisions issued by these groups could be imposed to the other stakeholders who did not take part in the consultation.

BETTER POLICIES, REGULATION AND DELIVERY

UGAL endorses the Commission’s intention to review and simplify existing legislation because is of the opinion that the EU must develop a quicker and better focused legislative process.

However, although UGAL supports these Commission’s objectives, it believes that the same ones should be translated into a clear and coherent system, providing both legal and business certainty.

→ Greater coordination and consistence

UGAL agrees that policies must be coherent and easily understood and that coherence requires a strong responsibility on the part of the Institutions to ensure a consistent approach within a complex system.

At present, there is a multitude of initiatives (sales promotions proposal for a regulation (1), fair trade, e-confidence, consumer policy strategy) often containing overlapping and sometimes competing policies coming from the Commission.

This entails a real and present danger that policy is being created piecemeal without any coordination and practical consideration of the effect this will have on the Single Market.

Furthermore, UGAL believes that it is particularly important a greater involvement of Commissioners as a collegiate body and a more closely involvement of different Commission services and Directorates-Generals because of existing close ties between different policies

In this sense, in its 15 January 2002 response to the Green Paper on EU Consumer (2) , UGAL expressed that the Internal Market cannot be organised in sub-entities like an Internal Market for business and an Internal Market for consumers. Hence, the strategy to be brought forward by the Commission should involved all DG concerned in a common approach, which is to say not only DG SANCO, but also DG Competition, DG Internal Market and DG Enterprise.

→ Transparency

As part of its commitment to more effective and transparent consultation, UGAL thinks that the Commission should consider how best to inform on its work prior to publishing proposals. UGAL considers that the Commission should develop a strategy to ensure that those who are potentially affected by its proposals get to hear of them. This is particularly important when the title of the measure does not immediately indicate those to whom it is relevant.

A greater openness by the services of the Commission about the areas where they are considering legislative proposals is also needed so that the Commission can be alerted on particular national circumstances affecting their work.

In addition, UGAL urges for the transparency principle being extended to the consultation process by means of publishing the comments received from stakeholders in the frame of such consultation. Feedback instruments on how the suggestions and comments received are being taken into consideration by the Commission should be therefore set up in order to ensure transparency.

Moreover, UGAL is of the opinion that the legislative process should be more transparent (from Commission to European parliament and, in particular, the Council), to enable stakeholders to know how the draft legislation is being modified.

(1) See UGAL's position paper on Sales promotions

(2) See UGAL's position paper on the Green Paper on EU Consumer Protection

→ **Expertise**

UGAL welcomes the Commission's intention to make increasing use of expert advice in new policy areas and thus, the publication of guidelines on collection and use of such advice to provide for the accountability, plurality and integrity of the expertise used.

However, UGAL is of the opinion that the EU do not just rely upon national governments when involving experts with practical experience of relevant subject areas from an early stage. Focus on expertise rather than national origin is needed.

→ **Impact analysis**

UGAL is of the opinion that a mechanism is required to ensure that legislative proposals are measured in the light of the objectives which they seek to achieve. Hence, UGAL supports the Commission's plan to withdraw proposal for legislation if, as result of the complexity of the proposal which is been negotiated upon, it becomes clear that it might breach the principles of subsidiary and proportionality.

UGAL considers that it is important the preparation, by the Commission, of preliminary impact studies aimed at assessing each project's cost-benefit ratio and the grounds that justify the proposed action and why it is necessary to resort to legislative action. Such impact analyses should be accompanied by a "proportionality test" based on the justification of subsidiary, its economic and social impact, including SMEs and with an indication of the consultations made before presenting it.

The same ones should be conducted independently and communicated systematically to the co-decision makers.

Moreover, UGAL is of the opinion that these analysis should include a review of possible alternatives to the adoption of the proposed rules and they should be systematically attached to the Commission's project in order to ensure the transparency Commission is seeking to attain.

→ **Better regulation**

UGAL agrees the necessity of improving the quality, effectiveness and simplicity of regulatory acts. However, UGAL disagrees a systematic and more broad use of framework directives.

At present, the introduction of community legal text into the national laws of the Member States present failures. In particular, UGAL is of the opinion that these failures are frequent for Directives, a tool which the Commission chooses to use broadly, thus leaving Member States with margins for manoeuvre and leads time

to implement EU directives, instead on relying on uniform and direct implementing rules.

In this regard, it should be taken into account that Member States are reluctant to relinquish their own regulatory particularities and they often complicate directive's content when implementing them by maintaining specific national regulations or even by introducing traditional and redundant national provisions of their own making.

→ **Co-regulation mechanisms**

UGAL is concerned by a systematic extension of non legal instruments such as soft-law approaches to achieve EU policy aims because at European level there is presently neither a legal basis nor an enough widespread tradition for implementing systematically these procedures.

Furthermore, UGAL considers that democratic legitimacy and control for actions of the EU can only be achieved through EU bodies made legitimate by the Treaty. The Governance concept must not lead to a situation where the decision-making process becomes unclear to the citizen. Political responsibilities must be clear identifiable.

In democracy, it is basic to accept the consultation and hearing of the possible interested partners representing the different angles of the economic life, the business involved and the consumers. However, out of the democratic decision-taking procedure, it does not seem well-founded that an association could be the only representative of the entirety of involved interests and that its options could be imposed to everybody and even to those who are not members of this association.

UGAL regrets also that, despite the wide range of alternative regulatory instruments existing at present, the white paper focuses mainly on co-regulation as one of the leading approaches to future regulation. UGAL advocates the assessment of all possible alternatives on an equal footing and based on objective criteria.

→ **Implementing community law more effectively**

UGAL is of the opinion that the EU must ensure that community legislation is properly enforced. In this regard, UGAL believes that at present there are still too many obstacles to the effective implementation of Community law, and that steps should be taken to change this situation. UGAL recommends that:

- a large-scale initiative should be undertaken to simplify existing regulation,

- greater consistency should be ensured within the current and future community legislation. The need for preventing contradictions should be taken into account when draft legislation is formulated in the future,
- directives should provide for shorter transposition times,
- the use of collective actions should be increased, giving professional business federations recognised in their own countries cross-border access to the courts in other Union countries in order to defend rights directly derived from community legislation. It is of the utmost importance to ensure the uniform application of community law and the legal certainty required for that law to be effective.

Brussels, 28 Mars 2002