



EUROPEAN COMMISSION

Brussels, 9.11.2011
SEC(2011) 1321 final

COMMISSION STAFF WORKING PAPER
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal for a Regulation of The European Parliament and of the Council
on a consumer programme 2014-2020

{COM(2011) 707 final}
{SEC(2011) 1320 final}

Disclaimer

This Impact Assessment report commits only the Commission's services involved in its preparation and the text is prepared as a basis for comment and does not prejudge the final form of any decision to be taken by the Commission.

1. PROBLEM DEFINITION

The post-2013 Consumer Programme (hereafter the "Programme") will support the implementation of DG SANCO action in the field of consumer policy from 2014 onwards. It builds on the results achieved through the current (2007-2013) Programme.

The new Programme will support the future consumer policy placing EU citizens as empowered consumers at the centre of the Single Market and complement initiatives focussing on the supply side.

There is a need for some continuity between the current and future Programmes, in line with the results of the mid-term evaluation of the 2007-2013 Strategy and Programme which underlines that the policy is relatively young at EU level and that continuity is key to achieving impact.

At the same time, new societal challenges have grown in importance, such as the increased complexity of decision making (information overload; more responsibility shifted to consumers following liberalisation; sophisticated products, services and advertising), the need to move towards more sustainable patterns of consumption, the opportunities and threats brought by the development of digitalisation, an increase in social exclusion and the number of vulnerable consumers and an ageing population.

The main problems to be addressed through the funding of actions under the new Programme are the following:

i) Safety

Differences between Member States in enforcing product safety legislation, the presence of unsafe products on the Single Market, risks linked to the globalisation of the production chain require the authorities to cooperate more effectively in order to stop dangerous products from entering the Single Market and ensure adequate action whenever such dangerous products appear on the market. Need to examine the opportunity to develop initiatives in the field of services safety. Lack of an adequate structure at EU level to ensure the best value of EU co-financing.

ii) Consumer information and education

• Underdeveloped consumer markets monitoring

Lack of robust and good quality data and analysis on the functioning of the Single Market for consumers;

- Insufficient capacity of consumer organisations, including lack of resources and expertise, notably in the new Member States;
- Lack of transparent, comparable, reliable and user-friendly information for consumers, particularly for cross-border cases; poor knowledge and understanding of key consumer rights and protection measures by consumers

and retailers alike; uncertainty about the degree of trustworthiness of "shortcuts" (such as comparison websites), in particular in the digital area;

- Inadequacy of current EU consumer education tools, especially with regards to the developments of the digital environment.

iii) Consumer rights and redress

- Sub-optimal protection of consumer rights, in particular in cross-border situations;
- Need to further improve the integration of consumer interests in EU policies;
- Problems faced by consumers when trying to secure redress, notably cross-border.

iv) Enforcement

- CPC Network (network of national enforcement authorities) not used to its full potential;
- Low awareness about ECC-Net (network of European Consumer Centres) among consumers, need to strengthen its effectiveness. Administrative burden and lack of stability of the financing linked to the current co-financing process.

v) Conclusion: the focus of the actions under the Consumer Programme

While the problems to be tackled by consumer policy are of multiple kinds and of broad scale, as mentioned above, the relatively small size of the Consumer Programme means that actions to be financed under this Programme have to be targeted on specific areas where intervention at EU level can make a difference and add value.

The selected areas for actions are of three kinds:

1) Actions corresponding to legal obligations imposed by the Treaty and the existing EU acquis in the field of consumer protection.

- Financing the maintenance and proper functioning of the RAPEX Network, of the CPC Network of enforcement authorities and of the cosmetics databases.

2) Actions which are not or could not be undertaken at national level because of their EU level character:

- Assisting consumers on cross-border issues by:
 - co-financing of the operation of the Network of European Consumer Centres (ECCs). National authorities or consumer organisations are usually not in a position to provide advice and support to consumers on cross-border issues

- establishing and operation of an ODR platform dealing also with cross-border cases

- Developing cooperation with international partners to deal with the impact of the globalisation of the production chain on product safety
- Supporting the production of EU-level comparable consumer markets data for benchmarking between Member States and input into EU-level policy-making
- Ensuring an EU-level representation of consumer interest by financially supporting EU-level consumer organisations

3) Actions complementing and enhancing the efficiency of measures undertaken at national level:

- Coordination and co-financing of joint actions in the field of product safety and of consumer rights enforcement ("Sweeps")
- Supporting awareness-raising campaigns on consumer issues with Member States and other stakeholders and working with intermediaries to contribute to the provisions of clear, transparent and reliable information to consumers
- Supporting the training national consumer organisations, which would be much more costly at national level without economy of scale
- Providing a platform for exchange and sharing of good practices in the field of consumer education.

2. SUBSIDIARITY TEST AND ADDED VALUE

The EU action is based on article 169 and 12 of TFEU.

The beneficiaries of the Programme will be consumers, national authorities in charge of consumer protection and consumer organisations, with the overarching objective of improving the situation of consumers throughout the EU. The Programme will offer support to consumer organisations at EU and national level, as well as Member States national authorities in charge of product safety and enforcement. The Programme will also de facto benefit reputable and innovative businesses, as effective consumer policy supports the proper functioning of the Single Market. Finally, economic operators will benefit from a level playing field based on clear rules and better coordinated enforcement. In this context, the Programme will contribute to stimulating the economic growth.

The Programme will support the objectives of the future consumer policy dealing with the demand side of the Single Market.

i) Product safety

The operation of the RAPEX system by the Commission is one of the obligations stemming from the General Product Safety Directive (GPSD) and Regulation 765/2008. Without financial support, activities would not be undertaken at the necessary level and frequency to improve market surveillance cooperation and ensure a more uniform enforcement of product safety legislation.

Action at EU level and cooperation through the GPSD network delivers better results than a series of individual actions by Member States since it fills information gaps, including using information collected by other countries (e.g. China), and avoids disparities in the Single Market. This is essential to a genuinely level playing field for businesses. It produces a consistent approach to the risks from consumer products and offers consumers throughout the EU a high level of protection.

ii) Consumer education and information

- Consumer market monitoring: in order to put consumer outcomes central in the Single Market, better data and the monitoring of the demand-side of the Single Market further need to be developed. Only at EU level can comparable data collection and analysis be undertaken to provide overall analysis of the functioning of the Single Market as well as the establishment of benchmarks. The harmonised methodology for classifying and reporting consumer complaints will contribute to this objective.

In general, the data is designed to be sufficiently robust and representative to be used not only at EU but also at national level. Policy-specific behavioural research and testing provides practical tools to develop smarter regulation.

- Support to consumer organisations: A strong and coherent representation from the consumer movement at EU level provides a consolidated consumer input into EU policy-making, EU institutions and EU-level dialogues.

It also ensures direct empowerment and support to the particularly weak organisations in the new Member States. Capacity building actions for national consumer organisations (capacity-building) complements national initiatives, leads to economy of scale, supports the development of trans-national networks between participants, including for mentoring and peer-review.

- Consumer education and information

EU consumer information and education initiatives increase consumer knowledge and confidence in cross-border transactions, thus supporting the completion of the Single Market. They facilitate best practice sharing between Member States and will contribute to the creation of a single, coherent and authoritative source of information/education at EU level.

iii) *Consumer rights and redress*

- Ensuring a high level of consumer protection, in line with Article 169 TFEU.
- The integration of consumer interests is an obligation stemming from article 12 TFEU.
- Redress: the existing studies point to the need of strengthening redress opportunities for consumers. In this context; the Commission will consider initiatives in the field of Alternative Dispute Resolutions (ADR) and On-line Dispute Resolution (ODR).

Alternative Dispute Resolution (ADR) will offer consumers and businesses a cheap, rapid and easy way of getting redress out-of-court throughout the EU. ADR schemes respecting core quality principles will be available for all disputes, thus ensuring a level playing field.

The establishment of an Online Dispute Resolution (ODR) platform will allow national ADR schemes to handle cross-border disputes related to the online sale of goods or services more effectively, by handling the procedure entirely online. The financing of a European platform will allow having a co-ordinated approach and create economies of scales and synergies both of which can only result from action at EU level.

iv) *Enforcement*

- The Commission is tasked with the management of the CPC network (network of national enforcement authorities). The CPC Regulation also provides for joint projects, joint enforcement actions and exchange of officials. The organisation of joint actions between several Member States such as the "Sweeps" (co-financed by the Programme and the Member States) is an effective tool in this respect.
- The ECC-Net (network of European Consumer Centres), co-financed by the Commission and the Member States, provides a European network informing consumers about their rights when shopping across-borders and supporting them in seeking redress with a trader in another EU Member State when something goes wrong. National consumer associations do not help consumers in cross-border cases. The network covers all Member States and therefore it secures EU-wide support for consumers and promotion of their rights.

3. POLICY OBJECTIVES

The Programme should support the general objective of the future consumer policy which **places the empowered consumer at the centre of the Single Market**. European consumer policy supports and complements national policy by seeking to ensure European citizens can fully reap the benefits of the Single Market and that in so doing, their safety and economic interests are properly protected.

The actions will support the following four specific objectives:

- i) Safety: to consolidate and enhance product safety through effective market surveillance throughout the Union;
- ii) Information and education: to improve consumers' education, information and awareness of their rights, to develop the evidence base for consumer policy and to provide support to consumer organisations;
- iii) Rights and redress: to consolidate consumer rights in particular through regulatory action and improving access to redress including alternative dispute resolution;
- iv) Enforcement: to support enforcement of consumer rights by strengthening cooperation between national enforcement bodies and by supporting consumers with advice.

These objectives are fully supportive to Europe 2020 as regards growth and competitiveness. They will integrate Europe 2020 specific concerns on *digital agenda* (ensure that digitalisation actually leads to increased consumer welfare), *sustainable growth* (moving towards more sustainable patterns of consumption), *social inclusion* (taking into account the specific situation of vulnerable consumers and the need of an ageing population), *smart regulation* (consumer market monitoring actions to help designing smart, and targeted regulations).

4. POLICY OPTIONS

Baseline scenario

The baseline scenario corresponds to the option 1 for the initiatives under the 4 specific objectives. Under this option, the majority of actions conducted under the 2007-2013 Programme are pursued, with some adaptation. Some actions are substantially reduced or no longer implemented because they are no longer relevant, while some new actions are launched with a limited level of ambition (for instance on redress). It corresponds to a budget equal to or lower than the one provided under the current Programme.

The effects of the following societal changes means that the impact of similar actions to those conducted under the 2007-2013 Programme will be affected or reduced: increased globalisation of the production chain and the growing importance of services in the field of safety; the increased complexity of decision making; the necessity to move towards more sustainable patterns of consumption, the specific needs of vulnerable and ageing consumers; the development of digitalisation, on-line shopping and intermediaries.

Although it is difficult to make forecast for the period 2014 and beyond, it is to be expected that the pressure on resources will continue among national administrations dealing with consumer policy issues, for instance on market surveillance and enforcement. Consumer organisations are in danger of seeing financial support by national authorities being substantially cut, in particular in new Member States. In time of economic uncertainty, manufacturers cut corners and might more frequently have recourse to fraud, people tend to buy cheaper goods and be subject to scams.

Other options:

When considering globally the elements under each of the four objectives of the programme, the other options can be summarised as follows:

- The option 0 corresponds to the absolute minimum actions to be financed resulting from the legal obligations imposed by the Treaty and the existing EU acquis in the field of consumer protection.
- The option 2 corresponds to a more ambitious approach in line with Commission priorities (Europe 2020, Single Market Act) and the on-going reflection on the future of consumer policy¹. The budget under this option is around 25 millions euros annually.
- The option 3 would require an increase of budget compare to the current programme for additional actions on some of the components of the programme such as: the development of a public consumer product safety database; redress: setting a fund to support the financing of cross-border redress actions.

The Communication COM(2011)500 of 29/06/2011 allocated 175 millions (in constant 2011 prices) to the Consumer Programme for the period 2014-2020.

The option 3 which had been initially considered has therefore been discarded since it did not fit with this allocation.

5. COMPARING THE OPTIONS

The choice of the preferred option under the four objectives of the Programme is summarised below.

Option 0, which correspond to maintaining the minimum level of intervention imposed by the law and discontinuing a number of actions at EU level, would cause a reduction of EU support to consumer policy, and would contravene the EU commitments expressed notably in the Europe 2020 Strategy and the Single Market Act as well as the conclusions of the evaluation of the current Consumer Policy Strategy and the existing financial programme. It would fail to guarantee an adequate support to the future consumer policy currently under preparation.

Option 1, corresponding to a budget equal to or lower than the current Programme, would not allow addressing satisfactorily the challenges faced by consumers and consumer policy makers in the next years while option 3, corresponding to a substantial increase of the consumer budget, may not be realistic and entails substantial additional costs not commensurate with the attached additional benefits.

¹ which might take the form of a Consumer Agenda to be published in 2012.

Option 2 (corresponding to option 2 for each of the actions) is the best option from a cost/benefit point of view. The budget under this option would be around 25 millions euro annually, which is in line with the proposed budget allocation for the consumer programme in the Communication COM(2011)500 of 29/06/2011. It also addresses the problems identified with regards to the administration of funds: partnerships agreements, currently used for the support to EU consumer organisations, could also be used for the co-financing of ECCs; the creation of an EU level coordination body for market surveillance relating to safety should also lead to a streamlining of the funding process in this area.

The possibility to use lump sums whenever possible will be examined so as to reduce the administrative burden.

The management by the Executive Agency for Health and Consumers also contributes to the streamlining of procedures in the management of the funding process.

Under this option, the Programme will be able to support the objectives of Europe 2020 and of the future consumer policy, focussing on safety, information and education, rights and redress and enforcement.

6. MONITORING AND EVALUATION

The Programme will foresee a mid-term and an ex-post evaluation.

The ex-post evaluation of the current (2007-2013) Programme (foreseen before end 2015) will also provide useful elements for the implementation of the next Programme.

A set of indicators has been defined for the four specific objectives of the Programme to monitor its implementation:

Objective 1: Safety - to consolidate and enhance product safety through effective market surveillance throughout the Union

Indicator	Source	Current situation	Target
% of RAPEX notifications entailing at least one reaction (by other Member States)	RAPEX	43% (843 notifications) in 2010	Increase of 10% in 7 years
Ratio number of reactions / number of notifications (serious risks)*	RAPEX	107.5% in 2010	Increase of 15% in 7 years

* a notification usually triggers several reactions from authorities from other Member States

Objective 2: Information and education - to improve consumers' education, information and awareness of their rights, to develop the evidence base for consumer policy and to provide support to consumer organisations

Indicator	Source	Current situation	Target
Number of complaint bodies submitting complaints to the ECCRS	ECCRS (European Consumer Complaints Registration system)	na	60% of complaint bodies in 7 years
Trust in cross-border transactions - % of consumers who are equally confident or more confident in making an internet purchase from sellers from another EU country	Consumer Eurobarometer	37% in 2010	50% in 7 years

Objective 3: Rights and redress - to consolidate consumer rights in particular through regulatory action and improving access to redress including alternative dispute resolution

Indicator	Source	Current situation	Target
% of cross-border cases referred to ADR by ECCs	Annual report ECC	9% in 2010	50% in 7 years
Number of cases dealt with by the ODR platform	Database platform ODR	17.500 (complaints received by ECCs related to e-commerce transactions) in 2010	38.500 (+120%) in 7 years

Objective 4: Enforcement - to support enforcement of consumer rights by strengthening cooperation between national enforcement bodies and by supporting consumers with advice

Indicator	Source	Current situation	Target
Level of information flow and cooperation within the CPC Network: - number of requests to exchange information between CPC authorities - number of requests for enforcement measures between CPC authorities - number of alerts within the CPC network	CPC Network Database (CPCS)	annualised averages of 2007-2010: - 129 - 142 - 63	- increase of 40% in 7 years - increase of 40% in 7 years - increase of 30% in 7 years
Number of contacts with consumers handled by the European Consumer Centres (ECC)	ECC report	71.000 in 2010	Increase of 50% in 7 years