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**COVER NOTE**

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signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 22 May 2012

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
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Council, The Economics and Social Committee and The Committee of The  
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A European Consumer Agenda - Boosting confidence and growth

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Delegations will find attached Commission document COM(2012) 225 final.

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EUROPEAN COMMISSION

Brussels, 22.5.2012  
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**COMMUNICATION FROM THE COMMISSION**

**TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE ECONOMIC AND  
SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**A European Consumer Agenda - Boosting confidence and growth**

{SWD(2012) 132 final}

## **1. Consumer policy as an essential contribution to Europe 2020**

Consumer expenditure accounts for 56% of EU GDP and is essential to meeting the Europe 2020 objective of smart, inclusive and sustainable growth. Stimulating this demand can play a major role in bringing the EU out of the crisis.

To make this possible, the potential of the Single Market must be realised. Data show that consumers shopping online across the EU have up to 16 times more products from which to choose, but 60% of consumers do not yet use this retail channel. As a result of this reluctance, they do not fully benefit from the variety of choice and price differences available in the Single Market. Improving consumer confidence in cross-border shopping online by taking appropriate policy action could provide a major boost to economic growth in Europe. Empowered and confident consumers can drive forward the European economy.

Well designed and implemented consumer policies with a European dimension can enable consumers to make informed choices that reward competition, and support the goal of sustainable and resource-efficient growth, whilst taking account of the needs of all consumers.

This European Consumer Agenda identifies the key measures needed now to empower consumers and boost their trust. It sets out measures to put consumers at the heart of all EU policies as means to achieve the Europe 2020 goals.<sup>1</sup> It builds on and complements other initiatives, such as the EU Citizenship Report, the Single Market Act, the Digital Agenda for Europe, the E-commerce Communication and the Resource Efficiency Roadmap.<sup>2</sup> In the field of research and innovation, it draws on initiatives under Horizon 2020 to deepen scientific understanding of consumer behaviour and the health, safety and sustainability aspects of the choices they face.<sup>3</sup>

Empowering consumers means providing a robust framework of principles and tools that enable them to drive a smart, sustainable and inclusive economy. Empowered consumers who can rely on a robust framework ensuring their safety, information, education, rights, means of redress and enforcement, can actively participate in the market and make it work for them by exercising their power of choice and by having their rights properly enforced.

In line with the Treaty (Article 12 TFEU) and the Charter of Fundamental Rights (Article 38), the Agenda develops a systematic approach to integrating consumer interests into all relevant policies and puts a special emphasis on tackling problems faced by today's consumers in the food chain, energy, transport, digital and financial services sectors.<sup>4</sup> It builds on the high level of consumer protection already achieved and the progress made in creating a European Area of Justice<sup>5</sup> by enhancing the role that judges, legal practitioners and enforcement authorities can play, including across borders.

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<sup>1</sup> 'Confident consumers create thriving markets. Building on this autumn's work, the next work programme will announce measures to strengthen consumer rights, including in electronic and cross-border transactions and effectively address health and safety-related matters, thus improving citizens' security, while underpinning demand in the Single Market.' See letter of President Barroso to President Buzek, September 2011.

<sup>2</sup> EU Citizenship Report COM(2010) 603 final; Single Market Act COM(2011) 206 final; A Digital Agenda for Europe COM(2010) 245 final/2; E-commerce Communication COM(2011) 942; Roadmap to a Resource Efficient Europe COM(2011) 571 final.

<sup>3</sup> Proposal for a Regulation establishing the EU framework programme for research and innovation (COM(2011) 809 final).

<sup>4</sup> These sectors were identified as some of the most problematic for consumers, according to the Consumer Markets Scoreboard.

<sup>5</sup> See 'Delivering an area of freedom, security and justice for Europe's citizens — Action Plan Implementing the Stockholm Programme' COM(2010) 171.

## **2. Building on strong EU consumer protection rules**

Over the past 50 years, the European Union has put in place a robust set of policies and rules to provide a high level of protection for EU consumers and to enable them to benefit from the social and economic progress Europe and its internal market have achieved. This includes an overarching *product safety policy and legislation* which prevents unsafe products reaching consumers, and promotes the high quality of European exports. Strong *consumer law* sets an EU-wide framework to combat unfair commercial practice, unfair contract terms and misleading advertising, both in domestic and cross-border situations, whilst securing consumers' right to withdraw from contracts and seek adequate redress. The recently adopted *Consumer Rights Directive* has substantially strengthened consumer rights, in particular by harmonising a number of rules applicable to online contracts. Timely and efficient implementation and enforcement of these new rules is essential. The *Services Directive* ensures that consumers cannot be discriminated against by traders on mere grounds of nationality or residence. *Competition rules* are crucial in allowing the EU to crack down on abuses of dominant position, cartels and concerted practices to the detriment of consumers. In individual sectors of particular interest to consumers, the EU has also developed a wide range of key rights. For example, *EU passenger rights* now entitle travellers to quality air, rail, road and maritime travel services when moving within the EU. The *EU's roaming caps* have brought down unfair costs for consumers by more than 70% and the telecom package enables consumers to switch fixed or mobile phone operators easily. Legislation on the provision of *food information* to consumers and the regulation of *nutrition and health claims* made in relation to food provide a high level of consumer protection and enable consumers to make informed choices.

Recent initiatives include the '*Quality Package*',<sup>6</sup> adopted by the Commission in 2010, which aims to improve information for consumers on food quality through a comprehensive policy on certification schemes, value-adding terms, and standards for agricultural products. In July 2011 a revised *Roaming Regulation*<sup>7</sup> was tabled, to allow consumers to easily switch to an alternative provider for roaming services. It also introduces a new retail price cap for data roaming alongside those already in place. In October 2011, the Commission proposed a *Common European Sales Law*<sup>8</sup> to overcome barriers resulting from divergent contract laws: a single and comprehensive set of rules for sales contracts as well as for contracts governing digital content, which businesses and consumers can voluntarily choose to apply. By using it, consumers would benefit from greater certainty about their rights, for example, when purchasing on the internet. They would also be able to access a wider range of products and digital content at lower prices across borders. Proposals were tabled in November 2011 on *Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR)*<sup>9</sup> to make available to all consumers this quicker and inexpensive way to resolve disputes with traders. The dedicated European platform for online dispute resolution would aim to improve consumer confidence in cross-border e-commerce. The proposed *Data Protection Reform*

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<sup>6</sup> Proposal for a Regulation on agricultural product quality schemes (COM(2010) 733 final), Proposal for a Regulation establishing marketing standards (COM(2010) 738 final) guidelines on certification schemes and on food labelling.

<sup>7</sup> Proposal for a Regulation on roaming on public mobile communications networks within the Union (COM(2011) 402 final).

<sup>8</sup> Proposal for a Regulation on a Common European Sales Law (COM(2011) 635 final).

<sup>9</sup> Proposal for a Directive on consumer ADR (COM(2011) 793/2), Proposal for a Regulation on consumer ODR (C(2011) 794/2).

*package*<sup>10</sup> adopted by the Commission in January 2012 will reinforce the current EU data protection framework by strengthening consumers' data protection rights in order to increase their trust in the Digital Single Market and in cross-border services.

The subsequent review of the *Directive on Deposit Guarantee Schemes* in July 2010 strengthened the funding of Deposit Guarantee Schemes and introduced several consumer-friendly provisions. In July 2010, the Commission also proposed a review of the *Directive on Investor Compensation Schemes* with the aim of strengthening last resort protection offered to investors when, often due to fraud, providers are unable to return assets to them.

Last but not least, the Commission proposals to review the *Markets in financial instruments Directive*, from October 2011, provides protection to consumers-investors by imposing requirements on financial institutions and strengthening conduct of business rules.

### **3. Current problems and future challenges**

Despite the high level of consumer protection already achieved in the EU, the situation on the ground for EU consumers can still be improved. A number of new challenges have emerged, in particular as a result of new developments in technology, unsustainable patterns of consumption or social exclusion. These challenges also create new opportunities.

#### ***3.1 Challenges regarding product, service and food safety***

Ensuring that products, services and food are safe is a basic objective of any consumer policy. But there are differences between Member States in enforcing product safety legislation and, at a time when national administrations responsible for market surveillance face resource constraints, the whole enforcement network is struggling to do more with less.

At the same time, globalisation of the production chain continues (for example, an increasing proportion of consumer products, including 85% of all toys bought in the European Union, are now produced in China). This makes the detection of unsafe products a significant challenge.

The economic crisis means that consumers and businesses focus predominantly on price, with the risk that safety considerations lose importance and the space for counterfeiting products increases. Market surveillance authorities must maintain vigilant and renewed efforts are required, through the cooperation of national authorities and of law enforcement agencies, inside and outside the EU.

With the increased importance of consumer services, and a growing cross-border take-up of some of these services in the Single Market, the question of their safety must be addressed in greater depth to ensure that consumers enjoy the same, high level of safety throughout the internal market and to assess the added value of action at EU level.

Europe has already achieved an impressive record on food safety but this policy area needs constant adjustment as new scientific evidence comes to light.

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<sup>10</sup> Proposal for a Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data (COM(2012) 11 final), Proposal for a Directive on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data (COM(2012) 10 final).

### 3.2 *Economic and societal change*

- *The digital revolution*

The internet has fundamentally changed the way consumers shop and businesses advertise and sell their goods and services. It has created innovative ways of organising, accessing, sharing and evaluating information, for example on prices, technical product characteristics and quality reviews. Search engines, price and product comparison websites, online trust marks and consumer reviews are now widely used tools and are becoming embedded in consumer behaviour and business models. E-commerce can deliver considerable welfare gains since consumers have at least twice the choice when shopping online rather than offline. Cloud computing in particular can offer more flexible services that are device or platform independent. It has been calculated that, if e-commerce in goods reaches 15% of retail sales and all Single Market barriers are removed, the overall gain for consumers would be around EUR 204 billion (1.7% of EU GDP).<sup>11</sup>

- *Sustainable consumption*

Rising consumption around the globe has increased pressure on the environment, including climate change, and created greater competition for resources.<sup>12</sup> Increasingly, consumers are aware of the environmental impacts of their consumption patterns, and they should be encouraged and supported by private and public initiatives to adopt more sustainable consumption behaviour. Consumers should be empowered, assisted and encouraged to make sustainable and healthy choices which will lead to cost savings for themselves and for society as a whole. Consumers have the right to know the environmental impacts throughout the life-cycle of the products (goods and services) they intend to buy. Consumers should be supported in easily identifying the truly sustainable choice. Effective tools are needed to protect them against misleading and unfounded environmental and health claims.

Consumer demand for sustainable products can drive growth and competition, thereby increasing the availability and affordability of such products and rewarding businesses that provide quality goods and services with lower environmental footprints.

- *Social exclusion, vulnerable consumers and accessibility*

Wherever the economic and sovereign debt crisis has struck, it has dented consumer confidence and, for some consumers, led to a very significant fall in income or purchasing power, thus increasing the risk of social exclusion and the risk that citizens are unable to afford essential goods and services.

These risks are heightened by the fact that our population is ageing, markets are becoming increasingly complex and some people may neither have the opportunity nor the ability to master the digital environment. The question of accessibility is key to reaping the benefits of digital change in the physical, digital and economic senses. The current context may also exacerbate the disadvantaged situation of vulnerable consumers, such as people with disabilities or with reduced mobility, who face difficulties in accessing and understanding information and in finding appropriate products and services on the market.

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<sup>11</sup> Commission Staff Working Paper 'Bringing e-commerce benefits to consumers', Annex 2 to the 2012 E-commerce Communication.

<sup>12</sup> Resource Efficiency Roadmap, COM(2011) 571.

### **3.3 Information overload — knowledge deficit**

In today's fast changing world, consumers are often overloaded with information but they do not necessarily always have the information they need.

Faced with increasingly complex information and choices, consumers more and more often rely on labels or turn to intermediaries and filters such as comparison websites. There is cause for some concern as to their reliability and accuracy, however.

Consumer organisations play an essential role in improving consumer information and knowledge, but their situation varies enormously between Member States. Those operating at national level, in particular, often lack resources and expertise, and their role in channelling and filtering consumer concerns is not always properly recognised.

The Empowerment Survey published in 2011<sup>13</sup> showed that one in four European consumers does not feel confident and more than one in three does not feel knowledgeable. Only 2% could correctly answer questions on their rights of withdrawal, guarantees and protection from unfair commercial practices. This lack of awareness undermines the ability of consumers to uphold their rights.

### **3.4 Rights not fully respected in practice**

In 2010, more than one in five Europeans encountered a problem with a product or service for which they thought they had cause for complaint. It was estimated that the total detriment European consumers incurred from problems amounted to about 0.4% of EU GDP.<sup>14</sup>

Despite a generally high level of consumer protection guaranteed by EU legislation, problems encountered by consumers are still too often left unresolved. The 2011 retailer Eurobarometer survey found that only 26% of retailers know the exact period during which consumers have the right to return a defective product.

Many problems consumers face with traders are not remedied, simply because the consumer does not take action. The Consumer Empowerment survey showed that, of those consumers who experienced problems, only 16% contacted consumer organisations or public authorities to resolve them. In most cases, consumers do not consider going to court if an initial contact with the trader has proved unsuccessful, in particular if the sums involved are small.

Moreover, enforcement authorities face new practical challenges such as resource constraints, which hamper their effectiveness,<sup>15</sup> especially in cross-border situations. The Consumer Protection Cooperation (CPC) network set up in December 2006 to address the problems posed by cross-border shopping has still to reach its full potential.

Redress and enforcement mechanisms need to be further improved. Increasing confidence and ensuring that unfair trading practices do not bring a competitive advantage will also have a positive impact in terms of stimulating growth.

### **3.5 Specific challenges in key sectors**

Some sectors are of particular importance in times of economic crisis since they affect the basic interests of all consumers in essential goods and services, such as food, energy, transport, electronic communications and financial services. Account needs to be taken of how the economic and societal changes mentioned above impact on these sectors.

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<sup>13</sup> Consumer Empowerment survey; Eurobarometer No 342; 2010.

<sup>14</sup> Idem.

<sup>15</sup> COM(2009) 330 final.

The EU needs to pay close attention to the way consumers understand and choose financial services today. Whilst technology such as home banking makes life easier for many consumers, the increased complexity and risks of some financial products and services (including pensions) demands a higher level of transparency and financial literacy. Fees for basic financial services are generally still opaque and consumers are still discouraged from switching banks because of their (often justified) fear that it will be burdensome.

Too often consumers fail to reap the full benefits of the liberalisation of network industries, such as energy, transport and electronic communications, in terms not only of prices but also of quality of service levels.

In particular, liberalisation of the transport sector has increased competition to the benefit of the rising number of travelling citizens across Europe. But better enforcement of EU passenger rights legislation is needed to combat unfair practices and violations of EU law. The decisive way in which the digital revolution has impacted the travel sector means that it is important to make consumer rights better fit for purpose.

The electricity and gas retail markets were recently liberalised, but many consumers still find comparisons difficult due to complicated procedures and/or opaque market conditions.<sup>16</sup>

With regard to energy saving, it has been calculated that, on average, EU households could save up to EUR 1 000 per year by taking simple energy efficiency measures, such as insulating homes, installing thermostats and solar panels to heat water, double glazing for windows and replacing old heating systems.<sup>17</sup> Therefore households have significant potential for cost-effective energy efficiency improvement and savings in final energy consumption. This potential is far from being fully exploited, mainly due to the lack of knowledge among consumers about their own actual consumption, and the lack of clear and easy-to-access metering and billing information.

Although the markets in electronic communications have proved to be resilient to the economic crisis, consumers are not taking full advantage of competition, due to insufficient transparency of tariffs, low quality of services and obstacles to switching.

Overall environmental pressure from food consumption is expected to further increase in the future due, for example, to changing dietary patterns and increased food waste. Food waste in Europe is expected to rise in the coming years,<sup>18</sup> but wasting food means wasting resources and money.

#### **4. Four key 2020 objectives and first steps to achieve them**

The challenges described above warrant a long-term strategy as well as a mix of short-term measures addressing key citizens' concerns, to boost trust and growth and to support the Europe 2020 Strategy. The actions set out in the following sections will of course be subject to the scrutiny of smart regulation and the Commission's overall policy prioritisation — including ensuring that any burdens for small and medium-sized companies are rigorously analysed.

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<sup>16</sup> See more in the study 'The functioning of the retail electricity markets for consumers in the EU' [http://ec.europa.eu/consumers/consumer\\_research/market\\_studies/docs/retail\\_electricity\\_full\\_study\\_en.pdf](http://ec.europa.eu/consumers/consumer_research/market_studies/docs/retail_electricity_full_study_en.pdf).

<sup>17</sup> Communication from the Commission 'Energy efficiency: delivering the 20% target'.

<sup>18</sup> In the EU, the total amount of food waste is about 90 million tonnes or 180 kg per capita per year, and these figures are expected to rise by 40% by 2020. See the EU-funded 'Preparatory study on food waste across EU 27', BIO IS December 2009 — October 2010.



#### **4. 1. IMPROVING CONSUMER SAFETY**

Ensuring that products, services and food are safe is a basic objective of consumer policy.

The aim of an effective product safety policy is to create a seamless safety net from the farm or the factory to the front door. By improving its product safety governance system, the EU will be better able to tackle the challenges of global supply chains, communicate effectively and address newly emerging product safety risks more quickly and effectively.

As consumers more frequently use services across borders, the question of whether their safety should be addressed at EU level or through national level regulations merits further examination.

The EU system of official controls along the food chain should be made even more efficient. This will allow the Member States, responsible for performing such controls, to maximise added value, while minimising burdens for operators.

To meet the goal of strengthening consumer safety, the Commission will work towards the following two specific objectives:

- ***1. improving the regulatory framework on product and service safety and enhancing the market surveillance framework;***
- ***2. reinforcing safety in the food chain.***

A number of concrete steps will be taken before 2014 to achieve these specific objectives.

The revision of the *legislative framework on product safety* scheduled for 2012 seeks to ensure that the EU and its 500 million consumers can count on modern, unified rules on market surveillance, leading to better domestic and cross-border enforcement thanks to improved planning, cooperation, prioritisation and information sharing between Member State authorities. Businesses will benefit too, as they will be able to count on rules that are easier to apply and have lower compliance costs. The revised framework will also seek to identify ways to strengthen cooperation among national enforcement authorities at EU level creating a level playing field and countering unfair competition.

Outreach actions will be carried out, especially in countries exporting to the EU, to raise awareness of safety and knowledge of EU regulations throughout the supply chain.

The Commission will consider taking initiatives on services safety in selected sectors, including those important for some categories of vulnerable consumers. A *Green Paper on the safety of certain consumer services* will be discussed in 2012 and a *revised recommendation on hotel fire safety* will be put on the agenda in 2013 to take account of the new approach to risk assessment and management proposed by the industry.

The *Regulation on Official Controls along the Food Chain* will be reviewed in 2012 with a view to simplifying it and ensuring that sufficient and sustainable funding is available to conduct more controls. Furthermore, the Commission will strengthen and update the *legal framework governing Animal Health, Plant Health, Plant Reproductive Materials and the*

*Food Hygiene Regulation*, in particular by improving coherence and clarifying the responsibilities of business operators. This will improve food safety for consumers.

Based on the *Guidelines for import controls in the area of product safety and compliance*,<sup>19</sup> customs and market surveillance authorities will cooperate in improving, measuring and evaluating the results of import controls by 2014.

#### **4. 2. ENHANCING KNOWLEDGE**

If they are to be properly empowered, consumers must be provided with clear, reliable and comparable information, and the tools to understand it.

Both consumers and traders should also be made better aware of their EU rights and obligations, to boost mutual trust and to find easy ways to a solution when something goes wrong. Therefore, the Commission will work with intermediaries and traders to encourage them to move beyond mere compliance with legislation and to develop self-regulatory measures, as well as corporate social responsibility initiatives, thus enhancing their focus on customer service as a key competitiveness factor.

Improving consumer knowledge is particularly important in financial services, where there is an active role for institutions like banks, central banks, financial market supervisory authorities, deposit and investor protection schemes in raising financial literacy, including for those who remain outside the banking and financial mainstream (known as the ‘unbanked’ and ‘underbanked’).

Awareness-raising campaigns will be organised with Member States and stakeholders on key consumer issues. It is also essential that national authorities and private-sector organisations enhance education offer for consumers throughout the EU from a young age.

Consumer organisations have an important role to play, not only in informing and raising the awareness of consumers, but also in effectively representing and defending them.

The Commission will work towards the following two specific objectives:

- ***3. improving information and raising awareness of consumer rights and interests among both consumers and traders;***
- ***4. building knowledge and capacity for more effective consumer participation in the market.***

A number of concrete steps will be taken before 2014 to achieve these specific objectives.

In 2013, as part of the European Year of Citizens, an *EU-wide campaign* to increase knowledge about consumer rights and interests will be launched in close cooperation with all stakeholders, including businesses and consumer associations.

Non-profit organisations that provide general financial advice to consumers will receive specific training between the second quarter of 2012 and December 2013 to improve their ability to provide advice effectively and sustainably.

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<sup>19</sup>[http://ec.europa.eu/taxation\\_customs/resources/documents/common/publications/info\\_docs/customs/product\\_safety/guidelines\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/common/publications/info_docs/customs/product_safety/guidelines_en.pdf).

The Commission will work with Member States to ensure that the role of national consumer organisations is properly recognised and will support them by capacity building and providing assistance to European consumer organisations.

Work will be stepped up with all the existing *EU-wide networks* that can best disseminate information to consumers, traders or legal practitioners. The *European Consumer Centres' Network* will be strengthened to better inform consumers about their rights when shopping cross-border and assist them when they become entangled in cross-border disputes. The *Enterprise Europe Network* will be more regularly used to ensure that information on consumer legislation is regularly provided to businesses, including SMEs.

The Commission will work with intermediaries and traders with a view to developing codes of good conduct, good practices or guidelines for price, quality and sustainability comparison.

The Commission will also continuously improve the information given to consumers and businesses on their rights and duties through its own web pages, such as the *YourEurope portal*,<sup>20</sup> complemented by specialised information tools as the ones provided in the *e-YouGuide*<sup>21</sup> and in the *Code on EU online rights*. It will also work with journalists and media specialised in consumer issues to promote efficient dissemination of information.

The Commission will work closely with Member States on consumer education issues. It will develop in 2012 an *interactive platform for exchanging best practices and distributing consumer education materials* amongst teachers and other professionals working with 12-18 years old, including on digital literacy, new media technologies<sup>22</sup> and sustainable consumption.

#### **4.3. IMPROVING IMPLEMENTATION, STEPPING UP ENFORCEMENT AND SECURING REDRESS**

If the Single Market is to continue to be a success, there need to be improvements in market participants' trust in the effective and efficient enforcement of their rights and the availability of adequate redress mechanisms.

Only if consumers can enforce their rights throughout the EU and reputable traders see that unfair competitors face appropriate penalties can we expect cross-border trade to continue to increase in the EU. This is particularly important today, as the digital revolution makes cross-border shopping easy, but it also increases the opportunities for rogue traders to engage in unfair practices.

The Commission will work towards the following two specific objectives:

- **5. effectively enforcing consumer law, focusing on key sectors;**
- **6. giving consumers efficient ways to solve disputes.**

A number of concrete steps will be taken before 2014 to achieve these specific objectives.

Throughout 2012-2014, annual coordinated enforcement actions (*'sweeps'*) through the *CPC Network* will continue. The Commission will continue its work to facilitate, support and assist the Network in enforcement. Where appropriate, it will step up *infringement actions* to pursue

<sup>20</sup> <http://ec.europa.eu/youreurope>.

<sup>21</sup> <http://ec.europa.eu/eyouguide>.

<sup>22</sup> As announced in the Digital Agenda for Europe.

any misapplication of EU law. The Commission is assessing in depth the scope, effectiveness and operational mechanisms of the *Consumer Protection Cooperation Regulation*. It will report by the end of 2014 on how cross-border enforcement cooperation could be improved and, if warranted, propose amending the rules.

To improve enforcement of EU rules impacting on consumers, better use of the *European Judicial Network*<sup>23</sup> will be made to facilitate access to justice, to ensure smooth operation of procedures with a cross-border impact and to facilitate requests for judicial cooperation across Member States.

Work will continue to ensure that key materials for transposing and implementing consumer law across the EU are made available to all interested judges and legal practitioners, as well as citizens and businesses. To do this, in 2013 a *Consumer Law Database* will be developed, which will become an integral part of the e-Justice portal.<sup>24</sup>

Experience in applying the *Unfair Commercial Practices Directive*<sup>25</sup> has shown that the Commission needs to take a more prominent role in monitoring and coordinating enforcement of the Directive by the Member States, in particular, on recurring issues and emerging commercial practices, such as the use of online price comparison or customer review tools. To that end, the Commission will step up coordination of enforcement action on unfair commercial practices and update the guidance document on application of the Directive.

Proper enforcement must be secured in key sectors.

To ensure that consumer information requirements in the digital area are applied consistently, the Commission will develop guidelines by 2014 to help enforcers correctly implement EU rules and the newly adopted Consumer Rights Directive. Concerted action will be taken by the Commission and national authorities to combat unfair practices in the sector, such as those related to the misleading advertising of internet broadband speed.

In the energy sector, there is a need to ensure full implementation of *the Third Energy Package and of its detailed rules on consumer rights*. It is also important to make full use of the dedicated Citizens' Energy Forum's potential.

In the financial services sector, following its 2011 Recommendation,<sup>26</sup> the Commission will closely monitor the response from Member States in addressing the problem of denied access of citizens to bank accounts. This is a real issue, not only for disadvantaged consumers who experience financial and social exclusion, but also for many citizens who travel abroad to live, work or study.

To protect consumers against misleading and unfounded environmental claims, national enforcers need further support to properly implement the requirements of the Unfair Commercial Practices Directive.<sup>27</sup> For this reason, the Commission will revise the *guidance on misleading environmental claims*.

*Guidelines to facilitate and improve the application of different Passenger Rights Regulations across all modes of transport* will be drafted.

Furthermore, the Commission will publish *guidelines on the application of Article 20(2) of the Services Directive*, which will help to reduce instances where consumers face unjustified

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<sup>23</sup> OJ L 174 of 27.6.2001, p. 25, and L 168 of 30.6.2009, p. 35.

<sup>24</sup> <https://e-justice.europa.eu>.

<sup>25</sup> Directive 2005/29/EC.

<sup>26</sup> 2011/442/EU: Commission Recommendation of 18 July 2011 on access to a basic payment account.

<sup>27</sup> Directive 2005/29/EC.

refusals to supply, or different treatment, on grounds of residence when trying to acquire cross-border services online.

In its efforts to ensure better enforcement of EU law, the EU will work with key trading partners to promote compliance with basic consumer protection principles. Regarding safety, increased international cooperation (in particular with China) will develop the concept of ‘safety at source’ and help to limit imports of unsafe products. The increased trend of rogue traders operating outside the EU in order to escape controls calls for increased vigilance at global level. The Commission will hence coordinate action with the most affected third countries and with key international organisations (e.g. OECD, UN, and WTO). The need for increased international cooperation is particularly striking in the digital area and in the fight against unsolicited commercial communication (‘spam’).

Concerning the right to redress, the Commission will focus in the short-to-medium-term on ensuring the adoption and application of its recent proposals on *Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR)*, so as to grant as swiftly as possible to all EU consumers access to simple and speedy procedures to defend their rights. At the same time, it will ensure the correct transposition and up-take of the *Mediation Directive*, which gives every EU judge the right to invite the parties to reach an amicable settlement of their dispute. The Directive applies to cross-border disputes but Member States are encouraged to use mediation domestically too. The *European Small Claims procedure*, which simplifies, speeds up and reduces the cost of litigation in cross-border cases for claims up to EUR 2 000, will be made more accessible for consumers. In 2012, a guide providing practical advice to consumers and legal practitioners will be issued to this end. During the course of 2013, the Commission intends to make the small claims forms available online and report on the operation of the procedure as a whole, including on the need to revise the level of the threshold.

Finally, on the basis of the outcome of the public consultation launched in 2011 and following the European Parliament Resolution of 2 February 2012,<sup>28</sup> the Commission will consider a follow-up initiative on an EU framework for collective redress.

#### **4.4. ALIGNING RIGHTS AND KEY POLICIES TO ECONOMIC AND SOCIETAL CHANGE**

In today’s changed marketplace it is imperative to ensure that consumers have the confidence to buy online both traditional, tangible goods and services as well as digital ones. Consumer laws should therefore be updated to meet the needs of changing markets and to take account of emerging insights from behavioural sciences about how consumers behave in practice.

Moreover, barriers that currently prevent consumers from accessing the digital products and services they want, easily, legally and affordably, anywhere in the EU, should be removed.

As a first step, the recent proposals on a *Common European Sales Law* and the *Data Protection Reform package* will solve many of the problems that consumers face when purchasing online, in particular by increasing their trust in the Digital Single Market and in cross-border services.

The proposals on *Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR)* should also help improve access to redress for consumers.

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<sup>28</sup> European Parliament Resolution of 2 February 2012 on ‘Towards a Coherent European Approach to Collective Redress’ — P7\_TA(2012)0021.

In 2012, the Commission will support the European Parliament and the Council in finding an agreement on all these proposals, in order to ensure speedy adoption and implementation.

It is more essential than ever to ensure coherence and synergies across EU policies to enhance their positive impact on consumer spending, in particular in the key sectors of food, energy, transport and financial services, whilst promoting more sustainable patterns of consumption.

A recent snapshot taken by the European Commission of the 20 key concerns of citizens and businesses in the Single Market shows that consumers continue to be frustrated by their energy bills, find it difficult to defend their rights as passengers, and do not easily find their way in banking and financial services markets.<sup>29</sup>

To address these economic and societal issues, the Commission will work towards the following two specific objectives:

- ***7. adapting consumer law to the digital age;***
- ***8. promoting sustainable growth and supporting consumer interests in key sectors.***

A number of concrete steps will be taken before 2014 to achieve these specific objectives.

- *Digital*

A set of measures will be considered to tackle key problems faced by online users and make sure they are adequately protected when using and buying digital content. These may include standardising key information given to consumers to facilitate comparisons and initiatives to assess the need to ensure adequate EU-wide remedies for the purchase of faulty digital content and, if necessary, to harmonise digital trust marks.

The Commission will tackle persistent challenges related to territorially-focused copyright management and the current complex regime of private copying levies, which can have a negative impact on the availability of digital content across the EU and discourage the development of innovative, online business models. The Commission will table a *legislative proposal on collective rights management* in 2012 and has launched a stakeholders' dialogue on private copying and reprography levies under the responsibility of a mediator. The results of this dialogue will be used to make recommendations for possible legislative action at EU level. The Commission will also work on addressing specific challenges regarding copyright and the availability of audiovisual content and broadcasting services in view of evolving technology, notably to stimulate cross-border services.

As part of its work to report on the functioning of the Unfair Commercial Practices Directive, the Commission will assess in 2012 whether the current rules aimed at protecting children from misleading advertising, also in the digital environment, need to be enforced better. It will continue to focus on the specific situation of minors buying or using digital content online.

The Commission will aim to make commercial interaction more reliable for both consumers and traders by proposing, in 2012, a *legislative framework for electronic identification, authentication and signatures*. It will set out minimum requirements for information on website localisation and on the legal existence of its owner, to guarantee the authenticity of the website. The Commission will also take full account of consumer interests as part of its forthcoming policy proposals on cloud computing.

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<sup>29</sup> SEC(2011) 1003 final.

Based on the feedback to its January 2012 *Green Paper on card, internet and mobile payments* public consultation, the Commission plans to come forward with concrete proposals during the first quarter of 2013. The Commission is also preparing a Green Paper on parcel delivery, with adoption forecast in the last quarter of 2012.

A *Communication on online gambling* will be presented in 2012, aimed among other things at improving the protection of consumers and citizens, including vulnerable groups and minors.

- *Financial services*

As part of its work to report in 2012 on the functioning of the *Unfair Commercial Practices Directive*, the Commission will assess the need to strengthen the current rules aimed at combating unfair practices in the financial services sector or step up enforcement, also with regard to vulnerable consumers.

The Commission plans to adopt *legislative proposals on Packaged Retail Investment Products* to ensure that retail investors are provided with a short, clear and understandable key information document to help them to take informed investment decisions. It will also review the *Insurance Mediation Directive*, which regulates selling processes for insurance products.

The Commission will evaluate the implementation of the *Consumer Credit Directive*, with a focus on whether it works well for consumers and whether issues, such as smaller loans, deferred debit or responsible lending, which are mainly left for Member States' discretion, need to be revisited. This is especially important for vulnerable consumers.

In this context, *households' over-indebtedness* is also worrying. A specific study will be launched in early 2012 to take a snapshot of the situation and list the best practices in force to alleviate its impact.

Consumers need to be aware of the fees they pay for basic banking services and be able to switch easily between banks if competition is to be ensured in retail banking. As a result, the Commission will prepare a legislative initiative in 2012 that will encompass these issues related to bank accounts, which are at the heart of consumers' basic needs when managing their finances.

- *Food*

Following the adoption of the *Regulation on the provision of food information to consumers*,<sup>30</sup> the Commission will promote the application of the new rules and explore the need for new initiatives. This is particularly relevant to the labelling of food origin and the labelling of alcoholic beverages.

The ongoing implementation of the *Regulation on nutrition and health claims*<sup>31</sup> will ensure that all claims relating to a beneficial nutritional or health effect of foods are based on science and are not misleading for consumers. It will also guarantee the free movement of foodstuffs with nutritional and health claims that comply with this Regulation.

The Commission will look into the issue of sustainable food, notably the issue of food waste. Action targeted at consumers to prevent household food waste will be included and will need to be complemented by action targeting other links in the food chain (farmers, retailers, food producers etc.) to be effective.

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<sup>30</sup> Regulation (EU) No 1169/2011.

<sup>31</sup> Regulation (EC) No 1924/2006.

- Energy

The Commission will take further action to improve competition and particularly price transparency in electricity and gas in order to make offers by energy companies more understandable to consumers. The forthcoming implementation of the new *Energy Efficiency Directive* will increase consumer rights to information through more transparent rules on accurate metering and clear, timely billing based on actual individual consumption of all energy sources, including centralised heating, cooling and domestic hot water.

Furthermore, the Commission intends to improve the information available to consumers on how to better manage their domestic energy consumption and encourage them to use technology, both existing (such as mobile phone enabled real consumption-based billing) and emerging (such as smart meters) to their benefit. To this end, *guidelines on price transparency in the retail energy market* will be developed in coordination with regulators and stakeholders.

Further specific action on smart meters and technology use by consumers will be developed by the Commission-led Smart Grids Task Force.

The *Energy Labelling Directive* will also be reviewed in 2014. In the meantime, the Commission will propose implementing its extension online, significantly increasing its impact.<sup>32</sup>

- Travel and Transport

By early 2013, the Commission will propose an updated *Package Travel Directive*, taking into account recent developments in the travel market. In particular, the reform will take account of the increasing trend of travellers purchasing so-called ‘dynamic packages’ online rather than traditional pre-arranged travel packages.<sup>33</sup> In addition, in 2013, the existing rules on Air Passenger Rights, which protect travellers in the event of denied boarding, long delay and cancellation, will be updated.

On urban mobility, the Commission will hold a dialogue with stakeholders to identify EU-wide best practices and conditions for strengthening passenger rights in public transport.<sup>34</sup> The Commission will also present, by 2014, specific measures designed, amongst others, to promote consumer awareness of the availability of alternatives to private vehicles.

The Commission will make a proposal in 2013 to review the CO<sub>2</sub> car labelling rules to bring consumer information up to date. It will also take steps to develop an alternative fuel strategy to support consumer choice for cleaner fuels<sup>35</sup> and to improve consumer information on new transport fuels.<sup>36</sup>

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<sup>32</sup> Consumer 2020 [http://ec.europa.eu/information\\_society/newsroom/cf/itemdetail.cfm?item\\_id=6782](http://ec.europa.eu/information_society/newsroom/cf/itemdetail.cfm?item_id=6782).

<sup>33</sup> Dynamic package is a travel product whereby at least two different travel services (transport, accommodation and/or another tourist services) for a single trip are offered or sold in a combination, at the same time from the same supplier or from suppliers that are commercially linked and whereby the buyer can combine and customise the content of the package according to his/her preferences.

<sup>34</sup> Action Plan on Urban Mobility; COM(2011) 144. White Paper. ‘Roadmap to a Single European Transport Area — Towards a competitive and resource efficient transport system’.

<sup>35</sup> COM(2011) 144, White Paper ‘Roadmap to a Single European Transport Area — Towards a competitive and resource efficient transport system’.

<sup>36</sup> Based on the needs identified in the context of the CARS 21 process.



- *Sustainable products*

To achieve sustainable growth underpinned by sustainable consumption, the Commission will consider taking measures to make consumer goods more durable, including support for repair and maintenance services. It will assess ways to improve the availability and affordability of more sustainable products through appropriate incentive schemes or voluntary action.

The Commission will develop harmonised methodologies to assess the life-cycle environmental performance of products and companies as a basis for providing reliable information to consumers.

Furthermore, the *Eco-design Directive*, which sets minimum environmental requirements for products, will gradually cover a growing number of products under the second Ecodesign Working Plan and, where appropriate, will address energy consumption and other significant environmental impacts of products.

## **5. Conclusions**

This European Consumer Agenda lays down a comprehensive policy framework designed to put consumers at the heart of the Single Market, as they are key to growth in the EU. It covers the action that this Commission plans to take during its mandate to benefit consumers.

All measures take into account the changes in consumption patterns observed on the ground, technological progress, fast moving markets, the need to empower consumers and ensure that they can exercise their rights effectively.

To meet the main objectives of this Agenda in the most effective way and minimise administrative burden, any policy action must be solidly based on evidence on how markets work in practice and how consumers behave. Proposals to revise existing EU rules will be underpinned by evaluations of the legislation currently in force and by rigorous analysis of the expected impacts.

The measures announced in this Agenda will be also supported by continuously updated sources of key information, such as the Consumer Markets Scoreboard, consumer market rankings and the Consumer Conditions Scoreboards, benchmarking the consumer environment in Member States and tracking progress in the integration of retail markets. This will be complemented by market studies analysing the reasons behind market malfunctions and consumer behavioural studies. The consumer focus will also extend to research financed under the 2020 programmes.

Efforts will be made to ensure that the proposed policy action is pre-tested against the eight specific objectives of this Agenda to ensure greater impact and a better up-take by consumers, while avoiding unnecessary burden on businesses.

The trends observed over the next couple of years will help identify any additional action to take after 2014. Progress in meeting the objectives set out in this Agenda will be monitored by the Commission's report on the integration of consumer interests into EU policies.

This Agenda seeks to respond to the challenges of unleashing growth and restoring confidence in the European economy by enhancing consumer empowerment and creating policy synergies. To achieve durable results, a determined commitment by the whole chain of actors implementing this Consumer Agenda is needed — at EU, national and international level. Only smart and sustainable demand by consumers matched with fair supply will make a contribution to putting the EU back on the path for growth.