

June 2008

Contribution to the PES Manifesto

A summary of BEUC¹ priorities

Energy and Sustainability

Consumer Rights in the opened Energy Markets

Almost one year after the opening of the European energy market, consumers are not benefiting from real competition and are still facing higher prices, complicated bills, difficulties to switch or a lack of information on their actual consumption... It is high time to tackle the problems consumers are facing in their everyday life. What is needed in the first place is a better functioning market.

In this framework, our main priorities will be:

Increase competition to ensure more than one provider is available and consumers can use their fundamental right to choose. We support the separation of the ownership of the production from the transmission of energy ('full ownership unbundling') in order to stimulate competition in the retail markets. We also want more powers for the National Regulatory Authorities so that the growing concentration of electricity production can be addressed if necessary (including the possibility to impose transitory tariffs -price caps, when markets are not competitive).

Empower consumers by ensuring their rights are not only defined but also enforced. The rights of energy consumers need to be ensured through a legally binding instrument, which includes notably compensation in case of discontinuity of supply, representation or easy mechanisms for complaint handling. Consumers must be informed on their actual consumption, be able to switch easily and to understand their bills.

Climate change and its implications have fostered consumers' willingness to change their consumption habits. But sustainable decisions can only be taken if the proper information and easy switching procedures are available.

We will also focus our work on **ensuring the protection of vulnerable consumers** through widening the scope of universal service to include also fairness, representation and redress and making sure energy poverty is tackled.

¹ BEUC, the European Consumers' Organisation, is the umbrella organisation of 41 independent national consumer organisations from 30 European countries.

We will follow closely the latest Commission initiatives, which constitute a follow up to the consultation on the Energy Charter, namely the overview of national industry best practices in the energy markets, the "European Energy Consumer Checklist" and the Citizens Energy Forum.

Sustainability

Sustainability has been discussed since many years but is now given high priority on the agendas of all member states and at EU and global level. Consumers are showing an increasing interest in the preservation and protection of the environment and are progressively reflecting these concerns in their consumption choices and lifestyles. National consumer organisations (BEUC members) throughout Europe include sustainability aspects in all their comparative product tests-, helping consumer make sustainable choices.

Sustainable consumption is a complex concept, which integrates not only respect for the environment, including climate change, but also reduction of negative social and economic impacts, while improving well-being for all consumers. This means that vulnerable groups, such as children, the elderly and low-income consumers, need to be taken into account when designing policy. It also means consideration of possible impacts on people in developing countries, as well as respect for the rights of those producing the goods we buy. Achieving more sustainable consumption will be one of our goals, and we will integrate sustainability in all BEUC policy positions and campaigns.

Consumer demand has for the past decade been seen as the main factor driving more sustainable lifestyle choices. Both industry and regulators have been putting the responsibility for sustainable choices on the demand side of the market, rather than on the supply side. However, much more will be achieved by a legislative and business environment that also focuses on the production side of the market: on the one-hand setting strict targets to be achieved, if necessary off-setting these with incentives that make sustainable choices attractive.

No one actor can lead in this area alone; to achieve true sustainability, all actors should be involved, including governments, consumers and businesses. A coordinated approach, taking into account the different roles played by the various actors, could lead to profound changes. Both production and consumption need to be addressed through a variety of measures: regulation setting clear, ambitious and dynamic targets (e.g. for CO2 emissions), mandatory ecolabelling schemes (e.g. energy labelling, Ecolabel), strict criteria and legislation for making claims (with a ban on misleading claims) and regulation of advertising, information campaigns for consumers, taxation and fiscal incentives, choice editing i.e. eliminating the most unsustainable products from the market, but leaving enough consumer choice in all price ranges, green public and private procurement, and so on...

In this framework, the Commission's Action Plan on Sustainable Consumption and Production, which aims at improving the environmental performance of products using a lifecycle approach (from cradle to grave), promote and stimulate consumer demands for 'better' products and production technologies and enable consumers to make better choices will

be considered as a high priority for us. We hope it will be ambitious enough to achieve the goal of sustainability. We will focus our work on the main initiatives it will cover, namely a follow up on the implementation of the Energy-using Products directive, two proposals amending and extending the Eco-design directive and the energy labelling directive to non energy using products and to other aspects than only energy efficiency (including use of natural resources, dangerous chemicals, reduced waste, etc), a proposal to amend the Ecolabel directive and a proposal to develop new type of environmental labeling on consumer products (e.g. carbon footprint, environmental product declaration...). The emphasis should be on simplicity, and on a more realistic understanding of consumers as they actually are, and not as we would wish they were.

Collective redress

An effective consumer policy is made-up of: consumer legislation, information, education, with at the end of the process access to effective redress mechanisms. The last element of this chain needs strengthening.

European consumers are being offered more and more goods and services from professionals throughout the European Union. The products or services bought can turn out to be faulty or dangerous, but consumers are often prevented from seeking redress: the costs of legal proceedings are higher than the compensation which they could receive! The problems encountered by consumers when trying to seek redress are a real obstacle to the role they are supposed to play as "drivers of the European economy".

Very often, consumers suffer from the same or similar damages caused by the same or similar companies. Collective actions, tailored to European conditions, would improve the functioning of the internal market. Consumers would also have greater confidence to shop across borders if they have effective means to resolve their disputes. Twelve Member States already have national mechanisms in place which enable consumers to collectively pursue sellers or service providers, but these mechanisms differ in many aspects, and are not always useful for consumers. We have put together 10 Golden Rules for a European Group Action instrument, and we hope these will be taken into account in the foreseen Communication on collective redress due in autumn 2008.

After the Commission's Consumer Policy Strategy 2007-2013, which expressly mentions the possibility of an initiative on collective redress at EU level, we also welcomed the publication of the White Paper on damages actions for breach of the EC antitrust rules, as it was the first time a Group Action was envisaged in a Community instrument.

Consumer Healthcare

Health policy in the EU needs a coherent, collaborative and ambitious strategy, while fully respecting the subsidiarity principle in this area.

We will work to make sure health policy objectives include protecting public health, ensuring access to safe, effective, affordable and appropriate health services and medicines, improve quality of care, and ensure equity and efficiency. In particular, pharmaceutical policies should be fully integrated in health policies and competence on medicines should be moved within the Commission from DG Enterprise to DG SANCO.

Patient rights, including patient information, are a key element of health policy. Consumers need clear information on what they may reasonably expect in terms of information, access to care and carers, quality of care, access to records, redress, reimbursement, etc. They also have a right to independent and impartial information about medicines and non-drug therapies.

In this context, we oppose industry-organised projects to provide information to patients because there is too much room for conflicts of interest. We ask for the development of a Health Information Strategy that puts health interests first and is based on a comprehensive assessment of consumers information needs, how these are currently being met, and where improvements are needed. It should rely on and promote good and independent sources of information, enable consumers to choose and compare different medicines and treatment options and finally truly address inequalities in the access to information and treatment.

There is great uncertainty regarding patient rights, and even more so in cross-border cases and great difficulty in ensuring that any such rights are respected. An EU-wide Patients' Charter would help raise the standards and serve as a guide to consumers' of health services.

A strong, transparent and proactive pharmacovigilance system is vital to ensure consumer safety in relation to medicines. Consumers should be able to report adverse reactions to medicines directly to their national authority. A harmonized, transparent, simplified and centralized system is needed both for marketing authorization procedures and for medicines safety issues. Therapeutic efficacy should be an essential criterion when deciding whether new medicines should be authorised. To focus on the potential long-term effects of new medicines, independent research and post authorisation safety studies are needed. We also call for public education campaigns to raise awareness about the importance of side effects reporting.

On counterfeited medicines, we call for increased public information, mandatory reporting, education and involvement of consumers, specific measures for internet sales, stronger penalties for counterfeiters, enhanced international cooperation, and safe trace technologies that do not incur additional costs for consumers.

Healthy food for informed consumers

Food information and labelling

Consumers need simple and understandable on-pack labelling if they are to make the most appropriate nutritional choices.. BEUC and our members call for a front-of-pack multiple colour coding scheme based on the use of red, amber and green colour coding to indicate whether levels of the key nutrients (fat, saturated fat, sugar and salt) are high, medium or low. The use of the scheme should be prioritised on processed foods because it is more difficult to know the amounts of fat, sugar and salt present in the final product. If a percentage reference intakes scheme were to be included on a label, we would only support its use if it is added to a multiple colour coding scheme, and be based on robust independent advice from the European Food Safety Authority (EFSA).

We are also calling for a mandatory labelling of the 'big 8' (protein, fat, saturated fat, sugar, salt carbohydrates, fibre and energy) plus trans fats on the back of back. While some consumers just want simple front of pack information, others, for example those on special diets, need more detailed information. The back of pack is important as it allows consumers to compare more detailed aspects of the nutrition information and make effective comparisons between different products.

Children and advertising

14 million children across Europe are overweight or obese. Studies by our member organizations have shown that the majority of advertising for food products (and drinks) aimed at children are for products high in fat, sugar or salt. Other studies have shown that children are influenced by advertising and have a strong say on household purchases. BEUC will very closely monitor and collect evidence regarding the various industry self-regulatory commitments made under the Commission's Obesity Platform and will campaign for the introduction of restrictions on food advertising to children through a ban on TV advertising of foods and drinks high in fat, sugar or salt before 9pm, based on nutrient profiles.

Novel food

BEUC will work on the Commisison's proposal to amend the current Regulation on novel food. Novel foods covers foods which may have been derived from micro-organisms, fungi or algae, the application of nanotechnology or from cloned animals.

All novel foods should undergo an equally thorough safety assessment before being allowed on the European market. The benefits of the introduction of a novel food as well as dietary exposure - in particular the combination of different novel foods with similar characteristics - must be clearly considered as part of the authorisation process.

Consumer safety

Toy safety

Children represent one of the most vulnerable populations and therefore deserve the highest level of protection possible. Our members very regularly test toy safety. These tests focus on mechanical safety, the health and environmental effects (chemicals), labelling, but also manufacturers' responsibility, market surveillance and control.

The series of industry recalls of unsafe toys in August and September 2007 gave rise to serious concerns about the safety of toys on the EU market. The Commission proposal for a revised Toy Safety Directive - one of our top priorities at the moment - needs to ensure that children have only safe toys to play with and do not face unnecessary risks.

Given the vulnerability of children, we want toys legislation to be based on the precautionary principle. We call for tougher provisions on chemicals in toys (a total ban of chemical substances which are carcinogenic, mutagenic and toxic for reproduction, hormonal disrupting chemicals and allergenic fragrances from all parts of toys, whether accessible or not). We also call for essential safety requirements to be made clearer in particular with regard to suffocation risks, chemical properties and flammability and for stricter regulation of the risks posed by toys in food products.

Mandatory EC type examination of certain types of toys is needed for toys for children younger than three years, toys which have an element of risk which cannot be removed (for example toy irons which become hot) or toys which have previously caused serious accidents (such as toys containing magnets).

Chemicals in consumer products

Many EU developments linked to chemicals in everyday products are foreseen (apart from the revised toy safety directive and its new requirements for chemicals in toys), including an important proposal for a Cosmetics Regulation to replace the existing Directive. Cosmetic products are everyday products for most consumers and should not be harmful in the short-term, by causing e.g. allergic reactions, or in the long-term, by causing e.g. cancers or birth defects. They need to be carefully and adequately assessed, and again the precautionary principle should apply as a basic principle. We want the total ban on carcinogenic, mutagenic and toxic to reproduction substances (CMR) in the existing Directive to remain in the future legislation. We advocate for an obligatory pre-market safety assessment and authorisation process of nanotechnologies used in cosmetics. We also call for specific requirements on the use of substances that are dangerous for the environment, misleading claims and marketing/advertising. Finally, we underline the need for a 'cosmetovigilance' system to ensure that the safety evaluation of cosmetic ingredients and products is accurate.

Consumer Rights in the Information Society

For many consumers, a life without digital technology is hardly conceivable any longer. The digitalisation of information and communication systems allow the development of new forms of products and services, thereby creating a virtual market landscape to the benefit of consumers and users - and also to business and the economy as a whole.

Digital technologies foster access to information and have the capability to bring extraordinary choice of means, places and time content can be accessed. New trends also include the move from passive consumer to consumer-as-producer (so-called consumer-generated content) and social networking. The benefits of innovation and competitive market advantages stemming from the virtual space will also promote creativity, freedom of expression, choice and cultural diversity.

Regulatory areas become relevant such as the revision of the e-commerce directive or the forthcoming content online Communication. Digital discussions need to take account of user expectations related to private copies and DRMs (copyright directive), the public domain (term extension), criminalisation of consumers, convergence, interoperability, open standards, and net neutrality.

Privacy becomes ever more ambiguous on the Internet and generally within modern communication technologies, such as Radio Frequency Identification (RFID). In 2008, the Commission will broaden the discussion to other technologies (the Internet of things, ambient intelligence) with a potential review of the Data Protection Directive.

“Consumer Acquis”

The Review of the Consumer Law Acquis concerns eight important European measures dealing with consumer rights: time-share, door-to-door selling, distance selling, unit pricing, guarantee's/sales directive, injunctions, unfair terms, package travel.

We will work to ensure that this review of consumer law focuses on the essentials: the commitment to a high level of consumer protection within the European Union effectively implemented and properly enforced. We oppose the introduction of a general mutual recognition principle or “country of origin” principle in the field of consumer protection legislation and in particular in consumer contract law. We also oppose a general, dogmatic or doctrinaire change to full harmonisation. This must be assessed on a case by case basis and, if at all a shift to full harmonisation seems justified, certain safeguards must be maintained. If, as is envisaged, a horizontal instrument covering a number of common

elements is proposed, it should not focus on the level of harmonisation but rather on what it will add to the substantial deficits of the existing acquis.

It is extremely important for us to tackle questions related to new technical developments and changed market conditions notably in the digital world. Aggressive marketing practices, unfair contract terms or non delivery of purchased goods and services are daily occurrences on the web. In this respect, the revision of the consumer acquis is a unique opportunity to update legislation to bring it in line with current economic life.

Financial services

Financial services will be a priority for us in the coming years. To date, there is no internal market for retail financial services: it is virtually impossible today to open a simple current account or savings account in a Member State other than one's state of residence, just as it is impossible to obtain credit in another Member State. Yet there are significant differences in bank fees between the Member States from which consumers could benefit. In addition, competition in the financial sector is far from optimal.

Many European consumers, particularly in the new Member States, have no access to basic financial services (current account, or savings or insurance products). In a number of countries, this lack of access to financial products often goes hand in hand with social exclusion.

In addition, payment means such as certain debit/credit cards or direct debit payments are not yet usable throughout Europe, as they are at the national level (absence of interconnection).

We will focus our efforts on the Single European Payments Area (SEPA), the general framework for retail financial services, financial intermediaries, banking mobility and mortgage credit.