Basic information

2002/2150(COS) COS - Procedure on a strategy paper (historic)	Procedure completed
European Union consumer protection: legal aspects. Green paper **Subject** 4.60.06 Consumers' economic and legal interests	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs and Internal Market	THYSSEN Marianne (PPE-DE)	08/10/2002

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	2412	2002-03-01
Competitiveness (Internal Market, Industry, Research and Space)	2462	2002-11-14
Competitiveness (Internal Market, Industry, Research and Space)	2389	2001-11-26
Competitiveness (Internal Market, Industry, Research and Space)	2426	2002-05-21

European Commission

Commission DG	Commissioner
Health and Food Safety	

Key events

Date	Event	Reference	Summary
02/10/2001	Non-legislative basic document published	COM(2001)0531	Summary
26/11/2001	Debate in Council		
01/03/2002	Debate in Council		
21/05/2002	Debate in Council		
01/07/2002	Committee referral announced in Parliament		
14/11/2002	Debate in Council		
20/02/2003	Vote in committee		Summary
20/02/2003	Committee report tabled for plenary	A5-0054/2003	
13/03/2003	Decision by Parliament	T5-0102/2003	Summary
13/03/2003	End of procedure in Parliament		

10/03/2004	Final act published in Official Journal		

Technical information	
Procedure reference	2002/2150(COS)
Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper
Legal basis	Rules of Procedure EP 148
Stage reached in procedure	Procedure completed
Committee dossier	JURI/5/16385

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Document attached to the procedure		B5-0108/2002	13/03/2002	
Committee report tabled for plenary, single reading		A5-0054/2003	20/02/2003	
Text adopted by Parliament, single reading		T5-0102/2003 OJ C 061 10.03.2004, p. 0320-0413 E	13/03/2003	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2001)0531	02/10/2001	Summary
Document attached to the procedure	COM(2002)0289	11/06/2002	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0344/2002 OJ C 125 27.05.2002, p. 0001	20/03/2002	

European Union consumer protection: legal aspects. Green paper

2002/2150(COS) - 13/03/2003 - Text adopted by Parliament, single reading

The European Parliament passed a resolution drafted by Marianne THYSSEN (EPP-ED, Belgium) on the Commission's Green Paper. (Please refer to the document dated 20/02/03.) Parliament also wanted to see the development of rules for a better treatment of Community law in cross border relations, and agreed that an internal market calls for coordinated market supervision. It supported the idea of intergovernmental cooperation by national enforcement authorities, which could operate to the advantage of mutual information and mutual assistance in specific cases. The

Commission was asked to provide detailed information on the nature of the obstacles encountered, to quantify their impact on cross-border purchases and, on that basis, to continue consultations with all parties concerned, on both the production and the distribution sides, and with representatives of SMEs and consumer organisations.

European Union consumer protection: legal aspects. Green paper

2002/2150(COS) - 11/06/2002

The Green Paper set out a number of options and questions on the future of the regulation and enforcement of consumer protection. It suggested the idea of developing a framework directive on fair commercial practices. It also suggested the development of a legal instrument for cooperation between enforcement authorities. The Green Paper received a wide response from business, consumer organisations and national governments and agencies. The consultation identified a broad consensus along the following lines: -a majority of respondents accept the case for reform of EU consumer protection legislation. The current situation is holding back the internal market for consumers and for business. -a majority of respondents expressing a preference wish to proceed on the basis of a framework directive. -a large majority expressing a preference, endorsed the Commission's idea of developing a legal instrument for cooperation between national enforcement bodies. This communication sets out an action plan for further consultation with the Member States and stakeholders. As a first step, an outline of the issues to be covered in a framework directive is attached in an annex. The paper looks at possible contents of a directive and investigates codes of conduct, non-binding guidance and stakeholder participation. A framework directive should bring about, inter alia: -maximum harmonisation with a high level of consumer protection; -simplification and, where possible, deregulation of existing provisions should be prioritised; -application of the principle of mutual recognition and control by country of origin (Internal Market principles); -on the one hand, legal certainty. On the other, the legislation should be time-proof and technology-neutral as possible, avoiding overly prescriptive rules. -the scope of the legislation should be based on the wider concept of "fair commercial practices" and not only on the narrower concept of "misleading practices." It should also be phrased in terms of actions that are unfair - i.e, an obligation not to trade unfairly rather than a duty to trade fairly. -it should be based on a general clause, which could consist of two core elements: the unfairness of the practice; and a "consumer detriment test." The general clause would have to be substantiated by a number of specific rules (the "fairness/unfairness categories") concerning different stages of the business to consumer relationship. A non-exhaustive list of examples to illustrate the general clause would be drawn up. -possible elements of fairness/unfairness categories include a prohibition on business from engaging in misleading commercial practices, and a duty to disclose to the consumer all material information. The primary focus should be on unfair practices that cause detriment to the interests of consumers as a whole, rather than individual cases, in line with existing practice. Enforcement procedures are discussed. Reactions to the communication should be sent to the Commission no later than 30 September 2002.

European Union consumer protection: legal aspects. Green paper

2002/2150(COS) - 02/10/2001 - Non-legislative basic document

PURPOSE : to present a Green Paper on European Union Consumer Protection which aims to open a public debate on the future direction of EU consumer protection. CONTENT : the European Commission has adopted a this Green Paper on fair trading practices, addressing the key issues of consumer protection. The Green Paper aims to stimulate a wide debate on options to improve the functioning of the business-to-consumer (B2C) Internal Market. It sets out two main strategic options for the future development of EU regulation of B2C commercial practices. The first option is a strategy based on further harmonisation addressing specific issues and to continue the approach of the last two decades. The second option is based on complementing specific legislative measures with a framework directive covering B2C commercial practices. The paper also seeks views on priority areas for harmonisation and on the various options for a possible framework directive. In addition, it equally sets out options for ensuring and improving enforcement of consumer protection rules. The Commission wants to stimulate a wide debate on options to improve the functioning of the "business-to-consumer" (B2C) Internal Market. While the business-to-business (B2B) Internal Market is fairly well-developed, the potential of B2C Internal Market is not fully realised as indicated by the large divergences in prices of consumer goods between Member States and the limited volume of cross-border shopping. In short, the cross-border offer of consumer goods is insufficient. Consumers lack the confidence to take up the offers that do exist and businesses hesitate to directly offer their goods EU-wide because of the wide differences in national consumer protection rules and the limited scope of EU consumer protection legislation. The existing EU rules are not adequate to the challenge. They cover only a limited number of commercial practices, are often out-dated and lagging behind new market developments, and often designed to address one specific problem consumers were confronted with, such as for example the package travel or timeshare directives. There are many national rules and a wealth of national jurisprudence to protect consumers. The problem lies in their diversity. Consumers do not necessarily have the same rights in one Member State than in another. In addition, there currently is no formal framework for co-operation between the bodies enforcing consumer rights in the Member States. The main choice in the Green Paper is between: - a strategy based on further harmonisation addressing specific issues - a continuation of the past strategy - and - a strategy based on setting out core principles of consumer protection in a framework directive to complement specific legislative measures. The paper also seeks views on priority areas for harmonisation and on the various aspects of the possible framework directive. It also sets out options for ensuring and improving enforcement of consumer protection rules. The Green Paper sets out some ideas for the use of self-regulatory codes, but within a legislative framework. A legal backup to codes of conduct is necessary so that firms who break the rules are punished and consumers can be more certain they are respected. Business organisations that have experience with codes of conduct have said so explicitly themselves. The aim of a framework would be to ensure good practice (either based on fairness or non-misleading practices) in B2C commercial practices. There may be reasons for wanting to regulate these commercial practices in further detail, but that would be outside the scope of a framework directive. For example, a framework directive would not include rules concerning health and safety (like tobacco or alcohol advertising) or decency. Equally it would not aim to cover pure social policy aspects, such as shop opening hours. Practices regulated by national contract law will not be covered, leaving national laws which invalidate a contract or establish rules on redress unaffected. The Commission's recent Green Paper on contract law addresses this. A framework directive would supplement sector specific provisions and apply to aspects which are not regulated by such legislation. This is the central question for consultation. The Green Paper offers a choice between the concepts of "fair commercial practices" or "misleading and deceptive practices". Both concepts have some basis in existing EU law, notably in the misleading advertising directive and the unfair contract terms directive. The concept of fair commercial practices, is broader than the misleading and deceptive practices concept. It covers the principle of good faith in the pre-contractual phase (e.g. disclosure of material information). For the post-contractual phase, it covers unfair and dishonest practices (e.g. those which

unfairly deter consumers from switching suppliers would be targeted). The Green Paper on EU consumer protection presents new ideas for the use of self-regulatory codes within a legislative framework. A framework directive establishing EU-wide principles for fair trading practices would be adaptable and responsive to changes in market practices - allowing to tackle new unfair practices, such as those in the online world, quickly. It would however not include rules concerning health and safety (i.e. tobacco or alcohol advertising) or decency, or social policy issues such as shop opening hours. Although a framework could cover all commercial practices, specific legislation may still be needed to regulate specific practices or sectors in more detail. If the second option were chosen; one of the key questions for the consultation would be the scope of the directive. The Green Paper offers a choice between the concepts of "fair commercial practices" or "misleading and deceptive practices". Both concepts have some basis in existing EU law, notably in the misleading advertising Directive and the unfair contract terms Directive. The concept of fair commercial practices is broader than the concept of misleading and deceptive practices. It covers the principle of good faith in the pre-contractual phase, e.g. the disclosure of material information or high-pressure selling techniques. For the post-contractual phase, it covers unfair and dishonest practices, e.g. those practices which unfairly deter consumers from switching suppliers would be targeted. The Green paper also develops ideas for better enforcement of consumer rights in B2C transactions. Currently there is no formal framework for co-operation between the bodies enforcing consumer rights in Member States. Ideas are developed in some detail about setting up a system for co-operation between national consumer protection agencies and bodies to help consumers to get their rights respected abroad. The Commission will organise a hearing and an intensiveconsultation process with consumer and business organisations on the ideas put forward in the Green Paper on EU consumer protection. Further initiatives in this area will be decided in the light of the outcome of the debate.