

MEPDEV 2nd: 2016
Central & Eastern European LUMEN International
Conference - Multidimensional Education & Professional
Development. Ethical Values

NEW APPROACHES ON CONSUMER SAFETY IN EUROPEAN
AND NATIONAL PROGRAMS AND STRATEGIES

Manuela Nita (a)*

*Corresponding author

(a) Lecturer, PhD, Valahia University of Targoviste, Faculty of Law and Administrative Sciences, Targoviste, Romania, manuela_nita74@yahoo.com, 0245606048.

Abstract

Consumer safety is not a new objective for the European and national legislator, the European Union being concerned right from its establishment by the provision and development of an appropriate consumer protection policy. Changes to the market level induced by the appearance of new products and services, evolution of the concept of security and quality for products and services and even the evolution of mentality of the consumer, of his preferences led to the reconsideration of the concept of consumer security through the adoption of the Europe 2020 Strategy and also the Program on consumer protection 2014-2020. In this regard there have been proposed several measures, on which we will focus in our study, showing the degree of reaching the proposed objectives until this moment. They are mainly referring to a greater protection market, an increased involvement of citizens in this area, the education offered to them on early stages better inter-agency cooperation at the national level.

The strategies adopted over time have shown that implementation of the policy of consumer protection is one of the factors of maintaining a single European market viable, competitive, given both the relationship professional-consumer, and relationships between professionals, aiming at a healthy competitive environment based on fair competition between them.

© 2017 Published by Future Academy www.FutureAcademy.org.UK

Keywords: Security, consumer, markets, products, services.



1. Introduction

In the frame of adopting the Europe 2020 strategy which aims at ensuring the stability of the single European market through employment leading to economic development through smart, sustainable and inclusive growth, the concern of both national and European authorities was focused on taking those measures that will lead to achieve those objectives.

Facing these challenges the market may suffer mutations, can occur new products and services or new contracting techniques can have another dimension. These changes in the market may expose consumer to risks harming his health and safety

Thus European and national policy is oriented on several directions to render its security, within a consumer protection program which will cover the period 2014-2020.

On the other hand the consumer has learned to document, especially as electronic information is easily accessible. Obviously consumer protection legislation aims to protect all citizens, regardless of their knowledge or level of education. The evolution of society has led to the evolution of consumer preferences and quality that regardless of the level of education, has learned to establish certain guidelines regarding their own acquisitions.

Differences exist between young and the very young consumers and those above a certain age at which both the level of understanding or new products and services involving special technicality, are not easily to be understood.

Based on these elements, the European authorities must consistently perform studies and analyzes having as source both the state authorities and euro-consumers, followed by revision or replacement of the European legal framework. Thus, in the following we highlight the main issues that concern European and national programs and strategies of consumer protection, with the deadline of 2020:

- complete and accurate information of consumers on essential characteristics of products and services supplied on the market, so the purchase decision to be the result of accurately estimating the compatibility of the product or service with the consumer needs, affinity and availability;
- educating young people in knowledge of their rights as consumers and of the risks they are exposed to;
- recognizing the right to repair damage suffered by the consumer due to non-compliance of the product with the characteristics stated by manufacturers and distributors, quality defects and hazards of products or services for the life, health or consumer safety;
- providing the means by which the consumer can enhance the rights, quickly and safely. Since this year the European standards enable the parties to settle out of court a possible litigation by using the alternative settlement procedures, which are valid for both national and cross-border disputes. It was also launched a new European online platform that enable consumers and merchants to settle exclusively online, the disputes from a purchase made on the Internet;
- measures to promote and protect the parties regarding the sale of products online. Given the particularities of this type of operation, the European Commission is supporting consumers, elaborating in 2015 a Strategy on the Digital Single Market for Europe, which includes 16 proposals to stimulate e-commerce. Romania stands out in this respect by a very low level of online operations, by comparison to the European market, even if the phenomenon is growing;

- annihilation of the abusive practices during concluding, design and execution of the contract, that expose the consumer to the trader's discretion;
- ensuring consumer participation in decision-making process for the decisions which are affecting them;
- better inter-agency and across border cooperation between the authorities involved in ensuring consumer protection at national level;
- supporting the consumer regarding the banking policy through their right to open a bank account, even if they do not reside in the country where the bank resides. It also aims to create a system whereby the consumer could easily compare bank fees at EU level.

Regarding how to integrate these means of consumer protection, there are differences between Member States, starting from legal framework transposition, cooperation between authorities, but also the understanding of the specific rights of the consumer.

2. Problem Statement

During this research there have been identified several problems related to the efficiency of the consumer's protection: lack of consumer's interest in his rights as stipulated in the existing legal framework, lack of consumer's reaction when his rights are affected, not sufficient protection for e-commerce, lack of consumer's education in differences existing between the acquisition of the merchandises from the european and noneuropean space and low involvement of the consumer in relation with the reconiged professional associations.

A first problem which still perpetuates is a problem related to consumer behavior, namely the lack of interest thereof to the rights that are conferred by legislation, interest which has to be proven before finding a complaints or sufferring a violation of his rights. In general, the interest to identify ways of consumer protection appears for some consumers after the occurrence of the event causing injury or to render discontent. Only in this moment these consumers put for the first time the question: "how can I use my rights?" And if „I could fix my damage?".

Another problem faced by the consumer is the lack of reaction when it is damaged following the acquisition of a service or product, some of them considering whether it is a waste of time, whether it is too expensive to apply the necessary procedure to repair damage and requires hiring a lawyer, whether not understanding the information material.

Regarding e-commerce, this type of commerce is widely used in the European space, while in Romania is accessed in a smaller but growing percentage. This proves that the consumer wants an acquisition to be done in an easy, fast way, accepting small extra expenses. Achieving consumer protection against fraud attempts and the lack of information or incomplete information is a challenge for the legislator. It also must be encouraged implementation of measures necessities to achieve a single digital market evenly across all European countries.

Purchasing online from a country outside Europa is another issue that can not be neglected by the legislator and authorities, especially since often the consumer does not pay attention to space from where purchases the good or service, ie European or non-European, this being necessary to know if protective measures are applicable to him.

One last problem that we mention in our study is related to the consumer representation through recognized associations in relation with decision-makers and is found at national level.

3. Research Questions

Starting from the issues raised above, we are asking ourselves how more customers can be involved to update their data held to a specific time, commitment to be achieved through a constant stimulus, interest that should be proven for what is new regarding his rights as consumer, the information that need to receive and in what form.

We are also concerned about the ways to apply in order to transform the latent consumer in an active post-acquisition consumer, regardless is e-commerce or outside business premises commerce or in the regular commercial space.

Also it has to be found a solution regarding the manner in which the great mass of consumers have a strong "voice" in the consultation process held by authorities to legislative initiatives in this area.

4. Purpose of the Study

The aim in our study is to deepen some issues identified in this vast area of consumer protection, difficulty facing the European and Romanian consumer alike. Also we try to analyse solutions available at this time, if they exist, what additions can be made or what other possible alternatives might be able to achieve a higher return in consumer protection.

We hope that in this way we join the effort made by authorities trying to provide the consumer with a safe, regulated market, in which he will be protected given the multitude of products and services in emerging, which are available, avoiding be at the mercy of traders.

5. Research Methods

The theoretical approach undertaken by this study is based on analyses carried out on the main regulations adopted by the European and national authorities and their impact on consumers. Are also relevant the Communication of European Commission which are based on studies and analyses collected from the Member States and the disclosure documents specifically designed to be for consumers, they reflecting data and centralized statistics on the changes occurred in consumer's behaviour on the market, its evolution. Of the many issues relating to consumer protection, research has focused on several issues, topical over which we have tried to expose our point of view.

We also used in drafting the study information obtained from discussions and consultations with representatives of the competent authorities in the protection of consumer rights and from discussions with several consumers with different categories of ages, different backgrounds and which made purchases of products and services using multiple modalities permitted by law (eg. E-commerce, classical commerce).

6. Findings

We appreciate that the attention of the individual can be attracted and maintained, becoming interested in the quality that has as consumer, if policymakers distinguish between two categories: consumer debutant, including his on the budding, which is nascent and consumer ripe. We make this distinction because the measures that must be taken are different.

Regarding young consumer, he must be trained and educated in the spirit of knowledge, the same as for the main fundamental rights. At early age, he has not the legal capacity to make a purchase, but has the ability to see through learning, by understanding the graphic signs specific to consumer protection, by checking a basic information accessible to him.

At European and national level there are developed several projects on this theme, but they are not binding in mass. They are taught in the form of optional courses or represents a theme in other general courses, the young consumer treating lightly this field, although they can be drawn into various practical actions that stimulates his interest.

In this regard, it has been initiated a teachers online community called Consumer Classroom (<https://www.consumerclassroom.eu>) which is supporting educational environment through teaching, exchange experience with similar partners from other European countries. Such initiatives should be promoted and stimulated both among teachers and among pupils / students.

Mature consumer is more difficult to convince to change his attitude and that should be most interested and this can only be done through strong media campaign to highlight the beneficial results. It should also be driven in terms of information on the trader.

Information is made concerning the essential characteristics of products and services offered on the market, so the purchase decision to be the result of accurately estimating the compatibility of the product or service with the needs, affinity and consumer availability. This objective is not a new one, but he could not be abandoned because the consumer is experiencing new or improved products, to which new information is needed. This does not flow naturally from the initial regulations, but further clarification is needed, which become mandatory for traders. In this respect, for example, has been developed Regulation EC 1169/2011 on the provision of food information to the consumers (Regulation EC 1169, 2011), which states that for pre-packaged foodstuffs the nutritional declaration is mandatory from 13 December 2016. At the same purpose was conceived European Commission Communicate 2016 generic called "Blue Guide" on the implementation of EU rules on products (Blue Guide, 2016).

These measures may be supplemented by online catalogs containing the detailed presentation of products, available to the consumer in the place of purchase. The physical medium may be a tablet and informational support may be a text, a video presentation or a specific presentation for persons with disabilities (hearing, sight) so depending on the offer found to the place of purchase to find the product which corresponds exactly to consumer demands.

In terms of increasing confidence in the actions that can be undertaken by the consumer, in European and national law have been taken measure through a directive (Directive 11, 2013) and a regulation (EU Regulation no. 524, 2013) concerning alternative dispute resolution in consumer matter, respectively online settlement of those disputes. The Directive was transposed by Government Ordinance no. 38/2015, which was supported by Government Decision no. 775/2016. The ordinance is a extrajudicial way of solving national and cross-borders disputes resulted from sales contracts or contracts for services between a trader operating in Romania and a consumer resident in the European Union.

To support the consumer and eliminate any of its fear, doubt related to the lack of finality of an action in repairing the damage or the high costs of the approach, the European Commission launched in February 2016 an online platform through which consumers can resolve disputes with the object of products or services purchased on the internet. On this platform are recorded several entities for alternative dispute resolution, referred as SAL entities, commission being concerned to cover all EU countries. The advantage of this platform is the short time settlement (average 90 days) and absence of the costs approach, assuming completion of an online petition.

Reported to the number of users of the platform, the Commission notes an improvement in the satisfaction of the consumer, but it concerns only consumers who used the platform because it must be admitted, that at least in Romania, the degree of appealing to the alternative means it is not overwhelming, as part of the Romanian consumers are reluctant to online petitions.

To provide effectiveness to this method of alternative dispute resolution, consumer must be informed about its advantages, but at the same time advised by consumer protection associations and territorial structures of the National Authority for Consumer Protection, especially for purchases that exceed national territory.

Unfortunately, at this moment Romania with Croatia, Poland and Spain have not registered any entity on the platform (webgate.ec.europa.eu)

In terms of online commerce and completing the Single Digital European Market is recognized by European leaders that digital technology should be part of the life of any consumer / citizen, and based on this idea, the question arises to what extent the consumer has access to any place and time to the internet to collect information and perform transactions.

Digital Single Market is one that has implications on several levels on the individual, for example in professionally or socially level leading to the development of interpersonal relationships, but also to society in general, from the educational point of view, intercultural relations etc.

In terms of business, electronic commerce is no longer a novelty, but it is in a perpetual change. Digital Single Market allows free movement of goods, persons and services so that businesses have a new opening in the European space.

The European Commission is concerned about finding those solutions that eliminate barriers to online cross-border activity and increase consumer confidence, especially in terms of online cross-border sales involving parcel services, to which it was found that there are situations that lead to discrimination on the market, and for which there is no regulation at present. Discrimination is related to restrictions on citizenship, residence or geographical location, which are against basic principles of the EU (Strategy for the European single market for Europe, 2015). Increased interest in online procurement operations leads to increase of number of operations with non-European partners. Consumers are directly interested in the subject of the transaction and either of ignorance or omission they realise that they are dealing with a non-european partner only when they are trying to apply specific consumer protection rights in the European space. This element is related to the degree of consumer culture on the structure of the European Union, and to avoid such confusions consumer must be informed, recommending them to check before completing a transaction.

I appreciate that a particularly important role in consumer protection is played by professional consumer organizations established for this purpose. They must take an active role in the market because

the consumer may have a low trust to authority and a reluctance to address to it, considering that such an organization better protects his rights.

Also, these associations / professional organizations should be aware of all the difficulties the consumers encounter and to support them in all their endeavors. They must actively participate in the legislative consultation process, based on a consumer representative. Also they need to be well organized, to be known among the population and to publicize all the efforts made by national and European authorities. On this issue in Romania there is a deficiency because on the market there is no professional association of consumers with a strong "voice" in front of whom it is addressed. One reason is lack of funding that block media initiatives. Attracting a large number of volunteers can be a solution

7. Conclusion

Consumer protection is a large subject, concerning the authorities, academics, practitioners, the professional association that advocates in the field, the traders and not at least consumers. This extended scope of those interested in consumer protection is not accidental because he is the final character in the circuit of products and services. If the client is satisfied with the purchase made, it represents a contribution to the profit of the trader and thus to the development of a market segment. Therefore, there is sometimes a tendency to abuse, fraud, misleading of the trader to the consumer. Full, clear, accurate information, early education since childhood, the regulation of the means of specific action to repair damage caused constitutes some of the means that authorities must keep under control, regardless of the changes in the market.

The legislator must be creative to organizational level, not through bureaucracy but through simplification of procedures to reach the consumer through lower costs, to give confidence and to respond in a very short term to its requirements. We focused our study on these elements and we hope that we highlighted weaknesses in the protection, coming up with suggestions to support consumer.

References

- Regulation EC 1169/2011 on the provision of food information to the consumers, published in the EU Official Journal on 22 November 2011.
- Communication from the Commission - "Blue Guide" in 2016 on the implementation of EU rules on products, published in the EU Official Journal C 272 of 26 July 2016.
- Directive 2013/11/ EU of the European Parliament and of the Council, published in the Official Journal of the European Union L 165/63 of 18.06.2013.
- EU Regulation no. 524/2013 of the European Parliament and of the Council of May 21, 2013 on online dispute resolution for consumer.
- Government Ordinance no. 38/2015 on alternative dispute resolution between consumers and traders, published in the Official Gazette, Part I no. 654 of August 28, 2015.
- Government Decision no. 775/2016, published in the Official Gazette, Part I no. 857 of October 27, 2016.
- Strategy for the European single market for Europe, 2015, Retrieved from [http://www.europarl.europa.eu/RegistreWeb/search/simple.htm?reference=COM_COM\(2015\)0192](http://www.europarl.europa.eu/RegistreWeb/search/simple.htm?reference=COM_COM(2015)0192)
- Webgate.ec.europa.eu.
- Availble at <https://webgate.ec.europa.eu/odr/main/index.cfm?event=main.home.show &lng= RO>.