

**H. E. Walter Grahammer
Ambassador, Permanent Representative to the EU
Permanent Representation of Austria to the EU**

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Brussels, 12 June 2013

***Joint call by consumers' organisations and e-commerce businesses
to reject the Commission's proposal for a
Common European Sales Law regulation***

Dear Permanent Representative,

On behalf of BEUC, the European Consumer Organisation, which represents 40 national consumer associations across Europe and Ecommerce Europe, which represents more than 4,000 companies who sell products and services online to consumers throughout Europe, we hereby express our jointly held concerns in relation to the proposal for a Common European Sales Law regulation (CESL).

Our organisations are both fully committed to supporting the European Commission's aim of improving the functioning of the Digital Single Market and easing online cross-border transactions for consumers and SMEs.

However, we are in agreement that **the Common European Sales Law proposal will not provide added value - neither to consumers nor online retailers. In fact it will instead have a negative impact on the development of the Digital Single Market and on the confidence of both consumers and companies when engaging in e-Commerce transactions.**

This optional European law would introduce a parallel system of EU legislation, thereby leading to consumers and business being faced with diverging EU rules and standards of protection for the same products or digital contents. This optional tool would increase legal complexity, introduce great legal uncertainty, undermine existing rules on private international law and as well as consumer protection standards in a number of countries.

It will also generate significant compliance and implementation costs, because in order to make an informed decision, businesses and consumers will need to understand both CESL and national rules, then determine for each given transaction what would be the appropriate basis on which to sell or buy.

The European Parliament Legal Affairs Committee rapporteur's suggestion to reduce the scope of the proposed CESL to online transactions would exacerbate its impact: in addition to the complexity described above, it would create a *dual* system for online (cross-border) and off-line contracts.

Consumers' confusion and regulatory costs for business who sell offline and online would increase further, as four different scenarios:

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- off-line transactions under national law;
- online transactions with CESL;
- online cross-border transactions without CESL;
- online domestic contracts under national law

with different contractual rules for the same products would occur. This would lead to significantly different consumer rights for online and off-line contracts, for example regarding legal guarantee periods or remedies, which cannot be explained by the difference in the selling method.

There are other real and major obstacles than contract law which currently prevent consumers and companies from benefitting from the Digital Single Market. They include the difficulties small businesses have in accessing national markets due to administrative barriers, differences in tax regimes, cultural barriers such as language and digital literacy, low levels of broadband penetration, territorial limitations of intellectual property rights laws, a lack of effective redress tools for consumers and an absence of or difficulties to use e-payment systems. The EU institutions should focus their resources on tackling these real problems.

It is in this context that BEUC and Ecommerce Europe call on the European Parliament and Council to reject the Commission's proposed introduction of a Common European Sales Law regulation.

The EU has recently adopted the Consumer Rights Directive, which fully harmonises the key areas of e-Commerce transactions (e.g. pre-contractual information, formal requirements for contracts, the right of withdrawal, delivery, the passing of risk, etc). The Directive will be implemented this year and operational by mid-2014 across all Member States. This new European law will significantly facilitate cross-border online commerce for businesses, while providing robust protection standards and thus prompting greater consumer confidence in online commerce.

Introducing a highly complex optional instrument which creates a European law system in parallel to and competition with national systems is not the right policy choice. Instead of optional laws, **BEUC and Ecommerce Europe believe that once the Consumer Rights Directive is operational only a few remaining elements of consumer contract law require further harmonisation and/or modernisation at EU level; namely legal and commercial guarantees - including for digital products.**

To deal with these issues, we call to continue the successful EU path of harmonisation instead of the proposed optional law.

E-Commerce is growing fast in Europe. Consumers and online retailers need practical solutions to real problems. Clear and targeted rules, not more complexity and confusion are what we expect from the European legislators.

We urge you to listen to the stakeholders who are principally concerned and remain at your disposal for any further information or clarification you might request.

Yours sincerely,



Peter Vicary-Smith
President BEUC



François Momboisse
President Ecommerce Europe