



Consumer Voice

Newsletter on food safety, health and consumer policy
from the European Commission's Health and Consumer Protection DG

October 2001, Number 3



◀ David Byrne,
Commissioner for
Health and Consumer Protection

Out of court settlement of consumer disputes

Most cross-border disputes involve small purchases of around EUR 2,000 or less. I am concerned that consumers should not have to resort to traditional litigation in this kind of situation. It is neither practical nor cost effective for individual consumers or for businesses to follow this route. Consumers need access to simple, low-cost and effective means for resolving cross-border disputes and it is best if they are dealt with at a fixed point in the consumer's own country.

The EEJ-Net clearing houses provide that fixed point in a one-stop-shop where consumers can seek advice and receive immediate support and help in formulating and forwarding their complaint to the clearing house in the country of the supplier and in the language of the country in question. Problems of differences in ADR systems can then be overcome, and in all but the most complex cases, a settlement negotiated.

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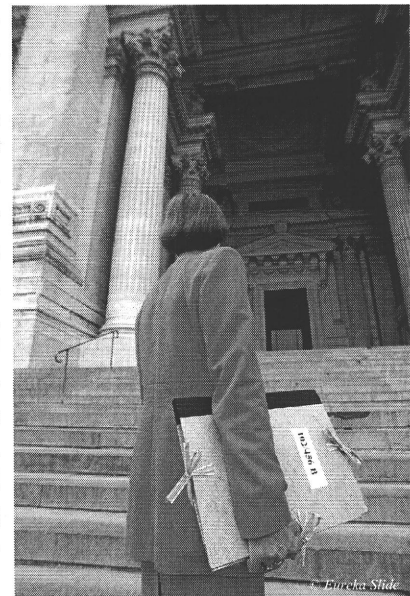
EEJ-Net gears up to take on cross-border consumer disputes

On 16 October, Commissioner David Byrne launched the European Extra-Judicial Network or EEJ-Net that will go into action all over Europe. The network aims to encourage and facilitate out-of-court settlement of consumer cross-border disputes. In a Europe without borders, you could live in Italy, get your teeth done in Germany, buy a hairdryer in Spain and books from the internet. But, if something goes wrong with the product or service you have purchased - suppose it is not delivered - what can you do about it? Legal fees are expensive and language differences could make you feel that it would all be too difficult. As a result, most cross-border consumer disputes are never followed up.

The EEJ-Net plans to change this situation through a series of "clearing-houses" in each Member State. Bringing a number of existing EU "alternative dispute resolution" (ADR) systems into the network, the EEJ-Net will complement and reinforce the recently launched Financial Services complaints Network (FIN-NET) for resolution of consumer complaints on financial services. The EEJ-Net will deal with all other consumer disputes and at the same time, will give consumers access to the kind of information that will allow them to make informed choices on how best to proceed.

All systems ready to go in the Member States

There has been an enthusiastic response to the initiative throughout the EU. All of the Community Institutions including the European Parliament have been involved and supportive throughout the planning stage. Most Member States have set up clearing-houses, in many cases using their national European Consumer Centre (sometimes called a Euroguichet) as the most appropriate location for the service. Others will do so in the near future. Belgium, the Member State that holds the current EU Presidency, plans to open its European Consumer Centre on the 16 October and to declare it the national clearing house for Belgium. Norway and Iceland are participating as well and the Commission is looking at ways to bring enlargement candidate countries into the network.



CEE: XXIV/14

The EEJ-Net guarantees
7 specific principles:

- **Independence:** ensuring the impartiality of its decision making body;
- **Transparency:** providing clear information including procedures, possible costs and outcomes, and publishing decisions taken;
- **Adversarial:** enabling all parties to present their case, and see the arguments and facts put forward by the opposing party, and any experts' statements;
- **Effectiveness:** ensuring the consumer is not obliged to use a legal representative, the procedure is free of charge, or of moderate cost, decisions are made quickly and the body plays an active role, considering any factors that may lead to a settlement;
- **Legality:** guaranteeing the decision taken by the body does not deprive the consumer of the protection of the law of the state where the out-of-court body is established or, in cross-border cases, the law of the state where the consumer normally lives;
- **Liberty:** ensuring that the decision taken by the body may be binding on parties only if they accepted in advance that the decision would be binding, and that consumers are not obliged as a condition of purchase to use ADR, depriving them of the right to bring an action before the courts;
- **Representation:** ensuring the parties have the right to be represented or helped by a third party.

A conference held in Lisbon in May 2000 started the ball rolling on the initiative by bringing national authorities, out-of-court bodies, experts and stakeholders together. They began by sorting out the practical and technical details that would make the network functional. Since then, the Commission and Member States have worked hard together to get the network established. Numerous expert meetings were held to ensure coherence and cooperation throughout the EEJ-Net and to establish minimum functions and operational guidelines for the Clearing Houses. The result of all this work is in the form of a Memorandum of Understanding (MoU), needing only the final touches in the run-up to the starting date.

Businesses have just as much to gain from the EEJ-Net as consumers

While the EEJ-NET is aimed at creating an Internal Market environment that consumers in general can have confidence in and benefit from, the network has an equal importance for businesses, especially small and medium sized businesses (SMEs). As in the case for individual consumers, small traders can expect their problems to be treated with rigour, fairness and independence. If the network is to be fully effective, both consumers and businesses need to understand the benefits of the system.

For businesses to take full advantage of the network, they should sign up to one of the ADR schemes allied to the EEJ-Net. They can then market their product with the additional benefit to the consumer that any purchase is covered under the scheme. As more companies take advantage of the network, they will in effect be promoting cross border consumption in an atmosphere of consumer confidence. Those who hesitate to shop on-line for example, might feel more comfortable about trying virtual shopping if the website gives details of its participation in an ADR, showing willingness and commitment to give satisfaction to the customer should a problem arise.

There are many ADRs currently operating in the EU but the way they deal with complaints can vary greatly. The outcome of dispute settlement can also be very different from one to another. The Commission hopes the EEJ-Net will bring coherence to these differing systems by establishing a number of principles that define minimum guarantees that each ADR will agree to when it becomes part of the network.

EEJ-Net will have a flexible evolving structure

To turn the potential inherent in the EEJ-Net into a successful functioning reality will take time and knowledge gained from experience. This is why a review process is built into the ongoing evolution of the service. A great deal of good will and serious intent backs the launch of this initiative and the start up costs are solidly financed with a combination of Commission and Member State funding. But there is also a built in mechanism to allow for flexibility and for structures to evolve and grow and for ways to develop that will allow the network to become self-funding. October will see a practical framework in place that will allow the potential of ADR for resolving cross border disputes to be fully exploited. Not a system set in stone, but one that is adaptable and ready to meet new challenges.

To find the full text of the Council Resolution on a Community-wide network of national bodies for the extra-judicial settlement of consumer disputes, go to: http://europa.eu.int/comm/consumers/policy/developments/acce_just/acce_just07_cr_en.pdf

To find further details on the 7 principles contained in the Commission Recommendation on the principles applicable to the bodies responsible for out-of-court settlement of

consumer disputes (98/257/CE), go to: http://europa.eu.int/comm/consumers/policy/developments/acce_just/acce_just02_en.html.

To find details on European Consumer Centres or Euroguichets, go to: http://europa.eu.int/comm/consumers/policy/euroguichets/index_en.html

Integration of health into other policy areas

It is debatable whether delegates to the European Health Forum in Austria on 28 September had much opportunity to avail of the fresh mountain air of Bad Gastein, although it was generally felt to add a welcome dimension to what was an intense and thought provoking session. At issue was how health could be integrated into other policies across Europe. Described by Commissioner David Byrne as “uncharted territory” in his contribution to the debate, he then mapped out three themes that he maintains are central to the debate and that could provide guidelines for the way forward.

Good governance at the centre

Elaborating on these themes, the Commissioner spoke of the link between effective health policy and good governance from the viewpoint of the citizen. “Increasingly,” he said, “they [citizens] will judge us and the value of our systems of governance, by our ability to place their health and wellbeing at the centre of other policies.” Speaking of his own responsibilities as the first designated European Commissioner for public Health, he painted a broad picture describing the current flow of Commission proposals from tobacco and blood safety to emerging antimicrobial resistance policies. New proposals on Zoonoses are expected to make a significant impact on the control of salmonellosis and campylobacter. Proposals for a dynamic Health Action Programme are expected to be agreed before the end of the year, allowing many crucial strategies to forge ahead.

Who drives health policy development?

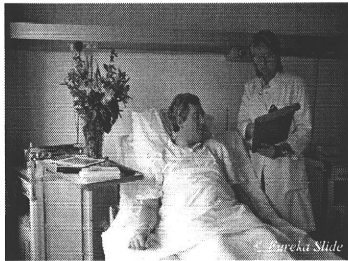
Introducing his second theme, the Commissioner questioned who sets the rules of policy? Is it the emerging health scare, the political and economic activism of summits, campaigns and protests, or is it the increasing judicial activism of the Courts? On familiar ground, the former Attorney General of Ireland analysed the impact recent European Court of Justice judgements on crossborder healthcare have had on community policy. “Without a doubt,” he said, “the Courts have played a definitive role in European integration.”

Speaking of the pressure, coming from “a formidable coalition of policymakers, patients, providers and indeed judges”, to clarify where European health-related policies are heading, the Commissioner called on the Member States to respond to the challenges and to identify what needs to be done. He urged the Member States and the Community to work together in a partnership. One that clarifies, coordinates and drives public health policy - a form of dynamic-activism. This, he believes, is how policy should be formed.

Enlarging the health perspective

International health issues, the Commissioner stressed, have also played a major role in setting the Community agenda. In a strategic partnership with the World Health Organisation (WHO), future cooperation on a range of shared priorities is being





■ Making the Internal Market a reality for consumers

Consumers organisations from the Member States and candidate countries will get together in Brussels with the Commission for two-day conference on the 18 and 19 October. In what has become an annual event, this year the assembly will open a debate on how consumer organisations can help to make the Internal Market a reality for consumers.

worked out together. These include global action on tobacco control, tackling communicable diseases and raising the profile of mental health. Enlargement of the EU presents other challenges that must be met and they must be anticipated now.

The areas to be covered may be broad, but Commissioner Byrne's main concern is to put the patient first, retaining a system that offers maximum health protection. "A clear eye should be fixed, on the concerns of healthcare purchasers and providers regarding the rising drugs bill," he affirmed. "We have to find cost effective solutions that will also stimulate competition, improve patient care and motivate innovation."

Furthermore, any policies developed in the public health area, must fit within sustainable development criteria. Some priorities have been marked out for action in this context, such as making the European Food Authority operational rapidly and creating a European capacity to monitor and control outbreaks of infectious diseases by 2005. A measure that will go a long way to meeting that challenge is development of the communicable disease network.

Meeting the challenge will have significant impact

"Placing health at the centre of other policies is a significant political challenge," he said, adding that how we respond to this challenge in the years to come, will affect not only the machinery of health policy, but the health of our political machinery. This will affect decision-makers at European, national, regional and local levels. And it will directly impact upon our traditions of social cohesion and effective government in the coming years.

For the full text of Commissioner Byrne's speech, please go to: http://europa.eu.int/comm/dgs/health_consumer/library/speeches/byrne_en.html

Launch of the 2001-2002 European Young Consumer Competition

The Commission has just launched the 2001-2002 Young Consumer Competition. The theme for this year is the changeover to the euro and the first prize, a surprise trip. Participants will design and organise activities that will explain the changeover to the euro in practical terms. They can target other schoolchildren, families, friends, neighbours or pensioners. In non euro-zone countries, participants can produce a magazine, video, CD-ROM or Internet site that deals with at least three consumer issues. Each Member State draws up its own entry rules and national juries each award up to nine prizes to the best entries.

The first prize-winner goes on to compete at a Europe-wide level, where their entries are assessed by an adult and a young jury. All entries are judged on originality, creativity, the depth of the research carried out, the quality of the finished product and on how effective the design has been in spreading the message to the greatest number of people possible. For more information about this year's competition you can contact the DG for Health and Consumer Protection at: e-mail: sanco-mailbox@cec.eu.int