



Malta-EU Steering & Action Committee

COMPETITIVENESS AND CONSUMER AFFAIRS



13.07.09

Single Market

C (2009) 4728 – Commission Recommendation of 29.6.2009 on measures to improve the functioning of the single market

This is a recommendation by the Commission on what can be done to improve the single market. The Commission recommends that the Member States:

- Ensure and strengthen a single market coordination function and to act as a reference point for the single market within the administration;
- Facilitate active cooperation between administrative authorities responsible for single market issues in different Member States, and with the Commission;
- Take all necessary measures to improve the transposition of Directives affecting the single market;
- Support the Commission's work on market monitoring and related data collection by actively contributing to the exercise at the Community level, and, if relevant, by considering similar exercises at national level;
- Ensure that national authorities and officials have sufficient knowledge of Community law in general and of single market rules in particular to efficiently apply single market rules and where relevant, take these rules into account when preparing and introducing new national legislation;
- Facilitate and encourage a quick and efficient resolution of problems encountered by citizens and businesses in exercising their single market rights by in general, taking measures to improve the enforcement of single market rules, and in particular, by ensuring that the judiciary has sufficient knowledge of Community law including single market rules, and by providing sufficient support to problem-solving mechanisms;
- Carry out regular evaluation and assessment of national legislation to ensure full compliance with single market rules;
- Enhance the provision of practical information on single market issues to businesses and citizens;
- Examine the measures and practices set out in the Annex to the Recommendation and, having regard to their national institutional traditions, adopt those practices that will, or can be expected to, lead to an improvement in the functioning of the single market and are best suited to implement the Recommendation;



Malta-EU Steering & Action Committee

- Cooperate with the Commission and other Member States in monitoring the implementation of the Recommendation, inform the Commission of actions taken in implementing this Recommendation on a regular basis and provide a final report to the Commission after three years from the publication of the Recommendation.

Active substances

COM(2009) 369 - Proposal for a Council Directive amending Council Directive 91/414/EEC to include tetraconazole as active substance

Following an assessment on the effects on human health and the environment of tetraconazole, it appears that plant protection products containing tetraconazole may be expected to satisfy, in general, the requirements laid down in Article 5(1) (a) and (b) of Directive 91/414/EEC which regulates the placing of plant protection products on the market.

Hence, the Commission deems it appropriate to include tetraconazole in Annex I of the Directive and is thus proposing that the Directive be amended to this effect.

Inquiry Report on the Pharmaceutical Sector

COM(2009) 351 – Communication from the Commission Executive Summary of the Pharmaceutical Sector Inquiry Report

This is a Communication from the Commission on the findings of the sector inquiry on competition in the pharmaceutical sector.

The report concludes that market entry of generic drugs is delayed and there is a decline in the number of novel medicines reaching the market. The sector inquiry suggests that company practices are among the causes, but does not exclude other factors such as shortcomings in the regulatory framework. As a follow up, the Commission intends to intensify its scrutiny of the pharmaceutical sector under EC antitrust law, including continued monitoring of settlements between originator and generic drug companies. The report also calls on Member States to introduce legislation to facilitate the uptake of generic drugs.

Anti-dumping measures

COM(2009) 347 - Proposal for a Council Regulation Imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of wire rod originating in the People's Republic of China and terminating the proceeding concerning imports of wire rod originating in the Republic of Moldova and Turkey

In May 2008 the Commission initiated an anti-dumping proceeding concerning imports of wire rod originating in the People's Republic of China (PRC), the Republic of Moldova (RM) and Turkey. By Regulation (EC) No 112/2009 the Commission imposed provisional anti-



Malta-EU Steering & Action Committee

dumping duties on imports from the PRC and RM. No anti-dumping duties were imposed on imports originating in Turkey, since these imports were found not to have caused injury to the Community industry.

The definitive findings on dumping, injury, causation and Community interest confirmed the provisional findings regarding imports from the PRC and Turkey, while it was found that imports originating in the RM did not cause injury to the Community industry. In addition, based on additional data collected from interested parties, the dumping and injury margins were revised.

Thus, the Commission is proposing that the Council adopt a Regulation in order to impose definitive measures on imports from the PRC.

Consumer complaints

COM (2009) 346 - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a harmonised methodology for classifying and reporting consumer complaints and enquiries

This Communication sets out the merits of using consumer complaints as a key indicator of internal market functioning. It shows the limitations of the complaints data currently available and the huge potential benefits of harmonising complaints data. To this end, the Commission believes that all third-party organisations collecting consumer complaints in the EU should voluntarily adopt a harmonised methodology to classify and report the resulting data. The idea is to ensure that organisations across the EU collecting consumer complaints can use a comparable classification method and then report their data to the Commission. The analysis of the EU-wide data will be a powerful way to help assess how different sectors and national markets are performing for consumers, and enable authorities at national and EU level to more quickly and effectively target markets which are failing consumers.

The Commission has identified a structure of the harmonised methodology. The draft methodology consists of three sections made up of recommended and voluntary fields for collecting data. Section 1 will cover general information about the complaint, section 2 sector information about the complaint, and section 3 information about the type of complaint.

The Commission has launched a public consultation¹ on the draft harmonised methodology. The deadline for comments is 05/10/2009. After collecting and analysing feedback from the consultation, the Commission will recommend the final version of the methodology.

¹ For consultation go to:

http://ec.europa.eu/consumers/strategy/complaints_en.htm



Malta-EU Steering & Action Committee

Anti-dumping measures

COM(2009) 339 - Proposal for a Council Regulation Terminating the partial interim review of the anti-dumping measures applicable to imports of certain plastic sacks and bags originating in the People's Republic of China

In July 2008 the Commission initiated a partial interim review limited to dumping for one exporting producer of certain plastic sacks and bags originating in the People's Republic of China upon the request of the exporter concerned. In March 2009 the company concerned withdrew its request for a review. Upon consideration of whether it would be warranted to continue the investigation *ex officio*, it was concluded that the review should be terminated. Thus the Commission is proposing, by means of this proposal, that the Council adopt the Regulation terminating the partial interim review.

Enforcement of the consumer acquis

COM (2009) 330 – Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the enforcement of the consumer acquis

The 493 million consumers in the EU are central to the effective functioning of the internal market. Consumers must be confident that in asserting their rights they are backed by the threat of enforcement. Effective enforcement is therefore a priority for consumer policy. It is also central to the functioning of the single market and is a Commission priority for the years ahead.

European consumers remain reluctant to reap the benefits that market integration provides. One reason for this is that consumers do not feel confident that their rights will be equally protected when buying abroad. In a single market, consumers should not be concerned with where a trader is established since it should not influence the level of protection against unfair commercial practices. A particular challenge for the EU therefore is to secure a consistently high level of enforcement across its territory.

Within the range of activities aimed at ensuring compliance with consumer protection rules enforcement by public authorities occupies a central role because it underpins all other strategies and is a prerequisite for their success.

Given the current global economic downturn, strong and consistent enforcement is all the more important as the crisis leads to increased consumer vulnerability and low compliance levels may lead to additional consumer detriment. In addition, effective enforcement strengthens consumer confidence weakened by the crisis which contributes to consumer spending as a key driving force of recovery.

The purpose of this Communication is to take stock of ongoing Commission work and to explore the potential for future initiatives in the context of a comprehensive analysis of enforcement related activities.



Malta-EU Steering & Action Committee

It focuses on the challenges to effective enforcement and possible solutions. These are:

- Developing stronger and more effective cross-border enforcement cooperation
- Mechanisms;
- Strengthening transparency and visibility;
- Improved knowledge sharing and developing a common understanding of rules;
- Better market monitoring (developing an evidence based approach);
- Stepping up international cooperation; and
- Supporting enforcement by providing consumers with more information (“Informed consumers are empowered consumers”) as well as adequate means to seek redress

The Commission concludes that both the Commission and the national enforcement authorities need to increase efforts to meet today's complex challenges, if the Union is to attain the objective of achieving the highest level of consumer protection within the European Union and furnish consumers with the confidence to exploit the single market to its full potential.

New guidance on active implantable medical devices

The Commission has adopted an interpretative document aimed at guiding a uniform practice throughout the EU regarding medical devices. The document aims to guide a uniform practice regarding the essential requirements which medical devices must satisfy in order to be lawfully placed on the market, the corresponding conformity assessment procedures, and the classification of devices. It addresses important issues such as the compliance of medical devices with the new requirements and the evaluation by Notified Bodies according to the new requirements.

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Commission publishes 2008 statistics of Customs actions to enforce intellectual property rights at the EU's external border

Statistics published by the European Commission relating to goods infringing intellectual property rights (IPR), show a significant increase in customs activity. In 2008, customs registered over 49,000 cases of goods detained at the EU's external border, suspected of IPR infringements. Compared with 43,000 cases in 2007, this increase shows a further strengthening in cooperation between customs and industry, enabling customs to better target suspected shipments and to recognize IPR infringing goods. The number of articles detained more than doubled in 2008 to 178 million, of which about 20 million were potentially dangerous to the health and safety of European consumers.

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Malta-EU Steering & Action Committee

ANTI-TRUST

Commission fines E.ON and GDF Suez €553 million each for market-sharing in French and German gas markets

The European Commission has imposed fines totalling €1 106 000 000 on E.ON AG and its subsidiary E.ON Ruhrgas AG (of Germany) and on GDF Suez SA (of France) for market sharing in breach of EC Treaty rules on cartels and restrictive business practices (Article 81). E.ON/E.ON Ruhrgas and GDF Suez are fined €553 000 000 each. Ruhrgas AG (now E.ON Ruhrgas, part of the E.ON group) and Gaz de France (now part of GDF Suez) agreed in 1975, when they decided to jointly build the MEGAL pipeline across Germany to import Russian gas into Germany and France, not to sell gas transported over this pipeline in each other's home markets. They maintained the market-sharing agreement after European gas markets were liberalised, and only abandoned it definitely in 2005. These are the first Commission fines imposed for an antitrust infringement in the energy sector.

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Commission opens formal proceedings against Les Laboratoires Servier and a number of generic pharmaceutical companies

The European Commission has decided to open a formal antitrust investigation against Les Laboratoires Servier for suspected breaches of the EC Treaty's rules on restrictive business practices (Article 81) and on abuse of a dominant market position (Article 82). The decision to open proceedings also concerns a number of generic companies including Krka d.d., Lupin Limited, Matrix Laboratories Limited (subsidiary of Mylan Inc as of 28 August 2006), Niche Generics Limited (subsidiary of Unichem Laboratories Limited) and Teva UK Limited / Teva Pharmaceutical Industries Limited, as regards a number of individual, possibly restrictive, agreements between each of them and Servier. The opening of formal proceedings follows unannounced inspections carried out by the Commission in November 2008 in several Member States. The Commission proceedings concern unilateral behaviour by Servier, and agreements which may have the object or effect of hindering entry on to the market of generic perindopril, a cardio-vascular medicine originally developed by Les Laboratoires Servier, on the EEA markets.

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