

## **Consumer policy in the digital world**

Statement by the Scientific Advisory Board on Consumer and Food Policies at the Federal Ministry of Food, Agriculture and Consumer Protection

### **ABRIDGED VERSION**

The digitalisation of many areas of life has presented consumer policy with a number of new challenges. Protection and transparency must be ensured, as must participation and access. The digital world calls for consumers who do not regard themselves as victims of the changes but who instead use the opportunities on offer and participate in shaping the changing world. Consumer confidence and consumer skills remain the fundamental basis of consumer policy. Enabling consumers to be active market participants in the digital world goes far beyond the conventional ideas of protection and prevention.

When looking at the effects of digitalisation on consumer policy, mention must be given to two particularly important areas.

#### **1. Information generation, search, transfer and exchange: Consumer skills**

There are profound differences between electronic and traditional communication in the areas of time / speed, scope / quantity and in respect of the related transaction costs. The advantage of digital communication being very reasonably priced is offset by the necessity of having technical equipment. Consumers are exposed to a wide variety of information, forcing them to concentrate on the essential information, filter the information and to assess the quality of the information. Finally, the "data traces" left behind when using and processing the information also play an important role. If data are read via cookies or copy-protection programs without consumers noticing, this will directly affect people's privacy, including the protection of personal data.

#### **2. Supply and demand of goods and services: Consumer confidence**

In the digital world, there is a new arrangement regarding the initiation and conclusion of contracts, performance and consideration. From the consumer's point of view, familiar processes and patterns, e.g. regarding the conclusion of contracts and payment, lose in importance. New behavioural patterns have to be learned.

In respect of the use of digital trade, the largest obstacle facing consumers is the security which, despite the various encoding and signature procedures which have already been developed, remains inadequate in the area of digital payment transactions and the transfer and use of personal data. These problems are exacerbated by the transgression of national boundaries ("cross-border"), boundaries which have practically no meaning in the digital world.

Screening, i.e. generating customer profiles using transmitted personal data, greatly reduces protection of personal privacy, and consequently of an individual's ability to determine what happens to information. Added to this is the fact that consumers remain exposed to actions taken by the supplier, even long after the actual act of concluding a contract, e.g. via so-called "after-sales" instruments.

Furthermore, the digital world has long since spread beyond direct E-business into the conventional consumer world, e.g. via bonus and discount systems which can digitally record and store customer

data and analyse the data and the commodity flows (“tracking”). Another aspect is the advent of RFID technology which enables product-specific data to be recorded even less noticeably, without even contacting the customer.

These developments mean that consumer policy faces a number of challenges; it is for instance necessary to prevent or reduce areas where there are asymmetries of information, or where there is a lack of transparency. The openness of the digital world means that the expediency of traditional governmental regulations based on prohibitions and requirements is limited; clarification is required regarding the extent to which self-regulating bodies could have a sufficient effect in this area. Finally, it is crucially important that incentives are created to develop reputation and consumer confidence, in order to avoid consequences which are to the detriment of all reputable market participants.

Skill and confidence in the digital world can only be successfully gained or regained if consumer policy formulates guiding principles and aligns instruments accordingly.

Such guiding principles include:

- Creating transparency to reduce asymmetries of information
- Creating media skills for the profitable use of digital media
- Interoperability, in order to be able to choose between individual products and services without being subject to restrictions imposed by hardware or software.
- Guarantee of fair and just access so that the digital world is not divided into “users” and “losers”. This risk exists if the obstacles imposed by technology are too great and if there is a lack of corresponding media skill.
- Data sovereignty, i.e. digitally available consumer data may not be used without consumers’ consent.
- Safeguarding use, i.e. the development of commercial legal protection must not result in a situation where incorrect use leads to consumers being criminalised.

Digital consumer policy has a variety of means and instruments at its disposal.

- **Risk-adjusted information policy:** What is needed is a preventative policy which secures consumers the use of the digital world. Greater consideration must be given to groups in need of protection (e.g. children) which are particularly exposed to the risks of the digital world. There is an ongoing necessity that consumer protection is systematically linked with data-protection law.
- **Training media skill:** It is the task of consumer policy to ensure that consumers have the knowledge to deal with digital media.
- **Informed choice and responsible innovation:** Responsible innovations are necessary in order to provide information on existing instruments of protection and to bring about a situation where the market has transparent structures and the responsibilities of the people involved are clear. This means that information must already be provided - e.g. via consultation processes – while new systems and technologies are still at the development phase.
- **Open access:** Today, access to the digital world is as significant as provision with the necessities of life and cannot be achieved without the use of governmental political instruments.
- **Fair use:** It is alarming that legal development is moving towards a greater criminalisation of consumers who infringe copyright law without intention, without any commercial interest of their own and often by mistake.
- **Combating bad business practices:** Greater investment in legal enforcement is necessary in order to eliminate improper business practices.

Only competent consumers who enjoy sufficient protection and who have confidence in their rights will use the potential of the digital world effectively enough for them to develop themselves to their full potential - for the benefit of all: society, consumers and industry.

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