



The Secretary General

Mr. Günter Verheugen
Vice President of the
European Commission
200 Rue de la Loi
B-1049 Brussels

Brussels, 3 October 2006

Orgalime comment to the Commission Questionnaire on a possible review of the consumer sales Directive and on direct producers' liability.

Dear Commissioner,

Orgalime, the European Engineering Industries Association, speaks for 35 trade federations representing some 130,000 companies in the mechanical, electrical, electronic and metalworking industries of 24 European countries. The industry employs some 10 million people in the EU and in 2005 accounted for some €1,598 billion of annual output. The industry not only represents more than one quarter of the output of manufactured products but also a third of the manufactured exports of the European Union.

Orgalime views with trepidation that the Commission, in its review of Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees, is examining the case for introducing, at Community level, direct producers' liability. We strongly oppose any considerations of amending Directive 1999/44/EC in this respect and believe that there is no need for introducing direct producers' liability. We are worried that this would considerably harm the competitiveness of the European economy and furthermore discriminate European companies vis-à-vis their non-European competitors that would not need to operate under such conditions.

We find it highly doubtful whether the introduction of direct producers' liability would in any significant way motivate consumers to purchase goods across borders, and thus the contribution to the integration of the internal market would be marginal. Furthermore, it is common practice today for many products, especially for ones with high value, to provide "world wide guarantees" with which the needs of consumers are sufficiently satisfied. Against this background we urge the Commission to consider the negative impact such a measure would have. We believe that it would seriously affect B-2-B sales by creating difficulties for the relations between the companies in the distribution chain. Furthermore, it would mean a significant deviation from the principle of *privity of contract*, which is a basic principle of contract law and ensures that a contract will only create rights and obligations between the parties of the contract.

Finally, we question whether consumers would have any advantages by having a right of direct claims. We fear that the contrary might happen, since increasing the liability risks of manufacturers would rather lead to additional costs - e.g. for additional insurances, setting up infrastructures for dealing with claims for defects, other transaction costs - which in the end will have to be borne by the consumers.

A copy of the present letter has been sent to your colleagues Commissioners McCreevy and Kyrianiou. We thank the Commission in advance for taking due account of our concerns.


Adrian Harris

Cc DG Enterprise and Industry: Mr Zourek, Ms Le Bail, Messrs Ayral, Weissenberg, McMillan, Montoya, Jenkinson.