

NEW CONSUMER PROTECTION WEB –CONSUMER PROTECTION IN REFLECTION OF INDEX NUMBERS

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Convergence is the common condition of the prevalence in a real, single internal market in every economic integration. The fact is also true for the European integration. There are such simplified, globally applied pure economic indices, which are able to reflect a phase, extent and an efficiency rate of convergence, i.e. the preparedness and performance of a certain member state can continuously be compared through them (e.g. indicators of the Maastricht convergence criteria) Opposed to them there are several regulation areas which require a high scale of harmonization and approximation of law however it is still impossible to determine which phase convergence exactly is in, what stage approximation of law is in, how effectively implementation will meet expected regulation levels. The real rate of consumer protection is of such nature and it is characteristic for the field of consumer protection too. It will be examined in my just launched research. That is the reason why a proposal is made on the release of missing index numbers which are characteristic of single nations, and can similarly be revealed and summoned from data.

1. INTERNATIONAL APPLICABILITY OF CONSUMER PROTECTION INDICES

Due to enforcement of consumer law and product harmonization efforts of product responsibility, all consumers have almost identical law enforcement rights elsewhere in the European Union. We also query whether the implementation efficiency rate of these laws, fundamental rights, their applicability are similarly reflected in practice

What visible signs or measurable data our assumption is based on?

In my opinion convergence in the European Single Market has also reached such a level by now where a comprehensive, index inducing method is unbearable in order to improve a 'universal' mechanism for consumers. Indices can therefore become universal, protective means of this process because the existing differences can only be perceived and compared (more precisely than the current reference figures).

Approximation is necessary to reach a single consumer protection practice instead of the existing differences in certain EU member states. The efficiency rate of a move from a minimal harmonization level towards a 'total/entire harmonization' can only be implemented if performance rate is measurable and comparable... My aim is to express a harmonization measure and direction i.e. to express tendency changes from indices characteristic of certain nations.

In order to reach an absolute purchase confidence by the EU consumers (using the benefits of a single internal market) they need to have guarantees.

Consumers should have equal protection in the territory of the entire EU and businesses are also interested in a single regulation. Executional co-operations have at the same time legal and practical obstacles which should be terminated. (While there is a coordination on European level, supervision of compliancy with rules falls in the scope of national, regional or local competency.) Those authorities which are responsible for keeping the rules of product security are one of the key factors of the operation in the internal market. A single operation is supported by IMSN) International Marketing Supervision Network) which is involved in information change of cross border commercial activity and promotion of international cooperation between executive bodies of member states. IMSN Europe, the European branch of the organization was established to promote cooperation. A database is provided to support cooperation against unfair contractual conditions. Gathering, assessing, exchanging data is operated within 'RAPEX', a rapid information system relating to the security of goods and services.

These achievements can be strengthened further if consumers knew their protection level expressed in complex indices (comparable with other nations), the rate of their protection. That is the reason why they belong to my research targets to make indices be suitable for the above mentioned comparison.

2. THE ROLE OF INDICES IN THE MEASUREMENT OF ETHICAL PERFORMANCE OF BUSINESSES

Ethical view of businesses, interpreting strategic management (integrating consumer obligations too) can be described in four development phases:

1. Social obligation – to operate in the current ranges (e.g. with keeping consumer and production protection rules)
2. The ability to renew and meet social needs – researching for needs of a society, to survive through providing services and grow within the legal frame of competitive regulation.. The major means of acquiring and sustaining competitive advantages are interwoven. They are presumable and the interest of consumers is served by them (protection of industrial right and patent right consumer protection, as well as purity and fair competition attached to competitive law consumer protection are managed with great emphasis in current research).
3. Social responsibility – remaining within the current legal scope, balancing social expectations (not only individual consumer ones) considering them.
4. Social commitment – meeting social expectations on one hand and legal ones on the other hand and strive for applying such principles a society can be advanced by.

Responsibility is conceived as a social commitment in corporate level in one of the spectrum, which is exclusively regulated by laws. It gets then into such a sphere which are not regulated by accepted social norms, values and legally not sanctioned expectations.

There is such a corporate behavior, which violates existing ethical demand, decisions are considered from a point of future view, and an advance ethical regulation is made by them.

Do we exactly know where these development boundaries are? If performance, reached in certain phases, can not be measured, no milestones, no break-through points can be attached to them. Corporate, branch or macro level ethical performance does not contain any information without the application of index numbers. No references can be made, managed, so results in a comparative analysis do not provide expected information.

The above model is a demonstrative one, which illustrates how hard it is to define the turning points, ethical view behavioral evolutionary phases of a corporation. It is even harder to interpret and define them. The knowledge of these phases and measurability of certain phases is undoubtedly an existing factor in international interpretation as well. Validity of applied notions can also be extended on macro level. The fundamental issue of my research demonstrates that consumer protection can be measured (even in such preparation phases) and it can be compared in international relations as well.

The effect of the government regulation 151, issued on 22 September 2003, excellently illustrates how important it is to measure the performance of business ethics. Product safety, product liability, quality protection (indemnity) are regulated in such a way that traders are provided a certain prolonged period in indemnity procedures and consumers are unable to enforce their rights i.e. the 30 day indemnity obligation is exchanged by a concessive principle which says "indemnity claim on behalf of the consumer should be strived for". It is not exactly clarified in which cases a consumer is entitled to have a product repaired, exchanged, to be refunded, to a discount or desisting from a contract. The latter one remains in the scope of a trader until a court decision is made for the good of a consumer. (It is a well known fact that it does not mean any return of money or time for the consumer; in particular when the value of the mentioned products is taken into consideration. All that results gaps in product safety, product liability and indemnity and there remains only one single way for cost consuming post-treatment. A deficit in prevention can be mentioned e.g. Hungarian traders are not mature enough to apply it opposed to their Western-European counterparts. The difference is to be exactly determined by the measurement of their ethical performance if they were published and prevailed in consumers' decisions, it would mean a warning force for suppliers from abuse.)

3. COMPARABILITY WITH OTHER CONSUMER INDICES AND THE RESULTS OF OTHER SCIENTIFIC BRANCHES

The extended system of consumer studies serves several business, institutional and statistical targets, and several sciences use the results of these studies as information basis. These results can only be compared with each other without distortion if they can be expressed with interpretable, administrable and accurate indices.

Continuous attention and measuring are devoted to the following fields of consumer studies: consumer motivation, attitude, needs, demands, consumer behavior, consumer gain and value, the acceptance of innovations, consumer satisfaction, consumer loyalty, brand loyalty, points of sale, consumer expectations, acceptance of price, media mix, use of media, and also consumer risks, risk management methods and ways of living, etc.

The following indices (within the studies of final consumption and end use, concerning the consumer indices per capita and the household consumption indices) are well-known and published regularly: Consumer Confidence Index (result of surveys conducted after each quarter, a complex index), Consumer Expectations Index, Consumer Value Index, Retail Price Index, Purchase Intention Index, General Purchasing Power Index per capita (→rather an international (regional) comparative, competitive, commercial index, which is suitable for expressing → the purchase power and → welfare), →scale of consumer control (→ significant index of the market position, showing the percentage of households, which purchased a →product line at least once during the given year), rate of consumer supply, purchasing frequency, buying intensity, rate of brand choice, rate of re-purchase, limits of consumer acceptance of price, limits of price, price sensitivity, indices dealing with consumer satisfaction (the source of satisfaction), or the scale and distribution of the daily energy uptake in food consumption, the elasticity of income and demand, and the factor of the price elasticity in demand, the price flexibility.

The above mentioned indices and the analyses carried out on the bases of these data can be compared with each other as well as with other economic and business indices and analyses; their information content can determine the prevailing and underlying relations between these numbers.

However, the indices system of consumer protection is missing from this list, thus its compatibility is not secured to the other fields of consumer studies.

With the creation of this missing indices system, the results of consumer protection studies can be introduced to the comparative and supporting analyses of other consumer studies [*], and also their application can become more simple and transparent for other sciences, such as social sciences (in jurisprudence it is able to move forward → codification and the dispensation of justice; demography, economics, sociology), or natural sciences (earth science-economic geography, regional sciences, mathematics-statistics, etc.).

[*] If consumers could see the level of their protection and the assumption of risk in one complex index (and thus they could compare it with other nations and regions), this index could correct and modify in the simplest, direct relation the majority of the above mentioned indices, for which its effect can be both advantageous and disadvantageous. Furthermore, in case of the Consumer Confidence Index (one of its components is the judgement of purchase conditions of consumer durables, which can be related to current consumer protection requirements and guarantees) we can count on a maintainable effect, because the Consumer Confidence Index (besides the Business Confidence Index) is the component of the (complex) Index of Business Activity.

The scope of the utilization of these indices can be integrated with other "decision making" areas, which closely affect the "protection of consumers", because there is a content overlap between these notions.

These overlaps are for example environment management, quality management, health protection – food safety, employee's satisfaction – decision making systems, which effect employee's loyalty, and marketing management, marketing communication and fields of international marketing.

After all, some of their most important issues also appear as questions of consumer protection, which is traceable in their way of thinking and their methodological basis.

4. FURTHER BENEFITS OF APPLYING CONSUMER PROTECTION INDICES, PARTICULARLY IN CROSS BORDER COOPERATIONS

The objective system of indices, which serves as the essence of research, contains all the legal branches of consumer protection regulations, since from the indices which derive from these legal spheres can the complex index be calculated, which embraces the whole sphere of regulations.

The effect of the indices applied both in national consumer protection and product liability regulations can be observed in two dimensions.

The first dimension is its influence on enterprises. The measurement of the intention to meet the requirements set out by regulations can serve as a driving force for the poorly achieving enterprises to try to close up with well achieving ones.

As for the second, international dimension, the measurement of the global regulation differences can serve as a driving force in regional development and closing up.

The unlimited spread of a "single" economic field was hindered by borders in the European Union as well, which resulted in a fragmented internal market structure loaded with protectionism through which cooperation outside the European Union was more intensively hindered. Obstacles were not completely eliminated by cross border cooperation, difficulties can still be observed in cross border relationships, free competition and in trade even on the Single Market. Objectives and expected results would be approached from dual perspectives, on one hand from the role of borders in cross border cooperation. They can be regarded as internal open borders within a Single Market which mean remaining restrictions, burdens i.e. regulatory, implementary "border lines", on the other hand they can be interpreted as external, strengthening borders of the European Union, concerning their regulation and implementation into practice.

Trade along borders, non business purchases for final use can also be approached from dual perspectives. It means the relationship of the business enterprise of two member states and consumers and that of the EU and bordering countries. Concerning the territorial application of consumer protection regulation is an essential difference.

The principle of four freedoms, meaning the base of the Single Market, serves the protection of well being of consumers, because it ensures the free movement of businesses, market competition is boosted by that. Due to the principle of integration theory, efficiency of economic cooperation rises and their positive effects can be perceived by consumers.

From the perspective of consumer protection it is a great controversy that the prevalence of special national regulations, the compounds of single goods should be eliminated (even then when we perceive that they serve the interest and protection of consumers) due to their restriction of free competition and free trade). Domestic producers suffer

negative discrimination compared to producers of other member states since it is not required from producers of other member states to apply these regulations.

To end similar controversies, the issue could be raised between national and European Patent Authorities, which regulatory direction serve the interest of consumers on the long run and their smaller risk.

In case the euroregions – like the organizations with the broadest jurisdiction which play a catalyst role in the unification process of Europe, help the cohesion and cooperation of the regions near the borders, span over national borders – aim to achieve their acknowledgement as such international interest enforcement units, which try to relieve the economic, social, cultural and other problems of the regions. For them, the system of consumer protection indices secures transparent and constantly available data build upon standard elements, which help them in objective comparison and can become the effective apparatus to illustrate consumer drawbacks and representation of interests.

Although the consumers of a member state do not enjoy “perfectly” equal consumer protection rights for products purchased or services obtained in another member state, the indices can help to overcome the insecurity and distrust which is rooted in this fact. This is possible since the indices help to compare the rate of the assumption of consumer risk and the level of protection in a transparent way within different member states.

5. THE METHODOLOGICAL BASE OF THE FORMATION AND USAGE OF THE CONSUMER PROTECTION INDEX SYSTEM

I suggest the formation of the Overall Consumer Protection Index based on the examination, measurement and aggregation of the following 8, highly important areas of regulation and assertion of rights:

1. The implementation of basic consumer rights, the operation of the institutional system serving consumer rights, of market surveillance and sanctioning
2. Product safety, product liability, protection of quality
3. Consumer protection in competition law
4. Consumer protection in the protection of industrial law
5. Consumer protection in trade mark law, brand protection
6. Consumer protection in advertising legislation
7. Giving information to consumers, labelling, packaging
8. Regulation of consumer contracts, and the conditions of contracting

I suggest a scoring between 1 and 1000 of the measurable performance on these areas of regulation and assertion of rights. I also advise the weighting of performances on different areas, taking into consideration which are the areas of high, growing or changing importance at the given time period (**). For example, if in the EU member states we can measure only low performance at a consumer protection area of high community priority, than this area has a privileged position in the catching up process,

independent of the other components or the measured value of the overall index of the member state.

[(**) For example, in the medium- and long-term consumer protection programmes of the EU, different preference ordering becomes valid and different priorities are realised in every planning cycle. This phenomenon can be explained partly by the development of the integration process and the process of EU expansion, and partly by the appearance of new sectors, new market structures and mechanisms, new commercial forms, new consumer customs and with all these, new challenges in consumer protection. Some of the challenges what we have to currently face are genetically modified food, food additives; legal, institutional and regulation harmonization in order to expand the Single Market of the EU; the assertion of consumer protection policies in the basic principles and practices of different community policies; growing consumer protection on the market of financial services, in e-commerce, in online marketing, in the general conditions of contracting with service providers and in the regulation of contracts which are concluded between two absent partners, etc.]

It is also practical to use the methods of scoring and weighting in the measurement of performances of different areas (that is, in the value calculation of the 8 components) in order to secure objectivity, comparability, standardization, transparency and being up-to-date. This calculation should be done by taking into consideration the specificity of the different components but for example, in an international comparison, by taking into consideration equally sized and universally named secondary components in every country.

[To display an example, in the areas of consumer protection in advertising legislation and in the protection of industrial law, the measurability of the following secondary components secures the objective calculation of the cumulative indices.

In the area of consumer protection in advertising legislation these secondary components are for example: the proportion of the amount of all the fairly published advertisements and the deceitful, consciously not perceivable, hidden, unfairly comparing advertisements / the proportion of all the consumer claims in advertising legislation and the amount of legitimate claims / the proportion of all the damages caused by unfair advertising and the amount of paid damages (fines) / the proportion (number) of artifice perceived by authorities and the number of artifice perceived by consumers, etc.

In the area of consumer protection in industrial law and in trademark law the secondary components used for index formation are for example: patents, sample protections for usage, industrial protections, trade-mark protections, the number of geographical marking protections (but only those, which serve the interests of the consumers besides those of the inventor). The proportion of all the protection notifications and those patents, which serve the interests of consumers in practice / the proportion of all the inventions and those inventions, which are known and used by consumers / the proportion of all the notified inventions and those inventions, which are accepted and meet the criteria of protection / the proportion of all the notified inventions and those inventions, which were notified in order to secure consumer protection, the health and safety of consumers, environmental protection and quality improvement of products /

the amount of loss resulting from invention and product faults and the number of accidents, etc.]

Besides being able to numerically compare the above mentioned secondary components, all the insufficiencies, the shortfalls in the assertion of rights or the defects in law – all expressed in a unified score value – are deducted from the maximum 1000 points.

Naturally, it is worth to correct the indices of an international comparison based on the specificities and the temporary results of the single member states.

The index system which shows the changes of tendencies, that is, the rate and direction of consumer protection harmonisation, can contribute to the efficiency of the highly significant “better regulation”, which was outlined in the Lisbon Strategy. This is why in my future research I am going to focus on the possibility of complete harmonisation in consumer protection and the utilisation of indices in this process; and the role of these indices in the improvement of the Single Market, which is one of the most important objectives of the Lisbon Strategy. However, we have to harmonise the realisation of these objectives with the growing significance of the principle of subsidiarity, which in a way hinders unified measurability and the complete harmonisation of this legal scope, since the regulation of consumer protection can be found under the title “shared competences” in the Constitutional Treaty (Constitution for Europe). In accordance with this, the member states have to meet the above mentioned challenges on a centralised, regional or local level; however, the principle of subsidiarity also means that some of these tasks can be better realised on the level of the EU because of their scope and effect.

I believe that unified consumer protection, the assurance of their unified assumption of risks belong to this group of tasks.

In several fields, measurability can contribute to the assertion of the so-called “precautionary principle” in a positive way.

Finally it is important to mention the fact that the formation and usage of the consumer protection indices can efficiently help the work of the European Committee for Standardization (CEN) and the realisation of objectives set out by the consumer protection programme of the EU for 2007-2013.