



## **Public consultation on EU funds in the area of investment, research & innovation, SMEs and single market**

### **Supplementary ANEC commentary**

#### **Summary**

As the European consumer voice in standardisation, ANEC ensures the voice of consumers from 34 countries is heard in the development of European Standards. Although the three European Standardisation Organisations<sup>1</sup> – CEN, CENELEC and ETSI – are private organisations, European Standards take on a legal effect in supporting the implementation of EU product legislation and other public policies. Furthermore, through the Single Market Strategy<sup>2</sup>, the European Commission intends to use European Standards to broaden and deepen the Single Market for Services.

Given the scarcity in Member States of technical experts able to represent the consumer interest in standardisation work, ANEC brings together those experts who do exist and defines collective positions which it then conveys to CEN, CENELEC and ETSI in the development of their standards. In this way, ANEC helps bridge the “democratic deficit” that exists in the development of European Standards, especially in ensuring representation of vulnerable consumers (children, older people, and persons with disabilities). However, this can be done only with financial support from the EU (and EFTA). Indeed, the ANEC budget of 1,4M€ (constant in money terms since 2004) arises solely from funding from the EU (95%) and EFTA (5%), under Regulation (EU) 1025/2012<sup>3</sup>. Private trusts and foundations do not consider it their role to fund “consumer protection” which is seen as a public interest activity. Before 2013, ANEC was funded by the EU Consumer Programme.

Nevertheless, this funding of 1,4M€ annually - with smaller sums available to the representatives of the European environmental interest and trade unions – is critical in ensuring the public interest in a European Standardisation System that CEN valued to be worth 10BN€ to 100BN€. Moreover, as it is the scarcity of consumer expertise in most Member States that has necessitated the role of ANEC since 1995, expenditure at the national level by individual Member States would be **not only inefficient but ineffective**.

Hence the continuation of EU financing to support consumer representation in standardisation is justified and needed in the next MFF.

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<sup>1</sup> [www.cen.eu](http://www.cen.eu), [www.cenelec.eu](http://www.cenelec.eu), [www.etsi.org](http://www.etsi.org)

<sup>2</sup> <https://goo.gl/LQFXGF>

<sup>3</sup> <https://goo.gl/CqnHDN>



ANEC is supported financially by the European Union & EFTA

## Background

As the European Commission confirms, “standardisation has played a leading role in creating the EU Single Market. Standards support market-based competition and help ensure the interoperability of complementary products and services. They reduce costs, improve safety, and enhance competition. Due to their role in protecting health, safety, security & the environment, standards are important to the public”<sup>4</sup>. Indeed, according to the World Bank<sup>5</sup>, standards are “key for meeting the United Nations Sustainable Development Goals” through:

- supporting economic growth and productivity gains
- helping facilitate the adoption of good regulatory practice and creating economies of scale that are particularly beneficial for small and medium-sized enterprises;
- promoting open trade by reducing technical barriers and building confidence in the quality and safety of traded products, and also services;
- prompting innovation and technology diffusion;
- levelling the playing field on environmental and societal issues, codifying international agreements;
- providing common ground for understanding and agreement on issues such as social responsibility;
- helping protect communities and consumers from unsafe and harmful products.

Under the New Approach to Technical Harmonisation and Standardisation of May 1985<sup>6</sup>, reference to formal European Standards became the preferred means of supporting the implementation of European product legislation. However, as the European Standardisation Organisations are private, market-driven associations, there is no guarantee the public interest (such as the consumer interest) is reflected in the development of the standards. It is the business interest that has most to gain from the development of European Standards (as compliance with a harmonised standard should be the easiest and most cost-effective means of meeting the European law), and it is the business interest that traditionally has had the resources to participate in the standardisation process. Hence ANEC was established in 1995 to address this classical market failure and ensure effective consumer representation.

Although this quasi-legislative aspect was the driver behind the growth of European standardisation, business soon began to propose the development of other standards in order to benefit from trading in the nascent Single Market. As a result, the role of ANEC was broadened to represent the consumer interest in these non-regulated fields for products (later encompassed by the General Product Safety Directive). With the New Legislative Framework<sup>7</sup> deepening implementation of the New Approach from 2010, the political impetus for the harmonisation of services, and emerging standardisation

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<sup>4</sup> <https://goo.gl/fkxmF9>

<sup>5</sup> <https://goo.gl/ddAev7>

<sup>6</sup> <https://goo.gl/FGPHfj>

<sup>7</sup> <https://goo.gl/2i5iUx>

challenges arising from the Digital Society (such as cybersecurity and connected products) and Ageing Society (such as continued independent living), the need for ANEC to express the consumer voice is increasing and not diminishing.

Noting the legal context of standardisation, the European Court of Justice confirmed recently that harmonised standards have legal effect<sup>8</sup>.

The creation of ANEC also recognised that the expertise needed to represent the consumer interest in national standardisation (on which the European process in CEN-CENELEC is built through the “national delegation principle”) was fragmented or non-existent in many European countries. This was confirmed in the Access to Standardisation study<sup>9</sup>, published by the Commission in March 2009, and remains the case today.

In the years since ANEC was founded, it remains true that consumer organisations in only a small minority of countries are able to make systematic and effective contributions at national level. With the convergence of technologies a reality, and the added difficulties that causes in finding consumer advocates expert in the topics under discussion, it is extremely doubtful whether the national delegation principle will ever be able to deliver a sufficient and effective consumer voice in European standardisation. Hence, ANEC has an essential role to play in identifying those experts who do exist, and bringing them together to develop consensual positions that can be presented to the European Standardisation Organisations in the collective consumer interest.

An evaluation of financial contributions to European consumer organisations in the period 2007 to 2011<sup>10</sup> concluded,

*“Overall and taking into account its level of resources, ANEC is an effective and efficient organisation. In accordance with its mandate, it has made significant contributions in representing the EU consumer interests in the standardisation process over the period 2008-2012. Its European Added Value is widely recognised by stakeholders and literature, and no other national organisation seems able to assume its role. ANEC’s role and activities are expanding in the political context of growing standardisation. At the same time it has increasing difficulties in attracting national experts to work on its behalf almost for free and is facing pressures on its budget. More or at least stable EU funding is therefore critical to ensure the continuing viability of ANEC”.*

This context has not changed in the years since.

Without effective representation of the consumer interest in the standardisation process, consumer detriment can arise. This is especially true of vulnerable consumers (children, older people, and persons with disabilities). A prime example is where the first generation of European standards<sup>11</sup> for domestic electrical appliances (everything from microwaves to dishwashers, vacuum cleaners to

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<sup>8</sup> <https://goo.gl/Zey9kR>

<sup>9</sup> <http://goo.gl/JjUJ0u>

<sup>10</sup> “Evaluation of EU 2007-2011 financial contributions to EU-level consumer organisations (ANEC)” – Van Dijk & GHK for DG SANCO, November 2013 (Ref. Ares(20134)23563936250348 - 0289/0118/20134)

<sup>11</sup> EN 60335-2 series of standards

electric toothbrushes) focused on use of these devices by mainstream consumers. These standards contained an 'exclusion clause'. As such, the safety provisions of the standards did not apply to the use of these appliances by young children or "infirm people" (the elderly or those with disabilities). In other words, use of the appliances by vulnerable consumers could be considered safe only if the appliances were used under supervision. Unwilling to accept such distinction, and aware of the risks to vulnerable consumers, ANEC urged CENELEC to revise this series of European standards, work that started in 2005. But the role of ANEC did not end there: it undertook a programme of technical studies with the aim of proposing improvements that would help enable the 'exclusion clause' to be deleted from the standards. The first six revised standards in the series were published in November 2010 and referenced in the OJ as harmonised standards<sup>12</sup>, a major achievement for ANEC and its members. The work came to a close in December 2015. As a result, millions of appliances, such as washing machines and electrical hobs, are now safer for use by all European consumers and more accessible. ANEC is now promoting the European revisions in IEC, both to defend the gains won at regional level against a background of globalisation, and to seek safer and more accessible appliances for consumers worldwide.

Other examples may not be so sharp, but there is no doubt that effective consumer representation in standardisation - through an organisation such as ANEC - is needed if consumer associations (if not consumers more generally) are to have confidence in the use of standards as a co-regulative tool. The alternative would be a demand for greater regulation, more expensive and slower than standards and less welcome by other stakeholders. Moreover, it is clear from its Better Regulation Agenda that the Juncker Commission has looked to prefer standards, as a market-led solution, to top-down legislation.

The benefits of consumer representation are more difficult to state quantifiably, as are the societal benefits from standardisation. Nonetheless, potentially all the (almost) 600 million consumers of the CEN-CENELEC member countries can gain from the influence of ANEC in the standards development process and if one considers the transfer of benefits from the European to the international level - as in the case of standards for domestic electrical appliances - possibly far more. Moreover, although the focus of the European Institutions may be on European standards in support of legislation and public policy, there is equal need to ensure that consumer protection and welfare is not placed at risk by standards that have been initiated by business and other private stakeholders. We hope the study of the economic & societal benefits of standardisation, proposed under Action 1 of the Joint Initiative on Standardisation<sup>13</sup>, helps point the way to more robust data on the influence of standardisation on consumer welfare, and the importance of ANEC.

There is also the need for effective consumer representation in interfaces with less formal standards setting fora if consumer interests are to be protected. For instance, ANEC is the lone consumer voice in the ICT Multi-Stakeholder Platform established by Regulation (EU) 1025/2012 to consider use of ICT specifications developed outside the formal European Standardisation System.

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<sup>12</sup><http://goo.gl/jyrCKX>

<sup>13</sup> <https://goo.gl/UuQh1e>

Separately, the benefits of consumer representation do not stop with consumers alone. Products (or services) in compliance with robust European standards - reflecting consumer contributions - aid European competitiveness and support the multitude of European small businesses which form the spine of the economy. Beyond the development of standards themselves, consumer foresight is key in helping to shape the innovations of the future (e.g. in defining consumer expectations of smart grids and smart cities, and how those expectations can be delivered through standards).

Turning to legislation, there would be no representation of consumer interests in the drafting of texts related to standardisation without ANEC. Business has numerous representatives in the legislative process and hence a further democratic deficit needs to be bridged.

For instance, had ANEC not been present and effective in its representation of consumer needs, the recast of several New Approach Directives - including the Low Voltage Directive<sup>14</sup> and the Lifts Directive - to align them to the New Legislative Framework would not have addressed the foreseeable use of products, and need to take on board real consumer behaviours in the setting of safety requirements and standards.

ANEC does not believe consumer interests can best be served by addressing the standardisation process in isolation. Standardisation forms part of a continuum that it is necessary to influence if the objective of consumer protection and welfare are to be achieved. That continuum runs from policy & legislation, to standardisation, conformity evaluation & assessment, accreditation, market surveillance & enforcement. Business has numerous representatives throughout the continuum and, again, ANEC is needed if the democratic deficit is to be bridged.

However, that role is wholly dependent on public funding from the EU (and EFTA).

ANEC-SG-2018-G-001  
6 March 2018

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<sup>14</sup> <http://goo.gl/fIUQgy>