

Protection of Consumer's Rights in Cross-Border Shopping by Distance

Evelina Spakovica, Dr.oec., assistant professor; **Genadijs Moskvins**, Dr.habil.sc.ing., professor
Latvia University of Agriculture

Abstract. The advent of e-commerce revolution, which has still not reached the critical mass, has transformed the potential for integration of retail markets in the EU to give a major stimulus to competitiveness and expand the opportunities for the EU citizens. While the technological means are increasingly in place, business and consumer behaviour lags far behind, restrained respectively by internal market obstacles and a lack of confidence in cross-border shopping (Commission of the..., 2007). The aim of the paper is to analyse the problems of consumer's rights protection when a number of cross-border sales by distance increases including shopping via the Internet. The study is based on the review of legislation, the European Commission documents, and literature. Descriptive method and secondary data analysis were applied in the study. The Commission's vision in frames of consumer policy is to be able to demonstrate to all EU citizens by 2013 that they are equally effectively protected. In the light of consumers' opinion about delivery and fraud, informing consumers and retailers on the consumers' rights are effective mechanisms to deal with cross-border fraud and effective ways to seek assistance if problems arise. Unfortunately, consumers' awareness about sources of information in cross-border shopping and consumers' rights is still low. Distinctions in the legislation also cause the problems when making cross-border purchases by distance. Besides, the European Consumer Centre (ECC) has no power for making a decision on the fulfilment of lawful demands of consumers.

Key words: cross-border shopping, e-commerce, protection of consumer's rights.

JEL code: K12

Introduction

In the period of 2007-2013, the consumer policy is uniquely well placed to help the EU rise to the twin challenges of growth and jobs, and re-connecting with its citizens (Commission of the..., 2007). The Commission will have three main objectives over this period:

- to empower the EU consumers. Empowered consumers need real choices, accurate information, market transparency, and the confidence that comes from effective protection and solid rights;
- to enhance the EU consumers' welfare in terms of price, choice, quality, diversity, affordability, and safety;
- to protect consumers effectively from the serious risks and threats that they can tackle as individuals.

A high level of protection against these threats is essential to consumer confidence.

The Commission's aim is to achieve, in this way by 2013, a more integrated and more effective internal market, in particular the retail dimension. Consumers will have an equally high level of confidence in products, traders, technologies, and selling methods in retail markets throughout the EU based on an equally high level of protection. Consumer markets will be competitive, open, transparent, and fair.

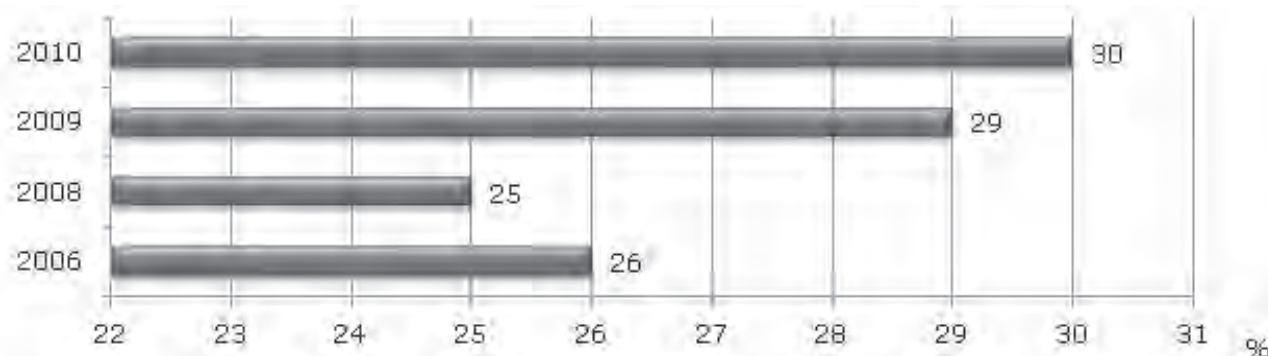
President of the European Commission Barroso, in his political guidelines, highlighted the role of consumers in the integration of the single market: "Europeans should not be held back from shopping across borders by concerns that their rights will not be protected properly: we need an active consumer policy to give people confidence to participate fully in the single market" (European Commission, 2011^A). According to the Consumer Policy Strategy for 2007-2013 (Commission of the..., 2007), it

is very important to demonstrate to all EU citizens that they can shop from anywhere in the EU, from corner-shop to website, confident they are equally effectively protected, whether from dangerous products or rogue traders.

The EU Citizenship Report (European Commission, 2010^B) identified the fragmentation of consumer protection rules, the lack of awareness about redress and insufficient means of redress as obstacles for citizens. Cross-border transactions, especially through e-commerce, therefore, provide a key measure of the integration of the single market from a consumer point of view. Globalisation of production will continue. Traders will increasingly sell to the EU consumers via e-commerce from anywhere in the world. As cross-border shopping develops as a credible alternative to national markets, consumers both have greater choice and national markets are subject to greater competition.

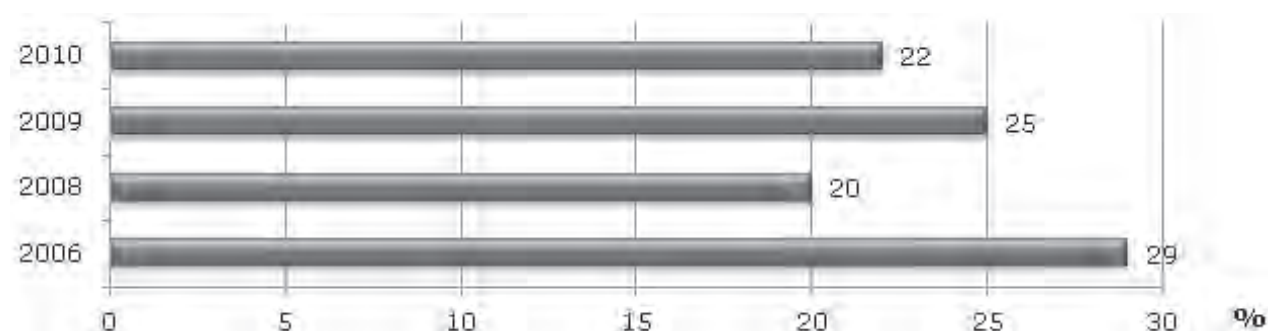
In this connection, the aim of the paper is to analyse the problems of consumer's rights protection when a number of cross-border sales by distance increases including shopping via the Internet. In the framework of the research, the following tasks were undertaken: 1) to examine the cross-border transactions development; 2) to analyse the aspects of consumer protection in cross-border shopping.

The study is based on the review of legislation, the European Commission documents and literature as well as the statistical data available from the European Commission's Analytical reports, the EU Consumer Conditions Scoreboard and Consumer Markets Scoreboard conducted in 2008, 2009, and 2010. Descriptive method and secondary data analysis were applied in the study.



Source: authors' construction based on the European Commission, 2011^A

Fig.1. Percentage of consumers, at least one cross-border purchase



Source: authors' construction based on the European Commission, 2011^A

Fig.2. Percentage of retailers, sales to at least one other EU country

Table 1

Individuals who ordered goods or services over the internet for private use, in the EU-27 (as % of all individuals)

Year	Total	From national sellers	From other EU sellers	From non-EU sellers
2008	32	28	6	4
2009	37	34	8	4
2010	40	36	9	5

Source: authors' construction based on the European Commission, 2011^A

Research results and discussion

The technological revolution brought about by the Internet and digitalisation will grow even faster. The key driver is the rollout of broadband technology, which is likely to give a significant boost to e-commerce. E-commerce has great potential to improve consumer welfare, by making a greater range of products available, boosting price competition, and developing new markets. It also brings significant new challenges for consumers, business and consumer protection (Commission of the..., 2007). SMEs will have more direct access to consumers; goods and services will be increasingly tailored to the individual. However, traditional consumer rights will be less and less adapted to the digital age. Globalisation of production will also continue, leading to ever more goods consumed in the EU being imported. Traders will increasingly sell to the EU consumers via e-commerce from anywhere in the world. This increases the challenge

but also the need to ensure effective market surveillance. The growth in e-commerce means that rogue traders are free to operate internationally.

1. Cross-border shopping by distance

There are some signs that the cross-border retail market is growing in the EU. In 2010, totally 30% of consumers made at least one cross-border purchase. In comparison, in 2006, 2008 and 2009, in total 26%, 25% and 29% of consumers, respectively, bought something from another EU country (Figure 1).

However, there are also some other problems. The proportion of retailers selling cross-border has decreased to 22% in 2010 from 25% in 2009 (Figure 2).

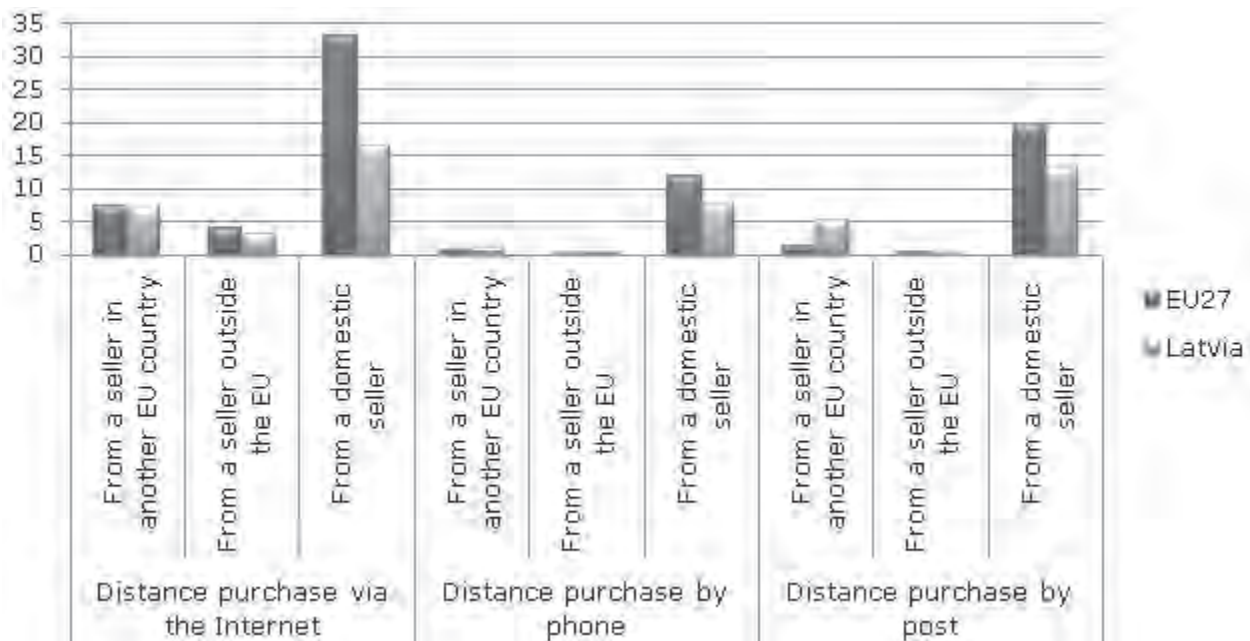
The communication on the Annual Growth Survey (European Commission, 2010^A) noted that barriers to market entry and obstacles to entrepreneurship remain acute in the single market. Half of the retailers selling or

interested in cross-border sales were not at all informed about the contract law consumer protection regulations of the countries where they were selling products or services to final consumers. The top obstacle for 40% of retailers trading or wishing to trade cross-border was related to differences in the contract law, followed by the problems related to tax regulations (for 39%) and the need to adapt to different consumer protection laws across the EU (for 38%)(European Commission, 2011^A).

A cross-border purchase can be made when travelling abroad or through distance sales channels. The EU consumers were more likely to have made cross-

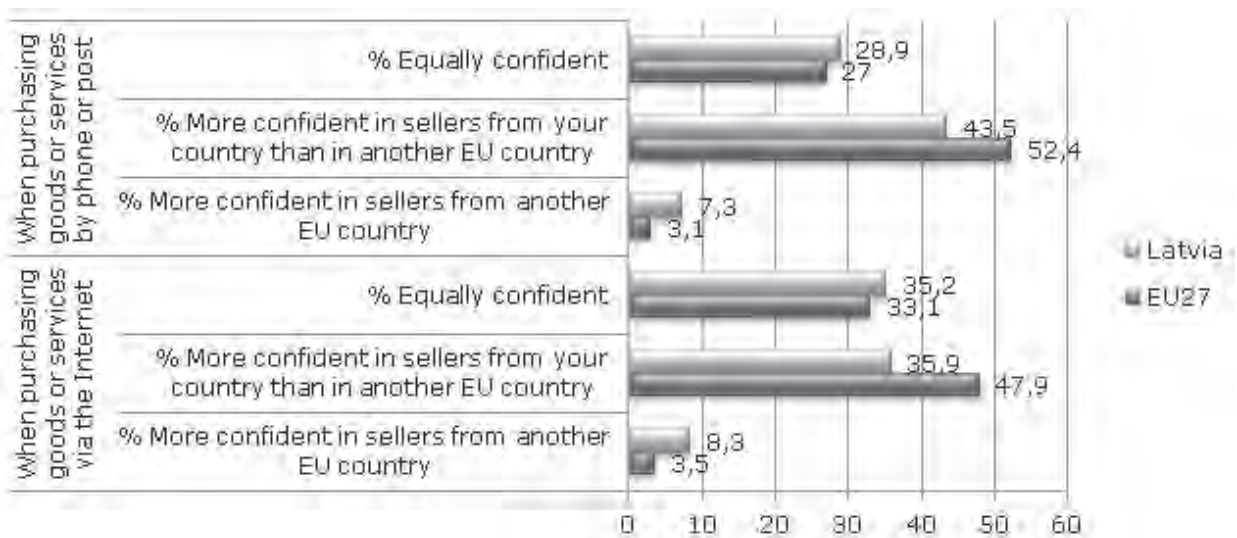
border purchases face-to-face, i.e. when they were on holiday, shopping or on business trips, rather than through distance sales channels (European Commission, 2011^C). Nevertheless, e-commerce is becoming a more popular sales channel as a whole and choosing also between other distance sales channels (Table 1, Figure 3).

The gap between the take-up of domestic and cross-border e-commerce continued to widen in 2010. While the level of domestic online shopping has steadily increased since 2008 in line with the increasing take-up of internet and broadband, cross border e-commerce continues to grow at a much slower pace.



Source: authors' construction based on the European Commission, 2011^C

Fig.3. Type of distance purchases chosen by consumers in the EU-27 and Latvia in 2010, %



Source: authors' construction based on the European Commission, 2011^C

Fig.4. Level of confidence when purchasing goods or services by phone or post or via the Internet (2010)

In 2010, totally 37% of all EU consumers made a distance purchase on the Internet, 21% - used the post (catalogues, mail order etc.) and 13% - made a distance purchase by phone. In Latvia, generally 24% of consumers made a distance purchase online, 19% - used the post, and 9% - made a distance purchase by phone (Figure 3).

Consumers were ready to make purchases via the Internet and through other distance sales channels but did it less across borders. In 2006, totally 27% of all consumers made a purchase via the Internet but only 6% - did so across borders (European Commission, 2011^A). According to Figure 3 in 2010, 16.5% of consumers in Latvia made a purchase online but only 7% - did so in another EU country, and 3% - made purchases from seller outside the EU. On the EU level, the gap between the amount of consumers who made domestic purchases and cross-border purchases is larger. Only 7% of the EU consumers bought goods or services via the Internet from a seller/provider located in another EU Member State compared with 33% of respondents who bought goods or services from sellers or providers in their own country.

The Consumer Conditions Scoreboard (European Commission, 2011^A) shows that the figures for financial services are even more striking, i.e. 26% of consumers have bought a financial service at a distance from a seller or provider based in their home country but only 1% has done so cross-border. These figures show the need for action to increase consumer confidence in the retail side of the internal market.

The challenge remains two-fold: to convince the growing number of consumers who shop online domestically to try cross-border online shopping, and to convince retailers to sell cross-border. The evidence suggests that this latter issue remains a significant obstacle. Only 7% of consumers buy on-line because of the numerous restrictions, which prevent the development of cross-border on-line sales. Also the study on e-commerce in the EU shows (European Commission,

2011^B) that a great potential for savings and increased choice is not exploited, as retailers refuse 6 out of 10 cross-border online orders.

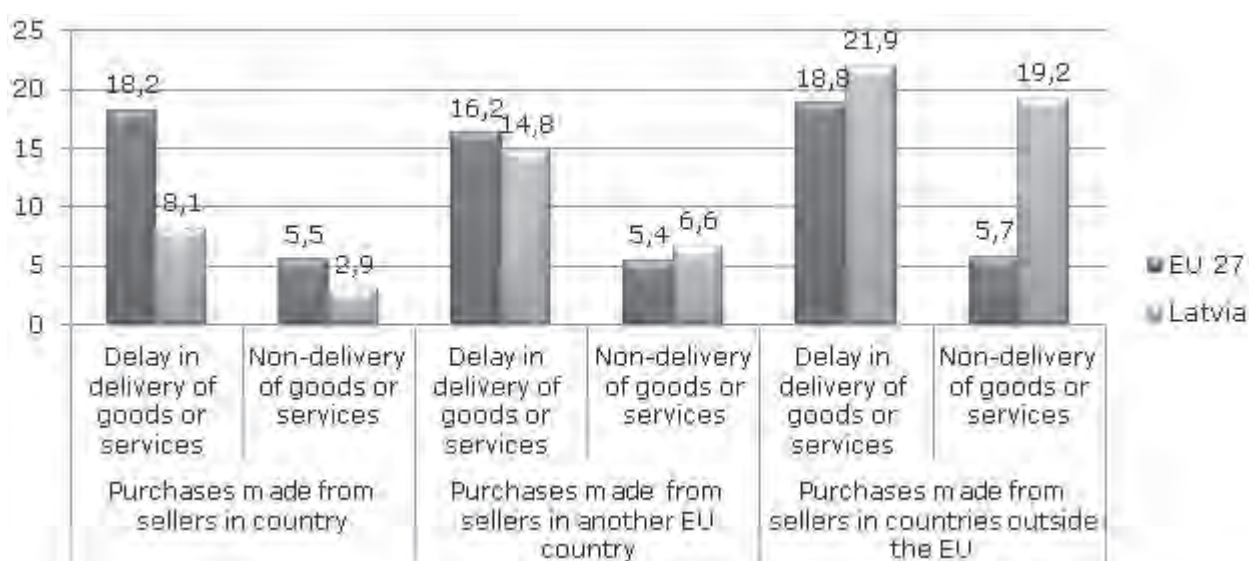
2. Analysis of aspects of consumer protection in cross-border shopping

The significant fragmentation of online markets in Europe prevents consumers from getting the benefits of the single market. The digital agenda sets ambitious goals for addressing these problems. By 2015, totally 50% of all consumers should be buying online and 20% - cross-border online (European Commission, 2011^A).

Yet, the influence of some reasons can stop the progress of cross-border shopping via the Internet and by distance as a whole. As it was mentioned above, the figures reveal the lack of consumers confidence making cross-border purchases by distance (Figure 4). When asked whether they were confident in purchasing online cross-border, generally 48% of consumers in the EU said they were more confident purchasing online domestically and only 33% - were equally confident in domestic and cross-border websites. In Latvia, only 36% of consumers said they were more confident purchasing online in domestically and 35% of consumers were equally confident in domestic and cross-border online shopping in 2010.

Only 8% of consumers in Latvia and 4% of the EU consumers are more confident in sellers from another EU country when buying goods or services via the Internet. Low level of confidence in Latvia purchasing cross-border could be partly explained by data on Figure 5.

Eight per cent of consumers in Latvia experienced a delay in delivery of goods or services comparing with 15% of consumers who made distance purchases from sellers in another EU country and 22% who bought from sellers or providers in countries outside the EU. The problem of non-delivery of goods or services depends also on buying domestically or from sellers in another country. In case of making purchases by distance in countries outside the EU, the percentage of non-delivery for consumers in



Source: authors' construction based on the European Commission, 2011^C

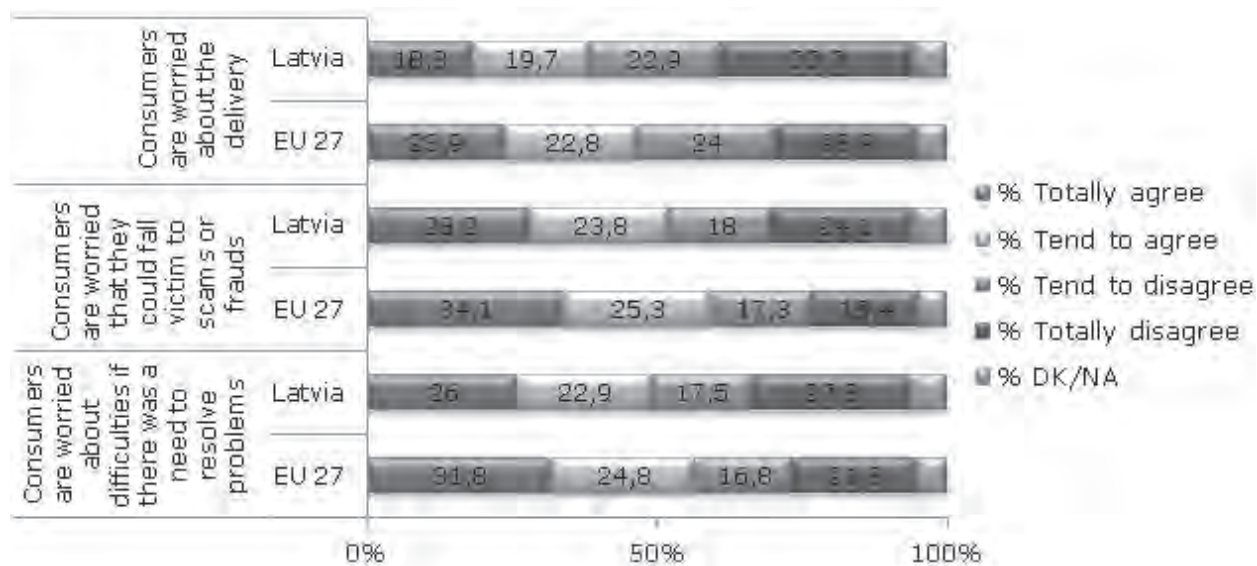
Fig.5. Delay in delivery and non-delivery of goods or services purchased by distance

Latvia is very high (19%). The difference in percentage of consumers in the EU who experienced a delay in the delivery of their order or non-delivery is not so significant comparing purchases made from sellers in country and purchases made from sellers in another EU country or in countries outside the EU (Figure 5). Cross-border e-commerce in the EU appears to be at least or even more reliable than domestic e-commerce in practice: only 16% of cross-border purchases were delayed compared with 18% for domestic purchases. The product did not arrive in 5% of cross-border cases compared with 6% for domestic purchases. It means that other factors also

influence the low level of consumers' confidence buying goods and services cross-border.

Roughly 6 out of 10 (59%) of the EU consumers and 52% of consumers in Latvia agreed that they were not interested in cross-border shopping because they were worried about falling victim to scams or frauds when purchasing products or services in another country (34% "totally agreed" in the EU) (Figure 6).

Generally, 47% of consumers in the EU and only 38% of consumers in Latvia comparing with consumers in the EU were worried about delivery, though, for consumers in Latvia this problem is more significant as it



Source: authors' construction based on the European Commission, 2011^c

Fig.6. The reasons why consumers are not interested in making a cross-border transaction in 2010

Table 2

The cooling off period and return costs in different Member States

Country	Cooling-off period	Who covers return costs according to the national law within the cooling-off period
Austria	7 workdays	Consumer – if previously agreed on with the Trader
Belgium	14 calendar days	Consumer
Bulgaria	7 workdays	Consumer
Cyprus	14 workdays	Consumer
Estonia	14 calendar days	Consumer
Finland	14 calendar days	Trader
France	7 workdays	Trader
Germany	14 calendar days	Trader
Greece	10 workdays	Trader
Malta	15 calendar day	Consumer
Italy	10 workdays	Consumer
Latvia	14 calendar days	Consumer
Lithuania	7 workdays	Trader
Hungary	8 workdays	Consumer

Source: authors' construction based on The European Consumer..., 2010



Source: authors' construction based on the European Commission, 2011^A

Fig.7. Retailers' awareness of consumer legislation in Latvia and the EU-27, %

was proved above according to data on Figure 5. However, in the EU and in Latvia, the proportion of respondents who agreed with the statement about deliveries was lower than the proportion of respondents who agreed with the statements about problems linked to scams or frauds, or difficulties that could arise in the resolution of complaints (Figure 6).

Taking into account the reasons why consumers are not interested in making a cross-border transaction mentioned above, the lack of consumers confidence and real situation is very important for consumers to be able to get information on consumer rights and support from consumer organisations making cross-border purchases by distance. Effective consumer information and enforcement networks are in place to address the concerns of consumers about cross-border fraud or seeking assistance if problems occur, although, more work is needed to make redress work cross-border.

Most of the existing EU consumer rules are based on the principle of 'minimum harmonisation'. The legislation explicitly recognises the right of Member States to add stricter rules to the EU rules, which set a floor. This approach was entirely valid at a time when consumer rights were very different between the Member States and e-commerce was nonexistent (Commission of the European Communities, 2007). Distinctions in the legislation can cause problems making cross-border purchases by distance. For example, in different EU countries the cooling-off period during which consumer can withdraw from the contract is different. The table below indicates the cooling-off period and return costs in some Member States (Table 2).

A start has been made to tackle the most important documents - the Unfair Commercial Practices (UCP) directive, the Regulation on Consumer Protection Cooperation (European Parliament, 2010), and the European Consumer Centre (ECC) Network. The European Consumer Centres Network aims to promote consumer confidence by advising citizens on their rights as consumers and providing easy access to redress in cross-border cases. The aim of the European Consumer Centre is to guarantee consumer confidence when buying cross-border similar to when buying in their country (The European Consumer..., 2009). Unfortunately, although

the proportion of the EU consumers who said they knew where to get information and advice about cross-border shopping in the EU has increased by 11 percentage points in 2010 compared with 2008 and by 8 points compared with 2006; this proportion remains low (32%) (European Commission, 2011^A). Consumers can also turn to the European Consumer Centre for assistance and advice but the ECC cannot make a decision about the fulfilment of lawful demands of consumers as it does the Consumer Rights Protection Centre (Consumer Rights Protection..., 1999).

Some problems exist also when sellers and providers are not informed about their obligations according to the consumer legislation. This fact proves a level of overconfidence among the EU retailers and retailers in Latvia on their knowledge of consumer legislation, which is not confirmed by their answers to specific questions. Although, on the EU level, totally 82% of retailers considered themselves to be well informed about consumer legislation, while only 28% of distance retailers were able to correctly indicate the length of cooling-off periods for distance sales and only 26% of retailers knew the legal requirements for returning defective products. The similar situation is observed also in Latvia (Figure 7).

Effective trader education on their obligations remains an essential part of the enforcement of consumer laws.

However, significant obstacles remain, notably in the area of consumer contracts and redress.

Conclusions, proposals, recommendations

1. The Commission's vision in frames of consumer policy is to be able to demonstrate to all EU citizens by 2013 that they can shop from anywhere in the EU, from corner-shop to website, confident they are equally effectively protected; and to be able to demonstrate to all retailers that they can sell anywhere on the basis of a single and simple set of rules.
2. While e-commerce continued to grow in domestic markets in 2010, there was very little progress in cross-border e-commerce.
3. In the light of consumers opinion on delivery and fraud, informing and reassuring consumers are

effective mechanisms to deal with cross-border fraud and effective ways to seek assistance and redress if problems arise.

4. Distinctions in the legislation can cause the problems making cross-border purchases by distance.
5. The European Consumer Centres Network aims to promote consumer confidence by advising citizens on their rights as consumers and providing easy access to redress in cross-border cases. Yet, consumers' awareness on the sources of information in cross-border shopping and consumers rights is still low. The ECC cannot either make a decision on the fulfilment of lawful demands of consumers as it does the Consumer Rights Protection Centre.
6. Effective trader education is the first step to prevent infringements of consumer rights.

Bibliography

1. Commission of the European Communities (2007). EU Consumer Policy Strategy 2007-2013. Brussels, p. 13.
2. Consumer Rights Protection Law (1999). Retrieved: <http://www.ptac.gov.lv/page/271>. Access: 3 January 2012.
3. European Commission (2010^A). Annual Growth Survey: Advancing the EU's Comprehensive Response to the Crisis. Brussels, p. 10.
4. European Commission (2010^B). Dismantling the Obstacles to EU Citizens' Rights. The EU Citizenship Report. Brussels, p. 26.
5. European Commission (2011^A). Consumer Conditions Scoreboard. Consumers at Home in the Single Market. 5th edition – March 2011, Brussels, p. 106.
6. European Commission (2011^B). The Consumer Markets Scoreboard Making Markets Work for Consumers. Sixth edition – October 2011, Brussels, p. 53.
7. European Commission (2011^C). Consumer Attitudes towards Cross-border Trade and Consumer Protection. Analytical Report, March 2011, p. 186.
8. European Parliament (2010). European Parliament Resolution of 9 March 2010 on Consumer Protection. Strasbourg, p. 11.
9. The European Consumer Centres' Network (2009). Cross-border Dispute Resolution Mechanisms in Europe - Practical Reflections on the Need and Availability. December 2009, p. 74.
10. The European Consumer Centres' Network (2010). The European Online Marketplace: Consumer Complaints 2008 – 2009. A Summary and Analysis of Consumer Complaints Reported to the European Consumer Centres' Network, p. 48.