



ECOO response to the public consultation on the future of electronic commerce in the internal market and the implementation of the Directive on Electronic commerce (2000/31/EC)

The European Council of Optometry and Optics (ECOO) would like to thank you for this opportunity to submit views. As an organisation we represent the 75,000 optometrists, opticians and optical retail outlets in 30 countries of Europe.

We welcome moves by the European Commission to develop the Single Market of the European Union, as an important initiative to boost growth and productivity across the EU.

However we do have specific concerns about the availability of sensitive products like medical devices, and specifically contact lenses, over the internet. We are concerned that online pharmacy services might set a precedent in this regard, which we address in the submission below.

Unfortunately the format of the questionnaire does not allow us to easily craft our concerns into the specified questions, so we would like to make some general comments relevant to the consultation.

Comments

We would propose that, if a Member State derogates from Directive 2000/31/EC to protect public health (and meets all of the conditions under Article 3), suppliers of medical devices (based in other member states and third countries) should be subject to exactly the same protections for consumer health as nationally based suppliers of medical devices, when supplying to a consumer.

Moreover if a Member State judges that in the interests of public health, proportionate restrictions are necessary, then those restrictions too should apply to all suppliers to consumers within that Member State, and not just those suppliers resident within that Member State.

We also have concerns regarding the traceability of medical devices when purchased over the internet, should an issue arise in the supply chain, and the need arise to recall a product for safety reasons. Problems have arisen in the past with the supply of counterfeit medical devices over the internet, which endangers public health and is another reason to proceed



with caution on this matter, and to ensure that the supply of the medical device is fully traceable.

We would also question the economic benefits of further liberalisation of the supply of contact lenses (and possibly other medical devices) over the internet as this can lead to poor compliance, increased health risks and higher drop-out rates due to a lack of information, and follow up care. Therefore, it does not follow that further liberalisation of contact lens supply will lead to more economic activity. In the case of contact lenses the intervention of a qualified professional is often necessary to inform or protect the consumer, and thereby to ensure continuing use and sale of the medical device.

We are concerned about this risk of unintended consequences in the case of contact lens supply (e.g. higher drop outs and less market activity). In our view it is vital to maintain the relationship between practitioners (fitters and providers of aftercare) and wearers of contact lenses although we have no problem of course about the actual supply of contact lenses being independent of this relationship (as it often is).

The law in the United States ensures that the relationship between practitioners and wearers is maintained, but several publications have demonstrated a higher incidence of contact lens related problems and poorer compliance with good hygiene when contact lenses, for example decorative cosmetic lenses, have been supplied over the internet in the United States (please refer to ECOO Position Paper on Contact Lenses which is attached).

In our view the crucial relationship between practitioners and wearers of contact lenses is best maintained by requiring that the prescription for supply of contact lenses is time limited (as in the United Kingdom and United States, according to clinical need but no longer than two years) and that the supply cannot be renewed when the specified end date has passed without a check-up/refitting by a qualified practitioner.

The UK model for contact lens supply functions effectively in this regard, where the correct specification for supply must be met (under the general direction of a practitioner), and is time limited, as noted above. The supply of the product is traceable by requiring accurate records to be kept. This strikes a good balance between consumer choice and consumer protection: by maintaining the relationship between practitioners and consumers, yet allowing the consumer safely to purchase contact lenses outside of that relationship if they so wish.

ECOO would be available to comment further on the details on any of these points, and indeed we would welcome the opportunity to do so.



This response has been submitted by Mark Nevin on behalf of ECOO.