

Introduction

THE POSITION OF services in the economy of the Western world and of the European Union in particular, has increased significantly in size and in importance in the last decades. The European Union has therefore had an increasingly important role to play both in the liberalisation of the provision of those services and, in particular, in the protection and care of the recipient, the passenger for transport services, the patient for health care, the viewer for broadcasting, the subscriber for telecommunications, the depositor for banking services and so on. But notwithstanding the panoply of EU rules protecting the consumer, these same passengers, patients, viewers, subscribers and depositors have, in their capacity as citizens, shown an increasing disillusionment with the EU and its institutions, when taking part in European Parliament elections in ever-diminishing numbers, or when refusing a new European Constitution upon being consulted by referendum. Mario Monti's Report on the Single Market in 2010 discussed this disillusionment and recommended that, in order to jump-start the Single Market, *inter alia* the institutions should put the consumer more centre-stage.

This work, with contributions by practitioners, by University professors and by advocates before the European Court, aims to reflect on this problem.

Various service sectors will be examined, looking in detail at the rules which favour and protect consumers, rules laid down by the EU legislators as well as in decisions by the Court of Justice. Indeed the Court has looked very favourably upon measures protecting the consumer, the recipient of the services, with decisions ranging from the approval of EU price caps for roaming 'phone call charges, to the rejection of restrictions on the use of satellite TV decoders and the traveller's right to receive compensation from the carrier in the case of problems relating to his flight. Indeed in the recent decision of *Sturgeon*, the Court's positive approach to measures in favour of the consumer went so far as to introduce an obligation to compensate passengers in a situation not at all included in the texts, namely in the case of flight delays. This ruling has led to significant debate, objections and many new cases presently pending before the Court, all of which will be considered in the following chapters.

The discussion of the subject of consumer protection, in particular in the area of health care, raises the question whether the jurisprudence recognising the right to care may not have been guided, unconsciously, by the need to consolidate the notion of EU citizenship. The second part of this work will therefore consider

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whether these EU measures protecting the consumer should not be put more centre-stage in order to remedy the increasing malaise of European citizens with regard to the European project. It will then examine whether these consumer advantages may not be seen as forming a constituent part of the rights of the EU citizen, of 'European Citizenship', the status introduced by the Treaty of Maastricht in 1992, but without any clear definition of its content. It would seem that the EU institutions, which have been attentive to the need to inform citizens of their rights, are open to including these consumer protection elements when considering the position of the EU citizen. Their reactions to the 2010 Monti Report on the Single Market witness this, as does the Commission's proposal of August 2011 to make 2013 the European Year of Citizens.