

Statement of Position

Modern Consumer Policy: Strengthening Consumer Sovereignty instead of implementing Government Policies on Consumption

The BDSI's position in brief:

- ▶ The confectionery industry presumes the consumer is an averagely well-informed, attentive, and reasonably minded individual, in keeping with the definition shaped by the European Court of Justice. This consumer profile is a modern-day model and best suited to ensuring a balance is found between consumers' individual responsibility and consumer sovereignty on the one hand and justifiable protection against misleading information and risks on the other. Consumers are best capable of deciding for themselves what they want and should be in a position to do so. Consumer sovereignty is a key part of our free-market system.
- ▶ The role of government is to create the framework conditions for a balanced operation of the market by recognising and protecting both consumer and corporate interests in equal measure. It must guarantee public health protection and is supposed to protect consumers against being misled and deceived while simultaneously avoiding a nanny-state approach and excessive government intervention.
- ▶ Consumers are given access to a host of different sources of information so they may inform themselves about the properties of products. This includes, for example, product packaging, corporate information brochures or corporate websites and hotlines, apps, newspapers and magazines, and last but not least, advertising. The information resources open to consumers have never been greater than they are today.
- ▶ Effective consumer protection depends on consumer guidance and consumer education. If the latter are missing, they cannot be substituted by a profusion of labelling requirements or the like. Disproportionate control via government regulation is neither in the interests of consumers nor is it socially desirable. Consumers act on the basis of their different personal, economic, and social circumstances and their individual decisions may vary according to the respective situation and topic.

- ▶ Consumer interests have top priority for confectionery companies. Hence the confectionery industry tracks market-relevant consumer behaviour and focuses its products on consumer needs and requirements. Confectionery companies constantly orient their product development to consumer preferences so as to remain competitive. The huge variety of products available in Germany is not least attributable to this lively competition. Control via competition is hence an effective regulatory instrument in a social market economy.
- ▶ The German confectionery industry is against any and all kinds of ideologically motivated market interventions and state-side dirigiste policies on consumer behaviour. Government regulations may not be an end in themselves but must be factually substantiated and scientifically validated. To avoid overregulation, all regulations must be based on the criteria of proportionality and necessity. Market-relevant laws and regulations should be regularly reviewed and amended or abolished if and when required.
- ▶ The BDSI believes the significance of consumer and nutrition education should be strengthened still further in future. The school subject of Nutrition, or better still Lifestyle Science, i.e. conveying the importance of a balanced diet, sufficient physical activity and relaxation, should be an integral part of curricula. In this respect it is not only theoretical knowledge but particularly also practical skills that are of crucial relevance. All social spheres – particularly education policy, family policy, health policy and consumer policy – are called on to work together and contribute to providing (young) people with the necessary knowledge and competence and strengthening their personal responsibility. They should be given the ability to consciously develop an active and healthy lifestyle.

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Modern consumer policy is based on the consumer's personal responsibility, responsible industrial practices, free-market competition, and an appropriate regulatory system set up by the legislator. Against this background, the German confectionery industry is committed to a consumer policy which secures free-market competition, promotes product diversity, and ensures the consumer is free to decide what he or she wants.

The model consumer profile defined by the European Court of Justice (ECJ) has continued to develop over the last decades, moving away from the notion of a consumer with a cursory and uncritical interest towards an averagely well-informed, attentive, and reasonably minded consumer. The ECJ not only expects him or her to properly inform themselves but also to give extensive and appropriate consideration to the information gathered. Consumers are best capable of deciding for themselves what they want in a rational and emotional manner and should be in a position to do so.

In the view of the confectionery industry, this model consumer profile has proven itself in practice and must continue to be upheld.

The role of government is to create the framework conditions for a balanced operation of the market by recognising and protecting both consumer and corporate interests in equal measure. It must guarantee public health protection and is supposed to protect consumers against being misled and deceived while simultaneously avoiding a nanny-state approach and excessive government intervention.

Neither the state nor any other entities have the necessary legitimation to refer to consumer decisions as being wrong. Steering consumers eating or buying habits by way of a “well-meant” statutory or political dictate is not in the consumer’s interests nor is it the responsibility of national or European policy. High-quality, safe, and reasonably priced products cannot be “dictated”. They are formed by free-market competition and driven by innovation. Competition compels companies to continuously improve their products and services in the consumer’s best interests. To remain competitive, suppliers are obliged to orient their research activities, product development, and pricing towards the buying interests and consumption-related choices of consumers. A competitive environment and efficiently functioning free markets are hence the best form of consumer protection.

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There are already numerous statutory regulations to secure the supply of information and its quality. Labelling provisions, such as the Food Information Regulation (FIR) which makes the inclusion of information on energy, carbohydrates, fats, saturated fatty acids, sugar, salt, and proteins mandatory, ensure the consumer receives a broad range of information on nutrients and other aspects, based upon which he or she can make an informed decision. The BDSI supports an even further extended nutrition labelling system and welcomes the goal of helping consumers to make independent food choices so as to maintain a balanced diet. Guidance given to consumers in addition to mandatory nutrition labelling under FIR must be science-based, non-discriminatory, transparent, understandable, and, above all, voluntary, taking the specific role of confectionery in a balanced diet into account.

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The political aim of wanting to protect consumers from their own decisions undermines the notion of consumer sovereignty and in the long term also overburdens the policymakers. What is needed is far rather a strengthened theoretical and practice-based consumer education on nutrition topics, an increase in the media literacy of consumers, and the communication of a healthy lifestyle.

The illusion of a nanny state being able to provide comprehensive protection against risks and eventualities will not encourage consumers to accept their personal responsibility as sovereign market participants. If the state intervenes disproportionately in the market process, for example by introducing unreasonable advertising restrictions, certain mandatory forms of information, statutory intervention in formulations, or fiscal measures, it curtails the functioning of the market.

Based upon the information available to them and their own judgement, consumers are capable of making responsible and sovereign choices about what to buy from a diverse range of available foods. In doing so they may behave both rationally and emotionally, since consumption-related decisions are influenced by many diverse factors. These include economic, social, time-related and place-related grounds as well as circumstances such as a person's private environment, habits, age in life, respective situation in life, and – last but not least – the mood of the individual.

Consumer interests have top priority for confectionery companies. Hence the confectionery industry tracks market-relevant consumer behaviour and focuses its products on consumer needs and requirements. Confectionery companies constantly orient their product development to consumer preferences so as to remain competitive. The huge variety of products available in Germany is not least attributable to this lively competition. Control via competition is hence an effective regulatory instrument in a social market economy.

The German food industry produces high-quality, safe foods. To maintain this high standard, the confectionery industry constantly invests in research and development and the continuous improvement of its services. The Food Chemistry Institute (LCI) of the BDSI has been testing and conducting research in the field of confectionery and snacks for 70 years. Representing an utmost degree of competence, quality, and safety, it enjoys a high standing both at home and abroad.

Each and every company has an own interest in selling high-quality products. The market compels companies to constantly review and adjust their products to suit the preferences of consumers while simultaneously communicating honestly with the consumers. This is the only way a company can get consumers to lend their trust to its products on a permanent basis. A consumer protection that prevents commercially sensible decisions by setting excessive conditions or even introducing bans causes considerable economic costs without corresponding benefits. Rising production costs lead to higher prices, less innovation, and ultimately less choices for the consumer. Competitiveness, economic growth, and employment figures decline. Particularly small and medium-sized companies are overburdened and restricted by rigid regulations; prospective new entrepreneurs are put off.

The German confectionery industry is against any and all kinds of ideologically motivated market interventions and state-side dirigiste policies on consumer behaviour. Government regulations may not be an end in themselves but must be factually substantiated and scientifically validated. To avoid overregulation, all regulations must be based on the criteria of proportionality and necessity. Market-relevant laws and regulations should be regularly reviewed and amended or abolished if and when required.

The state's responsibility should be to create framework conditions, offer investment incentives, and promote innovation, in addition to enabling fair

competition. Factually indefensible restrictions, regulatory overkill, and bureaucracy must be reduced. All consumer policy measures discussed by policymakers must be evaluated in terms of their economic effect. Short-sighted and scientifically unsubstantiated political action for action's sake represents an indefensible intervention in the market, disfranchises the consumer, and simultaneously jeopardises the performance capacity of the confectionery industry and the entire food sector.

The BDSI believes the significance of consumer and nutrition education should be strengthened still further in future. The school subject of Nutrition, or better still Lifestyle Science, i.e. conveying the importance of a balanced diet, sufficient physical activity and relaxation, should be an integral part of curricula. In this respect it is not only theoretical knowledge but particularly also practical skills that are of crucial relevance. All social spheres – particularly education policy, family policy, health policy and consumer policy – are called on to work together and contribute to providing (young) people with the necessary knowledge and competence and strengthening their personal responsibility. They should be given the ability to consciously develop an active and healthy lifestyle.

Appropriate consumer and nutrition education is the key factor needed to empower consumers to make responsible and informed decisions. Consumer and nutrition education and improved levels of media and advertising literacy is what will ensure that today's children become tomorrow's well-informed and empowered consumers. This is where policymakers in particular are called upon to take action. The food industry, already very active in this regard, will continue to make its contribution felt and lend its support to corresponding measures and activities. The key thing is that measures and projects must be focused on specific target groups, right from the conception and planning stage and all the way through to execution and communication. Furthermore, in addition to providing theoretical knowledge, it is particularly important that practical skills are also taught and promoted. In this respect, the BDSI sees the activities of Germany's Platform on Diet and Physical Activity (peb) as a good example.

For more information on BDSI positions please visit <https://www.bdsi.de/en/association/priorities/>

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The sector association:

The BDSI represents the economic interests of over 200 mostly medium-sized German confectionery companies. It is both a trade association and an employers' association. The German confectionery industry is the fourth-largest sector of the German food industry, accounting for around 10% of overall sales. It is particularly characterised by its strong focus on exports. Germany's confectionery manufacturers have an overall workforce of around 50,000 employees.