

March/May  
2010

# Business Review

A publication of the American Chamber of Commerce in Moldova

fighting for your business

## Focus on Consumer issues

Octavian Calmîc,  
Deputy Minister of Economy:

*The Consumer Protection: Accomplishments & Perspectives*

Consumers:  
EU-wide complaints

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# WELCOME TO AMCHAM NEWEST MEMBER

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## Phonestore Moldova



**The Phoneshop International Ltd** was established in 1995, in London - capital of Britain. Since then, it has been acting on the GSM trade field. The Phoneshop, by amplifying its market, is spreading throughout worldwide telecommunication markets day by day. Moreover, the company, by establishing one GSM firm in Cyprus in 1998, and two at Moldova in 2001 became overseas operator of Turkcell, Turkey's biggest GSM operator, and distributor of KKTcell, and Moldcell.

As a result of the successful and compatible operations of The Phonestore Warehouse (Cyprus) Ltd with in KKTCell, the Phoneshop International Ltd was invited to Moldova, by Turkcell, the biggest GSM operator of Turkey. In 2005 has been realized the rebranding of the company and a result a new brand ALO was created. The new brand has not only changed the image of the company, but also has established new standards in order to improve the quality of its work.

During the 7 years of its activity, the company is continuously developing, it started with 3 shops and today the «ALO» network consists of 21 shops, from which 15 are located in Chisinau and 6 in republic regions. The variety and the quality of its services is the essential factor promoting the becoming of our company on the Moldavian market.

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# Tax & Legal Committee Activity



Within 3 scheduled and various unscheduled meetings held so far in 2010, the Committee has managed a series of tasks, from electing new Co-Chairs to reviewing various drafts of normative acts.

This year the activity started by election of new Co-Chairs (Mrs. Svetlana Ceban from PricewaterhouseCoopers Moldova and Mr. Nicolae Corlateanu from JT International Luxembourg S.A. Representative Office in Moldova). In the meantime, a new Committee member was welcomed – Mr. Artur Virtosu from Efes Vitanta Moldova Brewery.

The activities performed were mainly focused on revisal and renewal of previous recommendations included in the **Roadmap for the development of Moldova's business and economic climate**, as well as detailed and specific evaluation of the **Draft Fiscal Policy for 2011 - 2013 years**, considered by Ministry of Finance.

Given its main objectives, so far the Committee reviewed drafts of the normative acts, raised Government awareness on the proposed or existing tax regulations, as well as deservedly became a reliable partner for Moldovan tax authorities coming up

with constructive solutions on how to improve administration of the tax law. Particularly, the Committee has managed to:

- Elaborate complex opinion on Draft Fiscal Objectives for 2011-2013;
- Prepare a letter of recommendations on Draft Government Decision on VAT refund Regulation;
- Analyze the constraints businesses are facing within state inspections, as well as offer certain suggestions in this respect;
- Start helping Ministry of Finance with experience of other countries in binding tax ruling concept. For this purpose, the Committee prepared a Questionnaire to be submitted by consulting companies to their regional offices;
- Elaborate complex opinion on Draft Fiscal Law for 2011:

The Committee members worked hard to review and comment Draft Fiscal Law for 2011. Finally, a detailed opinion was submitted to the Ministry of Finance, as well as addressed to high officials of Ministry of Economy, being highly appreciated in return.

Among strategical objectives of its activity for 2011, the Committee puts specific emphasis on:

- 1) improvement of the VAT refund framework;
- 2) implementation of the binding tax ruling concept;
- 3) promotion of the DTT network enlargement (e.g. US - MD);
- 4) involvement within the review of Tax and Customs normative acts;
- 5) improvement of the immigration related framework;
- 6) permanent collaboration with relevant state authorities, as well as other tax related matters.

## Publications and Updates

The Committee provides AmCham members with updates on its activities, regularly contributing to AmCham Weekly Bulletins and the website.

We would like to thank all Committee members for their active participation and commitment.

# HR Committee Activity

HR Committee members continued to work together on different issues. Thus, HR Committee analyzed employee motivation by contributions to optional non-state pension funds. During the meeting, committee members expressed their opinions in regards to contributions to non-state pension funds and their vision why optional saving plans are currently not operating in Moldova. The team came up to the conclusion that companies are interested in this measure to motivate their employees, however their interest should be matched with proper offer, while the conditions of contributing should become less costly and more practicable.

**Note:** *non-state pension fund is a non-commercial organization, dealing with collection and investment of contributions voluntarily made by individuals or legal entities on their behalf, providing additional incomes at the retirement of employees.*

Afterwards, HR Committee continued with the topic "Benefits & Compensations".

AmCham takes this opportunity to thank **Prime Capital** and **Moldova-Agroindbank** for making their presentations.

Another HR meeting was solely focused on Internal Communication within the Company. Before proceeding to discussions, a new member of HR Committee was welcomed – **Serghei Baziuc** from **EFES Vitanta Moldova Brewery**. Further to a well-prepared presentation of **Ana Afteni** from **Coca-Cola Bottlers Chisinau**, Committee members shared their experience in internal communication, responsibilities of HR department in this respect, intranet communication and various other ways of communication, being practiced at the level of each company.

AmCham takes this opportunity to thank Ana Afteni for a good presentation, supportive documents and surprising gifts offered to all participants.

Thanks to all HR Committee members for their active participation and commitment.

*If you would like to be part of the Committee, please contact Elena Buzu, Project Manager, at 211 781 or elenabuzu@amcham.md*

# CSR Committee

The American Chamber of Commerce Moldova launches a new social project "**Life without Leukemia**" within CSR Committee. It is a campaign designed to attract funds for children with leukemia. These children spend most of the time in the halls of the Oncology Hospital. The treatment and medication are very expensive and taking into consideration that the state covers only a part of the necessary budget, every time there is a risk that these children will remain without the so needed medication.

The campaign will run between July and September 2010.

AmCham CSR Committee believes that the call of our campaign will find an echo in the heart of those who want a person struggling against an incurable disease to be able to enjoy his life without pain. This help will be vital for the patients waiting for relief.

We do believe that uniting our efforts we will be able to make more children happy, in such a way giving them a childhood without worries.

In turn, Amcham Moldova will organize the traditional Charity Lottery within the celebration of the USA Independence Day, that will be held on the 3-rd of July 2010. All the money collected from the lottery tickets sold will be donated for the project "**Life without Leukemia**".

Thus, we encourage you to participate to our social project, contributing with 500 or 1000 USD.

## **Help them to live the moment!**

Please transfer your contribution to the following bank account:

**Asociatia Patronală "Camera de Comerț Americană din Moldova"**  
**C/f 1009630002440**  
**C/d MDL 2224710SV22851477100**  
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# Interview with Lilian BEJAN, Director, Millennium Group

**1. Millennium Group is a member of AmCham since last year, and within AmCham many members know what your company does. However, for the readers that are not members of AmCham, could you please tell us a little bit about Millennium Group & its advantages on the market?**

Millennium Group manages a portfolio [about \$12 Mio USD in assets] of diversified companies active in the fields of agricultural processing, passenger transportation, warehousing and logistics, construction materials production, metal constructions for industrial applications, real estate management, and departmental telecommunication services. It leverages the synergies of the various resources the enterprises have, particularly the agile human resources.



**2. What is the biggest success in the history of your company?**

We believe that the biggest success we have is the development of our people; that made it possible to overcome the lat-

est recession without losing a single job out of the 600 we have created. We have achieved to have a socially responsible culture throughout all companies.

**3. What challenges you face while doing business in Moldova & how do you overcome them?**

Our biggest challenge is to assume responsibility for our failures, without blaming the external environment. We try to be active in communicating with the government and the public institutions, in order to contribute to business environment improvement. Millennium Group sees elimination of VAT on investments as a big step forward in making investment decisions easier and more manageable.

**4. By means of which key elements Moldova becomes attractive for foreign investors and in what aspects cedes its rivals in the region?**

We strongly believe that Moldova needs to be active in promoting itself into the global value chain, while insisting with an aggressive agenda of business environment improvement. Basically, Moldova's distinctive offer can be our flexible and dynamic people that have an extraordinary capacity to quickly learn new skills and capabilities.

**5. What are the measures to be undertaken in order to improve the investment climate in the Republic of Moldova?**

The Group expects and wishes for the Government to invest more in education and country exposure to the international business and social, cultural environment. The private sector is more than willing and capable to help the Government to properly address all social challenges that the transition imposes, through a strong and supportive corporate social responsibility agenda.

# The Consumer Protection in the Republic of Moldova: Accomplishments and Perspectives



Octavian Calmic  
Deputy-minister of Economy

The consumer protection being an important component of the social protection programs for citizens, it is designed to continuously ensure and enhance the respect of citizens' interests.

## 1. Does the Republic of Moldova have a policy on consumer protection?

In order to ensure an efficient, clear and transparent mechanism of consumer rights realization, of a systemic approach of the consumer protection issues, "National Strategy of Consumer Protection for 2008 – 2012" was adopted, which responds to the requests of the consumers of the Republic of Moldova, meantime being harmonized with the European Commission Consumer Policy Strategy.

The main objectives of the consumer protection are:

a) to provide an adequate level of consumer protection which will be ensured by:

- developing the legislative and institutional framework;
- consolidating the supervision capacity of the market according to the EU practices and requirements.

b) to ensure efficient application of the legislation, cooperating with civil society, informing and educating customers which will be realized by:

- developing, sustaining and encouraging the initiatives of the public organizations;
- increasing the access to information and educating the consumers.

## 2. What is the legal basis of the consumer protection?

The legislation of the Republic of Moldova subscribes to the European and international principles regulating the consumer protection. The Republic of Moldova is creating and developing the legal framework on consumer rights. The legal basis of the Republic of Moldova regarding the consumer protection represents the Law nr. 105-XV on customer protection dated March 13, 2003. The document stipulates the fundamental rights of the consumers. In order to provide the legal protection of goods, Law nr.422-XVI on goods protection, dated December 22, 2006 was adopted. This law is based on the Directive 2001/95/ce of the European Parliament and European Council dated December 3, 2001. Many other specific laws (on energy, health care) and normative acts approved by the Government regulate the consumer protection as well.

At the same time, one of the priorities on consumer protection represents the development of the legislative basis and its harmonization with the EU Directives.

## 3. What are the problems the most often consumers struggle with?

As a result of the examination of the consumers' complaints to the responsible authorities, it can be mentioned that the main problems are related to lack of accurate and certain information about the goods, lack of documents in compliance with the written and declared requirements of goods, the warranty period violation, etc. The consumers very often complain on the services quality, especially on the public services, on lack of clear and transparent regulations.

## 4. What are the actions undertaken to inform and educate consumers?

To inform and educate consumers fall under the responsibility of the central and local public administration and associations for consumer protection.

Thus, different ways and methods are used, for instance:

- Hot lines are opened and maintained to consult consumers;
- Guidelines are issued and distributed free of charge for consumers;
- Informational campaigns are organized for consumers within the area (with the support of local authorities);
- National and regional conferences on Consumer Protection are organized;
- Seminars for consumers and entrepreneurs are organized within the shopping centers and markets

It has already become a tradition to organize on the occasion of the World Consumer Rights Day "A week of Informing Consumers", where thousands of consumers are being acquainted with their rights.

## 5. Coming from the Government and the whole society desideratum to integrate in the Europe Union, which are the steps for Consumer Rights standards harmonization?

Key factors in lining up to the European principles on the consumer protection are developing the legal and institutional framework.

This is an important factor to be taken into consideration regarding the "Consumer Protection" when negotiating the Partnership Agreement between the Republic of Moldova and the European Union.

During discussions, it was agreed with the EU directives to be transposed in the national legislation of the Republic of Moldova in the upcoming 5-6 years. This implies around 20 European acts to be implemented in order to develop the legislative framework on consumer protection from all aspects (product assurance, trade rules, contracts policy, financial services, consumer credit, etc). Moreover, the Parliament of the Republic of Moldova has recently adopted a new Law on internal trade, which is meant to create the National Agency for Consumer Protection, thus, strengthening the institutional capacity on consumer protection in the Republic of Moldova.

# CONSUMERS: EU-wide complaints reporting to speed up policy response to failing markets

The European Commission adopted a recommendation introducing an EU-wide method for classifying and reporting consumer complaints to be used by complaint bodies on a voluntary basis. The method is expected to deliver comparable complaints data that will provide crucial evidence as to which parts of the Internal Market are underperforming for EU consumers. This, in turn, will allow for a quicker and better targeted policy response at both national and EU level. Consumer complaints are a key indicator of market health. There are more than 700 organizations handling consumer complaints in Europe. But they use different classifications. As a result, comparison and overview are not possible, even at the national level. To facilitate the adoption of the method, the Commission will provide technical assistance such as free software.



EU Health and Consumer Policy Commissioner John Dalli said: "If large numbers of consumers complain about the same problem, this should set the alarm bells ringing in national capitals and in Brussels. But today, we may not be getting the message early or clearly enough".

He added "Thanks to this initiative, when consumers are facing problems in their daily lives, decision-makers will know about it better and faster".

## The method:

The Commission has recommended a standardized way of collecting and reporting consumer complaints, using a common set of criteria. Including

- product category (e.g. an airline ticket, electricity, or a bank account)
- type of complaint (e.g. quality, price, safety, delivery).

The method is intended to be used by bodies collecting complaints, such as national consumer authorities, consumer organizations, ombudsmen or regulators. These organizations will opt in to the system and to sending their data to the Commission. The Commission would then make the aggregate data public through the Consumer Markets Scoreboard.

A recent public consultation has shown that there is clear support for the common approach among potential users. Almost 86% of those who responded to the question said that they were interested in adopting the method.

## Why do consumer complaints matter?

A consumer complaint is a hard fact which is a sign of a possible systematic problem in the market. Complaints are one of the five key indicators used by the Consumer Markets Scoreboard of how markets are performing for consumers, along with consumer satisfaction, prices, consumer choice (switching suppliers) and safety.

Consumer complaints may sometimes be only the tip of the iceberg, suggesting that problems in the market concerned may run more deeply. The latest data<sup>1</sup> show that, out of the total number of consumers who have had problems with a trader, almost one in three did not even complain to the trader. Of those who did, only half were satisfied with the way their complaints were dealt with. And of those consumers who were still dissatisfied, less than one in three (27%) approached a complaint body.

## Why an EU-wide approach?

A Commission' study found that there are over 700 third-party organizations collecting consumer complaints in the EU. Some have advanced and large-scale classification methods. Yet, complaint bodies around Europe use different methods. This makes it impossible to see the bigger picture even at the national level, let alone the European level. This is despite the fact that the goods and services on offer across the EU are similar and a fair number of them are traded across borders. The lack of comparable data holds back the appropriate policy response, both at national and the European level.

## Who will benefit?

EU consumers: the accuracy and time needed for policy makers and regulators to respond to consumers' daily concerns should be reduced. As the data will be directly comparable across the EU, this will allow a faster, better targeted, evidence-based policy response at the EU or the national level to real problems experienced by consumers.



National authorities and regulators should be able to respond better to emerging trends, thanks to a more complete picture of their own markets, and easier comparisons with other countries. Non-governmental consumer organizations, some of which now lack the resources to develop their own systems and to influence consumer policy upstream, will benefit from the availability of an off-the-shelf method and of comparable data.



# Learning from EU experience: EU Consumer Market Watch — guide

*“Consumer Market Watch” process was launched to investigate how markets in various sectors of the economy perform from a consumer perspective. There are two steps to the new process. The first is a comprehensive screening of retail markets against 5 key consumer indicators - prices, complaints, switching rates, satisfaction and safety - for patterns which could indicate market malfunctioning. These irregularities – which may be indicative of practices which distort consumer choice and hinder competition at the retail level - can then trigger the second phase of the process, an in-depth, targeted consumer market investigation and corrective actions. The Consumer Market Watch process also benchmarks the strength of the consumer environment in different EU Member States and the degree of integration of the retail internal market. The process complements the monitoring and analysis proposed in the recent Single Market Review. The first screening results published underscore the lack of comprehensive, EU wide comparable consumer data in key areas – Compiling this data is a major task for the next years for consumer policy.*

## WHAT IS CONSUMER MARKET WATCH?

Consumer Market Watch is a new EU instrument to investigate markets from a consumer perspective to assess if they are functioning effectively for consumers – or if further investigative or corrective actions are necessary.

The Market Watch process will analyze the Single Market in 3 dimensions:

- **(1) Sectoral Consumer Investigations:**  
Market Watch puts in place a new process to launch field consumer investigations - screening the broad performance of markets across the economy against a range of indicators (price, complaints, switching, safety, satisfaction) from a consumer perspective and then identifying problem sectors for in-depth investigation. It also puts in place two important benchmarking exercises which can also trigger follow up actions.
- **(2) Benchmarking EU-wide Retail Market Integration:**  
To monitor performance across the EU in terms of the degree of integration of the retail internal market using data on cross border trade.
- **(3) Benchmarking the national consumer environment:**  
To monitor the environment in 27 national markets in terms of enforcement, information, education and redress.

At the heart of the process is the annual **Consumer Markets Scoreboard** published each year.

### Why now?

In recent years, parallel to deregulation and higher competition policy standards, a range of practices seem to be evolving in different sectors at the retail end of the market which might distort consumer choice and behavior and might act as indirect barriers to competition.

For instance, we have seen an increase in the confusion of consumers about the prices they are offered or pay. We have seen strategies of obfuscation or complex pricing that impairs consumer’s ability to make an optimal decision (mobile phone contracts, financial contracts).

We see commercial practices that exploit behavioral biases to distort consumer choice (teaser offers, tying and bundling smaller services consumers pay little attention to when they make a big purchase).

Competition policy cannot address these issues when they are collectively (and tacitly) adopted by the industry. Competition policy is restricted to act only in cases where dominant firm is found to abuse its position or when companies are explicitly colluding. It can do nothing against pervasive practices that are detrimental to consumers in a market without a dominant player, or express collusion.

In addition it is clear that the retail dimension of the EU Single Market is not fully integrated - this denies consumers more competitive offers and more choice.

## HOW WILL THE NEW MARKET WATCH PROCESS IMPROVE THE INTERNAL MARKET?

### The process

There are three main parts to the Market Watch process: the sectoral consumer market investigations, the benchmarking of the internal market, the benchmarking of the consumers environment.

### (1) THE SECTORAL CONSUMER MARKET INVESTIGATIONS

There are 2 steps in the new consumer market investigations.

- **Screening:**  
The new Consumer Market Scoreboard is the first step in the process. The Scoreboard looks at five top-level indicators used to screen markets.
- **Complaints:**  
Complaints provide first hand bottom up feed-back on markets and is an important indicator. We are working towards developing a standardized methodology to classify complaints to build an EU wide database. The evolution of complaints in a sector over time will be monitored. Keeping in mind that a high level of complaints can be indicative of a problem in the market but also of a very good complaint handling system.
- **Prices:**  
Prices are of direct concern to us all. They tell much about the reality of the internal market. They are also the expression of market conditions and an indicator that a part of the market may not be working smoothly. Wide

and unexplained price disparities of tradable or comparable goods and services across countries will have to be investigated. The price evolution on deregulated sectors will be watched closely.

- **Switching:** is a very good indicator of the dynamism and level of competitiveness in a market. We expect firms to compete for customers and customers to choose better offers when these become available. Firms sometime try to prevent customers from switching by giving them contracts with long durations or by tying the supply of one product to the supply of other products; so that the consumer cannot just change one of them. We also look at the degree to which consumers can compare offers, an essential condition for them to make good choices.

- **Satisfaction:** complements the data on complaints, taking into account also the views of those who did not complain. Measures are complex to design but may provide a good overall assessment of how consumers perceive a market. We are currently using a measure that combines several dimensions of satisfaction: prices, quality, and image.

This measure has proven useful to identify particular markets that present a problem in a member state. Also, it will be useful to track the evolution of this index in markets subject to changing conditions.

- **Safety:** Indicates the most important sources of risks in the internal market.

In themselves, these indicators are not evidence of malfunctioning but they are useful signals that something may not be working in a market. They will point to consumer markets that have a higher risk of malfunctioning and need further analysis.

- **Field Investigation + remedies:** In those sectors picked as risky in terms of malfunctioning for consumers, an in-depth, market specific analysis can be carried out that will identify the reasons behind the failures. This will allow us to put forward appropriate policy remedies.

## (2) BENCHMARKING RETAIL MARKET INTEGRATION

After more than 15 years of developing the Internal market, it is clear that retail markets for consumers are not fully integrated – in fact, many markets remain fragmented along national borders, creating 27 mini markets instead of a pan-European supermarket. This denies consumers access to better offers and more choice.

The Scoreboard will assess the degree of retail market integration using indicators on the data on cross border trade. It will also explore the reasons behind consumer reticence to shop cross border and exploit the EU wide potential for distance selling, especially e-commerce.

The Scoreboard looks at:

- Volume of cross-border shopping / trade
- Cross-border complaints, disputes, information requests
- Attitudes of consumers and SMEs towards internet and cross-border shopping
- Presence of non-national retailers in the national markets

## (3) BENCHMARKING THE CONSUMER ENVIRONMENT

### Benchmarking the consumer environment in the Member States

Benchmarks are needed to better understand the consumer environment at national level. A lack of resources for consumer organizations, poor consumer confidence, inadequate enforcement measures to deal with consumer problems, or consumers experiencing problems and being dissatisfied with the handling of their grievances, as compared to the situation on other Member States could indicate problems.

Indicators to be looked at are:

- Enforcement of consumer legislation
- Redress
- Consumer empowerment (including education, information, consumer organizations, trust in the system)

This part of the exercise is a real benchmarking process by which Member States must assess whether the consumer environment they have set up is satisfactory or whether they need to take measures to improve the ability of their consumers to elicit the best possible outcomes from markets.

### What are the instruments available?

There is a wide range of remedial actions that will vary by market and issue to be resolved. There are five main tools to resolve market malfunction:

- **Enforcement of existing legislation:** probably the most efficient one when legislation already exists that can address the issue at stake. This may require clarifications regarding the scope and application of legislation.
- **Information:** empowering consumers with clear and manageable information to help them chose, exercise their rights, and spot and avoid fraud and deception.
- **Codes of conduct with industry:** when possible a targeted code of conduct discouraging or encouraging business practices will be the less intrusive way to resolve an issue.
- **Regulatory actions:** for systemic problems in particular sectors that cannot be addressed by lighter remedies, regulatory intervention might be necessary.
- **Competition action:** when the market is working badly because of the conduct of an abusive firm or group of firms, competition authorities will be able to enforce competition policy and resolve the case.

As the screening and investigation processes develop and evolve new remedies at EU or national level to correct particular situations may also evolve.

# MOLDOVAN LEGAL NEWSLETTER



## THE COUNTRY

### Personal Data Protection in Moldova

Data protection issues, including their cross-border dimension, need a more serious approach from data holders. According to the general definition set by the Moldovan Law on Personal Data Protection, any legal entity or individual, collecting or processing personal data shall be considered a data holder and shall comply with requirements set out by the Law. For instance, all data holders shall be registered with the National Center for Data Protection. Moreover, any personal data trans-border transfer is possible only with the prior notification of the Center. It is not difficult to understand what the obligations of personal data holders are. Moreover, I am absolutely sure that the biggest part of data holders, especially foreign investors, does not have any intention to infringe the Law. The main concern is how the data holders shall determine the procedure to be observed when filing for their registration or Center's notification? As of today, there is no legal act regulating the procedure of data holders' registration and data trans-border transfer notification. The Center informed us that the data holders' registration procedure will not start until the necessary secondary legislation is approved. As per personal data trans-border transfer, the Center considers that the notification is mandatory for data holders even when the correspondent secondary legislation does not exist. When asked about information and documents to be submitted for notification on the data transfer, the Center's answer was "*any documents and information that the Center may consider necessary to determine the level of data protection in the country of destination*". I am not sure that the request by a state authority to submit "*any documents and information*" for registration and notification purposes complies with the principle that only documents listed in laws or Governmental regulations may be requested by public authorities for business registration or authorization. I do not want to suggest skipping the Center notification procedure until the secondary legislation is approved. It is a mandatory obligation that needs to be observed. But we need a transparent procedure of how to notify; a list of documents and information to be submitted, and a certainty that the submitted information and documents are sufficient for the Center to approve the data transfer. Otherwise, there is a serious risk that the notification procedure may prejudice the interests of data holders, which is also the unlikely intention of the Law.

By [Carolina.Parcalab@TurcanLaw.md](mailto:Carolina.Parcalab@TurcanLaw.md)

### U.S. may withdraw applicability of Jackson-Vanik amendment against Moldova

The Jackson-Vanik amendment is contained in Title IV of the 1974 U.S. Trade Act and is named after its major co-sponsors, Sen. Henry Jackson and Rep. Charles Vanik. The amendment was intended to allow people, refuseniks and religious minorities, to emigrate from the Soviet Unions. The amendment is in force since January 1975, and still applies to most of former USSR countries, including Moldova. The amendment denies most favored nation status to certain countries with non-market economies that restrict emigration, which is considered a human right. The U.S. Congress appears now to be considering revoking this amendment with regard to Moldova and lifting this restriction on trade preferences with our country. "*This can lead to easier (and cheaper) trade with the United States but, more importantly, will be understood as a significant gesture of friendship and cooperation between the two countries*" – said John Maxemchuk, the President of the American Chamber of Commerce (AMCHAM) in Moldova.

## LEGAL NEWS

### Moldovan Energy Sector under Reform

In December 2009 the Moldovan Parliament adopted the long-awaited legislative package setting the path for the reform of the Moldovan energy sector. The news below refer to some aspects of this reform. Other relevant part of the reform may be discussed in future issues.

### New Electricity Law and Gradual Liberalization of the Electricity Market

As part of the Moldovan Energy Sector Reform in February 2010, the new Law on Electricity entered into force. The new Law aimed to transpose into the Moldovan legal order the EU Directive 2003/54/CE concerning common rules for the internal electricity market.

Electricity suppliers and distributors (and, in some cases, the other players of the market) are required by the new law, among other things:

- to give priority to producers of cogenerated and renewable energy;
- maintain a management team which is fully independent in the making of decisions;
- audit their financial statements and publish them on the web;
- maintain separate accounts for different activities so as to avoid cross-subsidizing or other distortions to competition;
- the consent of the Agency for Regulation in Energy (the "ANRE") before acquiring any shares in another player of the market.

A producer (generator) of electricity:

- must not be involved in the business of transportation or distribution or electricity. It can however be a supplier of electricity;
- must notify the ANRE if it intends to build a generation plant with a capacity of less than 20MW;
- obtain the consent of the Moldovan Government to build or increase its capacity to 20MW and more.

Another novelty is that producers and suppliers of electricity may set up direct lines (avoiding distributors) to supply electricity to their own business, as well as to sell it to eligible consumers.

The opening of the electricity market shall be carried out in phases established by ANRE with the consent of the Moldovan Government by 1 January 2013 in respect of non-household consumers; and by 1 January 2015 in respect of household consumers.

Not later than 1 January 2013 distributors who also have a license for supply of electricity will have to spin-off their supply business into a separate legal entity.

**Want to learn more? Contact [Octavian.Cazac@TurcanLaw.md](mailto:Octavian.Cazac@TurcanLaw.md)**

## Powering the Power Regulator

On 17 December 2009 the Moldovan Parliament adopted amendments to the Law on Energy No. 1525 dated 19 February 1998 (the "**Energy Law**") and to 6 other laws which contain provisions with regard to the National Agency for Regulation in Energy (the "**ANRE**"). Under these amendments that entered into force on 31 December 2009, the Parliament will be responsible for appointing the ANRE's general director and all other directors of the ANRE's Council of Administration and for approving the ANRE's annual budget, instead of the Government that was deprived of these attributions. Additionally, the number of directors of ANRE's Council of Administration has been increased from 3 to 5 including the general director, and the Parliament has also increased the maximum amount of regulatory fees that can be charged by ANRE from 0.09 % to 0.15 % from the annual cost of electricity, natural gas, petroleum products and imported liquefied gas. In addition to its existing powers, ANRE has been authorized to approve the tariffs for the centralized heating services, instead of the local public authorities. Such local authorities, in particular the Chisinau Municipal Council, due to political reasons were generally very reluctant to increase tariffs as this was perceived to be very unpopular among voters. However ANRE should not be politically motivated, and as per the Energy Law, it is independent from any regulated entities, from any public authorities and other legal entities or individuals.

Following these amendments, the Parliament appointed new directors of ANRE's Council of Administration, as follows: Mr. Victor Parlicov was appointed as the new general director for a 6 year term, Mrs. Mariana Botezatu and Mr. Marin Profir were appointed as directors for a 4 year term, Mr. Leonid Belinschi and Mr. Nicolae Raileanu were appointed for a 2 year term.

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## New Merger Notification Form

In March 2010 the National Agency for Protection of Competition ("**NAPC**") adopted a new form to be used for notification of mergers (NAPC Resolution No CEE-29 dated 15.03.2010). Such notification shall be made according to Article 17 of the Law on Protection of Competition. The form indicates what a merger notification should contain and lists documents and information to be submitted with NAPC in order to obtain its prior approval.

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**How Unchanged Payroll Tax Rates Can Become Heavier Tax Burden on Employees**

Same as in 2009, employers have to withhold from their employees' salary payouts income tax at the rates of **7%** for the portion of the annual income not exceeding MDL 25,200, and **18%** - from the surplus earnings, only that the annual tax-exempt income that may be claimed by an individual has now been increased to **MDL 8,100** compared to MDL 7,200 in 2009. But is this really an effective increase of the tax-exempt income? A simple arithmetical exercise shows that MDL 7,200 as of 1 January 2009 was equal to **EUR 488**, while MDL 8,100 on 1 January 2010 dropped down to **EUR 435**.

In 2010, the employers pay a **23%** (22% for agribusiness; 33% for social insurance of certain categories of aviation related employees) **social security contribution on gross payroll** and withhold an **individual social security contribution of 6%** from their employees' salaries. Unfortunately, reduced (20%) rate of social security contribution on gross payroll granted in 2009 for exemplary payers will not be applicable in 2010.

No fluctuations have been noticed in respect of another must-do payment affecting employment relationships, namely **mandatory health insurance contribution**. So, as in 2009, the employers have to pay 3.5% on top of gross payroll to the health insurance fund, and an extra 3.5% will be withheld from employees' salaries.

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**Sanitary Regulation for New Food Products**

Effective from 15 January 2010, the Sanitary Regulation on New Food Products approved by the Government aims to implement the provisions protecting public health, consumers' interests and the good operation of the domestic market. It applies to food products that are new to our market. The Regulation sets out the procedure, documents and terms of the mandatory state evaluation and registration of the new food products. The specific requirements refer to the labeling of these products that must ensure the consumers information regarding the composition, nutritional elements, new ingredients, etc. The new food products that do not comply with the requirements of the Regulation cannot be produced or imported in order to be placed on the Moldovan market.

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**Less Imports Subject to Mandatory Certification**

In January 2010 the list of products subject to compulsory conformity certification has been significantly reduced. Compulsory conformity certification has been giving serious headaches to importers, which had to wait for local laboratory certification (that could sometimes take several weeks) before their imported goods could become freely tradable on the Moldovan market. Certification was repealed for a number of positions, including: honey, flour, sugar, sausages and canned meat, vegetables (including canned vegetables), drinking-waters (sugar-free), wines and spirits, tobacco raw materials and products, essential and aromatic oils, dishware and household goods made of glass and plastic, rubber goods (including tires and footwear), packages, textiles, children's clothes and undergarments, sportswear, pipes, firearms and ammunition, kitchen household items made from copper, aluminum and iron, hoisting cranes and elevators, motorcycles, some automotive parts, tractors and machinery for cleaning and/or threshing of agricultural products, pyro-technic products and matches, solvents, antifreeze and brake fluids, etc.

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**Model Agreements of Market Dominators to Pass Consumer-Friendliness Test**

On 22 February 2010 the Ministry of Economy of the Republic of Moldova adopted the Order No. 31 that provides for the creation of a Commission for examination and approval of model-agreements to be concluded by dominant suppliers of services with final household consumers. The commission will examine the content of model agreements proposed by businesses that are recognized as having a dominant position on the relevant market, and will check if the provisions included in such model agreements are clear, unequivocal and understandable without special knowledge, preventing the imbalance between the rights and obligations of the parties and also striking out unfair terms.

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## Spanish banks break ECB loan record

Spanish banks are borrowing record amounts from the European Central Bank as the country's financial institutions struggle to gain funding from the international capital markets. Spanish banks borrowed €85.6 billion (\$105.7 billion) from the ECB last month. This was double the amount lent to them before the collapse of Lehman Brothers in September 2008 and 16.5 percent of net eurozone

loans offered by the central bank. This is the highest amount since the launch of the eurozone in 1999 and a disproportionately large share of the emergency funds provided by the euro's monetary guardian, according to analysis by Royal Bank of Scotland and Evolution.

Spanish banks account for 11 percent of the eurozone banking system. The big moves in the eurozone bond markets were in Greece, where 10-year yields rose 74 basis points to 9.06 percent in reaction to Moody's decision to lower the country's long-term credit status to junk. Only Fitch, of the main rating agencies, gives Greece investment grade status. Moody's move forced investors to offload the country's debt. Many can no longer hold these bonds in their portfolios because the rating action means the country's bonds will be removed from indices that these investors track.

## Gulf of Mexico oil leak 'worst US environment disaster'

The Gulf of Mexico oil spill is the worst environmental disaster the US has faced, a senior official has said. White House energy adviser Carol Browner also said the US was "prepared for the worst scenario" that the leak might not be stopped before August. BP is to try a new tactic after its latest failure to halt the leak, but says there is no guarantee of success. BP chief operating officer Doug Suttles said even if it worked it would only halt a majority of the spill.

At least 20 million gallons have now spilled into the Gulf of Mexico, affecting more than 70 miles (110km) of Louisiana's coastline.

## Barack Obama says BP agrees to \$20bn oil compensation

President Obama has confirmed that the British oil giant BP has agreed to finance a \$20bn fund to meet compensation claims from those affected by the Gulf of Mexico oil spill.

Speaking in the White House, he said, however, that the sum of \$20bn did not represent a cap on BP's liability, and the fund would not supersede the rights of individuals or states to pursue claims against BP in the courts.

## Eurozone in crisis

One of the main causes of the currency crisis in the eurozone

is that virtually all countries involved have breached their own self-imposed rules.

Under the convergence criteria adopted as part of economic and monetary union, government debt must not exceed 60% of GDP at the end of the fiscal year. Likewise, the annual government deficit must not exceed 3% of GDP. However, as the maps show, only two of the 16 eurozone countries - Luxembourg and Finland - have managed to stick to both rules.

Overall, Greece is the worst offender, with debt at 115.1% of GDP and a deficit of 13.6% of GDP. But among the bigger economies, Italy's debt is even higher than Greece's as a percentage of GDP, while Spain's deficit is 11.2% of GDP. If the UK were in the eurozone, it would also fall foul of the criteria, with its debt now standing at 68.1% of GDP and its deficit at 11.5% of GDP.

## Japan unfurls Ikaros solar sail in space

Japanese scientists are celebrating the successful deployment of their solar sail, Ikaros. The 200-sq-m (2,100-sq-ft) membrane is attached to a small disc-shaped spacecraft that was put in orbit last month by an H-IIA rocket. Ikaros will demonstrate the principle of using sunlight as a simple and efficient means of propulsion. The technique has long been touted as a way of moving spacecraft around the Solar System using no chemical fuels. The mission team will be watching to see if Ikaros produces a measurable acceleration, and how well its systems are able to steer the craft through space.

The Japan Aerospace Exploration Agency (Jaxa) said in a statement that its scientists and engineers had begun to deploy the solar sail on 3 June (JST). The deployment took place 7.7 million km from Earth.

## Bank of Japan unveils \$33bn loan scheme

Japan's central bank has announced plans to provide up to 3 trillion yen (£22bn; \$33bn) in low interest loans in an effort to spur economic growth.

The bank plans to make the money available to commercial banks to encourage them to lend more to private businesses.

Firms in growth sectors including energy, the environment and tourism will be targeted by the scheme.

The Bank of Japan also confirmed it would hold interest rates near zero.

Rates have remained at 0.1% since the end of 2008, with Japan continuing to fight deflation and recover slowly from recession.

The bank gave no indication that interest rates would rise in the near future, saying it planned to keep monetary policy "extremely accommodative".

## Forth Valley Royal Hospital to use robot 'workers'

A hospital in Scotland is to become the first in the UK to use a fleet of robots to carry out day-to-day tasks.

The robots will carry clinical waste, deliver food, clean the operating theatre and dispense drugs.

They are currently undergoing final tests ahead of the August opening of the new £300m Forth Valley Royal Hospital in Larbert, Stirlingshire.

The robots will have their own dedicated network of corridors underneath the hospital.

## Monthly consumption expenditures exceed population's income

The average monthly consumption expenditures of the population in the first quarter of this year amounted on average to 1306.7 MDL per capita, 16.7% up against the same period of the previous year. At the same time, the disposable income amounted on average to 1237.6 MDL/capita per month.

The largest part of the expenditures was oriented to covering the necessary food consumption (42.8%). To maintain the apartment, a person spent on average 15.9% of the total consumption costs, and 10.3% was spent on clothes and footwear. The other expenditures included health, communications, transport, fitting the apartment, education.

## Growth of Moldova's GDP in the first quarter of 2010 was 4.7 percent

Moldova's GDP in the first quarter of 2010 amounted to 14 billion 498 million leis (\$1.1 billion), up 4.7 percent against the same period last year. According to the National Statistics Office, in particular, the gross added value created in the goods production sector and sector of services exceeded the level of the same period last year by 5.1 percent and 1.3 percent respectively, increasing the GDP by 1% and 0.9%.

The contribution of the gross added value of the sector of goods to GDP formation increased by 0.2 percentage points compared to January-March 2009 while the contribution of the gross added value of the services sector reduced by 0.5 percentage points. The receipt of taxes on products (including import taxes) by the national public budget rose by 17.4 percent compared to the same period last year resulting in the GDP growth by 2.8 percent.

The contribution of taxes on products to GDP formation in the reporting period was 16.5 percent against 16.1 percent in January-March 2009. The final consumption grew by 1.5 percent compared to the same period last year, increasing the GDP by 2 percent. The growth was determined by the 2.5 percent increase in the final consumption of households. The gross accumulation of the fixed capital reduced by 20.3 percent compared to January-March 2009 making up 10.9 percent in the GDP in the reporting period against 15.2 percent in the respective period of the last year. Export and import of goods and services rose by 4.7 percent and 1.3 percent, respectively, in comparison with the respective period of 2009. As it was reported earlier, Moldova's GDP in 2009 amounted to 60 billion 43 million leis (\$4.7 billion), down 6.5 percent against the previous year.

## The deficit of the national public budget of Moldova in January-May 2010 amounted to 986.3 million lei

The consolidated budget revenues in January-May this year amounted to 10 billion 220,2 million lei, exceeding planned for this time period to 487.5 million lei (5%). In comparison with the same period last year they rose by 1 billion 389,3 million lei (15.7%). During the same period, expenditures of the consolidated budget amounted to 11 billion 206,5 million lei, an increase of 2 billion 153.8 million lei (16,1%) less than planned for this time period. At the same time, they 735.5 million lei (7%) exceeded the costs of the national public budget for January-May 2009. According to the Ministry of Finance, the budget deficit in January-May 2010 amounted to 801.5 million lei, state social security budget - 438.1 million lei. At the same time, surplus budgets of administrative-territorial units amounted to 146.1 million lei, the budgets of obligatory health insurance - 109.2 million lei.

## Inflation in Moldova in may 2010 made 0,1%, and since the beginning of the year - 5,9%

In January-May this year food prices grew by 6%, non-food

prices - by 4,6%, while prices for services rendered to the population grew by 7,6%. At the same time food products in May 2010 became cheaper by 1%, non-food - grew more expensive by 0.3%. Fees for services rendered to the population increased in price by 1,2%. Among the food items the highest increase in price in May was for: onion - by 5,1%, carrot - by 4,3%, citrus - 2,6%, fresh fruit, sugar, ice cream, candy, chocolate and chocolate products - all by 1, 2%.

At the same time in May there was decrease in price for: dietary eggs - by 35,1%, non-alcoholic beverages - by 8,7%, fresh vegetables - by 4.9% (including tomatoes and cucumbers - 15%), milk and milk products - by 1,4%, meat and meat products - by 0,7%, fish and fish products - by 0,4%. Among non-food items highest increase in May was for: summer shoes for women - by 2,7%, for men - 5% for children - by 7,7%, tobacco products - by 2,4%, medicine - on 0,8 %. Among the services provided to the population, most of all risen in price passenger railway transport - by 2,7%, housing and communal services - by 2,4%, including services for natural gas - 6%, central heating - 4,6 %, drinking water - 1,7%, public transport - 1,9%, services of kindergartens and nurseries - 1,5%. As it was previously reported, the government originally forecasted inflation of 5% for 2010, recently the National Bank raised the forecast of inflation this year to 10,8%.

## The level of living wage in Moldova in the I quarter of 2010 made about 1343 leis per person, this increases 0.3% as compared to the same period of 2009.

The maximum level of living wage goes to workable population - 1422.4 leis, especially to men - 1502.7 leis. The living wage of pensioners is 1150.2 leis (85.6% of mean value). The living wage of children is about 1230.9 leis per month, starting from 494 leis per one-year-old child to 1364.8 leis per child in the age of 7-16 years. The disposable incomes of population in the I quarter of 2010 were 1237.6 leis at the average per person, thus ratio between average month income and average level of living wage made up 92.2% as compared to 82.4% of the same period in the previous year. The average monthly salary in the economy in the I quarter of 2010 made up 2740.2 leis that covers the living wage of workable population on 192.6% as compared to 182.2% of the same period in the previous year. The average pension (as of April,1,2010 - 775.9 leis) covers living wage of this category of citizens on 67.5% as compared to 56.9% in the I quarter of 2009.

## The government of Moldova approved ratification of Compact agreement with the U.S. stipulating a grant of \$ 262 million to our country.

The document was signed on January 22, 2010 and stipulates that Moldova will receive from the U.S. Millennium Challenge Corporation within 5 years. The grant of \$ 262 million for investment projects on reconstruction and modernization of roads and installation of irrigation systems in agriculture. This \$ 132.8 million of the total grant amount provided for the rehabilitation and upgrading of roads, and \$ 101.8 million will be used for installation in the basins of the rivers Dniester and Prut 11 modern centralized systems of irrigation, as well as to open lines of credit to farmers in post-harvest for product processing, storage, and sale. This component of the Compact program is to help to increase incomes of Moldovan population engaged in agriculture by promoting productivity and improved methods of realization of agricultural products with high added value. The rest funds will be used to monitor and assess the impact of the program, its administration and auditing. The newly created in the country Millennium Challenge Moldova will be responsible for the process of preparing and implementing programs and projects funded by the Millennium Challenge Corporation.

# Annual General Meeting: New AmCham Board of Directors has been elected

AmCham Moldova has organized its 2010 Annual General Meeting and elections for the Board of Directors. The event took place on April 20, at Leograd Hotel & Convention Centre .

The event was attended by a majority of the members of AmCham as well as guests of AmCham. The meeting was opened up by John Maxemchuk, AMCHAM President, that presented the AmCham Team activities developed by AmCham in 2009, as well as its plans for 2010. John Maxemchuk has mentioned that among the priorities of AmCham for the current year is to promote the image of Moldova abroad, mostly in the USA, as well as to contribute to the development of a favorable investment climate in the Republic of Moldova. In addition, AmCham Moldova will further collaborate with the authorities, thus, supporting the transparency and ensuring a non discriminatory competitive environment.

Following the presentation, AmCham Members have elected the new Board of Directors within the Annual General Meeting. Among the members returning to AmCham Board of Directors are David Brodsky - Brodsky Looper Reed & Partners Consultants and Legal Advisors, Iurie Renita - British American Tobacco Moldova, Iuri Cicibaba - Hewlett-Packard, Cristina Harea - Horizon Capital Advisors, Vladimir Didilica - Moldovan Chamber of Commerce and Industry, Andrian Candu - PricewaterhouseCoopers Audit, John Maxemchuk - Sun Communications, Alexander Turcan - Turcan&Turcan Law Firm, Silvia Radu - RED Union Fenosa, while Eugeniu Josan - Moldova-Agroindbank, Rodion Gudim - Orhei-Vit, Stela Corpacian - KPMG Moldova, and Tatiana Stratila - Philip Morris Management Services B.V. are the new members of the Board. In addition to all, there also agreed that the Leaders of the Committees have the right to vote within the Board of Directors meetings.





# Workshop with the Ministry of Environment

AmCham has organized a Workshop with the participation of the Vice-Minister of Environment of RM, Mr. Corneliu Marza, and his team, on Thursday, May 06, at Jolly Alon Hotel.

For a longer period of time, the Ministry of Environment is drafting legal and normative acts related to the environment protection, waste disposal and other environment issues. This effort is aimed at aligning Moldovan legislation to the directives of European Union.

Most of those legal and normative acts will have an impact on the activity of business entities in Moldova. For instance, last year, several AmCham members have joined into a Working Group to review the Draft Law regarding waste disposal. It was clearly stated that, after its implementation, all production entities, entities generating wastes or impacting the environment will have to align its activity in compliance with regulations of new policies and laws.

AmCham together with AmCham members have taken a pro-active attitude in this respect. As a result of the workshop organized, AmCham succeeded to establish a continuous and constructive dialogue with responsible state authorities and made sure all environment legislation with an impact on business activity is discussed and consulted with private sector prior to its approval and implementation.

For this event, the Vice- Minister of Environment and several executives of the Ministry had presented information and updates on current environmental policies and, mainly, on draft Environment Law and draft Law on Waste Disposal and Packages Waste Disposal.

Also, for this event, Mr. Doru Cristiu, the representative of the Romanian Association for Packages and Environment was also invited. Thus, he shared with the workshop participants the Romanian experience – successes and failures - in transposition of EU Environment Policies into national law.





US Embassy  
Alumni Resource Center

Chisinau, Moldova

# USA Independence Day Picnic 2010

The American Chamber of Commerce in Moldova and the U.S. Embassy Alumni Association are pleased to invite you to the USA Independence Day Picnic 2010.

Date: **Saturday, July 3, 2010**

Location: **Golf Club Center, 20 Calea Iesilor, Chisinau**

Time: **15:00 – 22:00**

**Ticket price reserved in advance: 200 lei**

**Ticket price at the gate: 250 lei**

Please, mark this day in your calendar!

For more information or to reserve your ticket please contact AmCham office at 211 781 or [info@amcham.md](mailto:info@amcham.md). There is a limited number of tickets, so please RSVP your participation as soon as possible.

This is a family event and all children under 12 get in free of charge. Food, contests, and entertainment are included in the price of the ticket. Please dress comfortably & bring a blanket for your added comfort.

We look forward to seeing you there!

AmCham General Sponsors 2010

