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**Euromcontact aisbl statement on the European Court of Justice
ruling in the case of Ker-Optika:
Prohibition of Internet sales not allowed but regulation accepted**

Euromcontact aisbl, the European federation of national associations and international manufacturers of contact lenses and contact lens care products gives a qualified welcome to the European Court of Justice's ruling of 2 December regarding the Ker-Optika case (C108-09) about sales of contact lenses over the internet in Hungary.

The judgement acknowledges EUROMCONTACT's claim for consumer protection when it comes to contact lens sales. It recognizes the need for contact lenses to be fitted by a qualified professional. It accepts the need for ongoing information to be given to contact lens customers. It recognizes, moreover, that member states are fully entitled to take national measures regarding the sale of contact lenses that protect consumers as long as these measures are not excessive and do not prevent operators in other member states from selling into that country.

The ruling also states that the sale of contact lenses over the Internet cannot be prohibited because this prevents the free movement of goods. EUROMCONTACT aisbl welcomes competition as long as measures can be taken at the national level to protect consumers.

Unfortunately, however, the ruling does not appreciate that continued (yearly) eye exams are required to prevent and detect early problems with the eye. The eye will continuously change; it is not the same with regard to the first measured parameter, and wearing intensity may also change, for example, at the workplace. The ruling also ignores that, at a certain point in time, the information provided by a seller may need to be advice to the customer to return to an eye care professional for new lenses, fitted appropriately. Furthermore, the need to prohibit any substitution of the originally well-selected and fitted contact lens for another potentially ill-fitting lens is not addressed.

Nevertheless, it appears to be left open for member states to implement regulations which ensure that appropriate information and advice is provided, lenses should not be substituted and the need for a possible re-fit can be required. Regulatory models exist, such as in the US and UK, which can ensure the high levels of consumer safety without infringing the free movement of goods. These models require that the

specification/prescription of contact lenses be verified by a professional prior to their delivery to the consumer.

For further information, please contact:

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