



FSUG Response
Review of the Consumer Protection Cooperation (CPC)
Regulation
(2006/2004/EC)



FSUG c/o European Commission
Internal Market and Services DG
SPA2 4/69, BE-1049 Brussels
markt-fsug@ec.europa.eu

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1. Identification of the respondent

The Financial Services Users Group (FSUG) consists of 20 independent experts who represent the interests of consumers, retail investors or micro-enterprises in the EU policymaking process.

The group's remit is to:

- advise the European Commission on the preparation of legislation or policy initiatives which affect the users of financial services;
- provide insight, opinion and advice concerning the practical implementation of such policies;
- proactively seek to identify key financial services issues which affect users of financial services;
- liaise with and provide information to financial services user representatives and representative bodies at European Union and national level.

2. Key challenges and possibilities for improvement in the enforcement of consumer rights

2.1 Could you indicate up to three areas where you consider better enforcement of consumer rights is needed as a matter of priority to bring more benefits to European consumers and to businesses selling to consumers in the Single Market? Where possible, please point to concrete examples of actual practices or to relevant legislation.

Enforcement in financial services area is lacking. First and foremost, even at national level, the authorities responsible for enforcement in the area of financial services often do not place enough emphasis on consumer protection. Their first task being financial supervision, they might have limited staff or limited powers for consumer enforcement, or even no statutory powers at all¹.

Secondly, for the moment EU legislation in financial services area is not included in the CPC annex, with the exception of the Directive on consumer credit, so the CPC cooperation rules do not apply. This further weakens the enforcement in financial services area. This has to be remedied either adding EU legislation on financial consumer services in the CPC annex and including the enforcers of financial area under the CPC network, or creating a similar mechanism for cooperation in financial services enforcement area, or improving the functioning of the European Supervision Authorities.

The relevant EU legislation is as follows:

- *Directive 2002/65/EC concerning the distance marketing of consumer financial services*

¹ See BEUC study 'Financial supervision in the EU: A consumer perspective' of May 2011, available on BEUC website www.beuc.eu

- *Directive 2002/92/EC on insurance mediation*: consumer aspects
- *Directive 2004/39/EC on markets in financial instruments*: aspects related to the retail investor protection
- *Directive 2007/64/EC on payment services in the internal market*: consumer aspects
- *Regulation No 924/2009 on cross-border payments in the Community* (elimination of the differences in charges for cross-border and national payments in euro)
- *Regulation N°260/2012 establishing technical and business requirements for credit transfers and direct debits in euro*: consumer aspects

Upcoming legislation:

- *Directive on credit agreements relating to residential property* (this directive includes some provisions on administrative co-operation at cross-border level)
- *Directive on deposit guarantee schemes*: consumer aspects

Legislative proposals under negotiation:

- *Directive on payment accounts*
- *Directive on payment services* (revision): consumer aspects
- *Regulation on interchange fees for card-based payment transactions*: consumer aspects
- *MIFID* (revision): aspects related to the retail investor protection
- *Regulation on key information documents for investment products*
- *Directive on insurance mediation* (revision): consumer aspects

Unfair commercial practices present a perfect case for priority action because of the proliferation of various infringements. This encompasses various infringements related to misleading practices and information to consumers, hidden charges, misleading advertising, misleading comparison websites etc.

It is also evident that in case of pan-European unfair commercial practice infringements, national enforcement does not constitute an adequate response. Better, more coherent enforcement is needed allowing for the changes in practices in all Member States where consumers are targeted by a certain practice.

2.2 Could you provide up to three examples of challenges or barriers to a good enforcement of consumer rights in Europe today and in the future?

One of the big challenges to effective enforcement of consumer rights in the EU is the divergence of national enforcement approaches and systems. This encompasses the existence and strength of enforcement authorities, their statutory powers, their independence to set their priorities, human and financial resources, the level of fines or other sanctions they can impose etc.

This results in different responses to similar or identical infringements (or no response at all), therefore leaving consumers in countries with weaker enforcement on an unequal footing.

This is aggravated by cuts in resources for public enforcement as a result of the recent crisis and governments' drive to cut public spending. In a number of Member States enforcement authorities are being merged, their competences or priority areas of action narrowed. In addition, the funding of many national

consumer organisations, that also used to actively participate in enforcement, has either been severely diminished or is at risk.

The more general challenge is that enforcement is currently limited and partitioned along national borders or even by local jurisdictions within a Member State. This no longer corresponds to the reality of the Single Market, where services and goods move across borders and the same traders target consumers from many Member States at the same time.

The legislative provisions dealing with national authorities' enforcement duties are very vague, leaving much room for interpretation by Member States.

Here is an example of wording²:

"Member States shall notify the Commission of the competent authorities designated under paragraph (...).

Member States shall ensure that the competent authorities referred to in paragraph (...) have all the powers necessary for the performance of their duties. Where there is more than one competent authority for matters covered by this Regulation on its territory, Member States shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively.

The competent authorities shall monitor compliance by – providers - with this Regulation effectively and take all necessary measures to ensure such compliance. (...)".

As regards the three European Financial Supervision Authorities, some European laws dealing with consumer protection fall within their tasks and powers. The three EU regulations stipulate in several places that the ESAs have to play an active role in building a common supervisory culture and consistent supervisory practices thereby ensuring uniform procedures and consistent approaches throughout the Union.

For instance, the Directive 2002/65/EC concerning the distance marketing of consumer financial services and the Directive 2007/64/EC on payment services in the internal market fall under the scope of the European Banking Authority³ which has not yet taken any initiative to check the consistency of the supervision of these two directives.

Pursuant to recently adopted EU directives or regulations, the EBA tasks and powers have increased: this is for instance the case for some aspects of the mortgage credit directive and there are some similar provisions in legislative proposals under negotiation like the directive on Payment Account.

Moreover, the three authorities have specific powers relating to consumer protection which they have so far used poorly⁴ - in particular the power to issue warnings in the event that a financial activity poses a serious threat to the objectives laid down in Article 1(5) including consumer protection and the power to temporarily prohibit or restrict certain financial activities.

² Regulation N°260/2012 establishing technical and business requirements for credit transfers and direct debits in euro.

³ See art. 1, para. 2&3 of the Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority).

⁴ See for instance art. 9 of the Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority).

Another example of a barrier to effective enforcement of consumer rights is the fact that consumers are not allowed to access credits from another Member State, with better conditions – especially those with better interest rates.

Despite the fact the CCD contains a provision which ensures the right of foreign creditors to have access to the relevant databases to assess the credit status of a consumer, this was not applied in some Member States. This is one of the reasons used by foreign creditors to refuse requests for cross-border loans.

2.3 Do you have a suggestion to make on how to ensure that there is an equal level of enforcement throughout the Single Market? Could you provide examples of specific cases where the effectiveness of enforcement varies between EU countries?

Each year, a report describing the activities of the CPC network should be published. It should mention which national authorities were active and describe the joint actions undertaken at European level. It should also provide data (on an aggregate basis) on the types of infringements, sanctions, impact of investigations on the behaviour of firms, etc. This report would also ensure the visibility of the network.

As regards retail financial services, the best solution would be to set up a European authority in charge of consumer protection working in close cooperation with national authorities in order to ensure a high equal level of enforcement throughout the Single Market. The 3 ESA regulations should be revised and a new regulation which creates a new authority adopted; the new regulation would merge the existing competences of the 3 existing ESAs and cover all EU legislation dealing with consumer protection in the financial services area.

Example of poor enforcement: The Lehman Brothers Case

L.B.H.I. bonds-backed insurance policies were sold to many European investors. Such insurance products were usually index-linked policies which combine financial instruments (such as bonds) with insurance features (for instance the extra amount of money the appointee might receive should the investor decease). Theoretically, such a combination was conceived in order to obtain a safer and more profitable investment.

The insurance policies were sold all over Europe. While they had different technical names depending on both the retail bank and the country they operate in (such as Citibank and Deutsche Bank in Belgium; UniCredit and Unipol Banca in Italy), all these products had the same kind of structure and features.

Most of the insurance products sold in Europe were structured on bonds issued by Lehman Brothers Treasury Co. B.V. ("LBT") that was declared bankrupt by the Amsterdam District Court on the 8th of October 2008.

Retail banks offered and advised their customers on most of these financial products over the 12-24 months before LBHI was declared bankrupt. Many of those investors claimed these policies were presented to them as "safe investments", fully warranted by their own retail banks' capital and assets.

In recent years, marketing strategies were considerably influenced by misleading information on the stability of the entire financial system.

Several stakeholders were involved in obtaining redress for consumers that invested in Lehman Bros. financial products like national consumer organisations and companies focusing on services to investors in listed and non-listed companies, such as Deminor in Belgium.

Inactivity of national authorities

National financial authorities generally did very little in practice in relation to the Lehman Bros. commercial practices on bonds-related insurance products (e.g. prospectuses aimed at consumers were incomplete and misleading).

Indeed, national authorities have usually operated on the companies' management side. For instance, on the 15th of September 2008, the German Federal Financial Supervisory Authority (BaFin) blocked disposals and payments for Lehman Brothers Bankhaus AG (Lehman) and also banned the bank from receiving payments not intended for payment of debts towards it (Moratorium); while in the UK, Lehman Brothers International (Europe), Lehman Brothers Limited, LB Holdings PLC and LB UK Re Holdings Ltd. were placed into administration.

It is worth noting that Italian jurisprudence for instance holds that when carrying out the duty to control and supervise financial services prospectuses, the Administrative Supervisory authority must act according with the *neminem laedere* principle. This entails that such an administrative body must operate with due diligence so as not to damage investors' interests. Therefore, in the current case, Italian investors can stand in civil courts against the Financial Regulator.

They did also very little as regards unfair commercial practices and application of MIFID. Firstly, during the Sales Process investors did not receive a correct explanation of the kind of financial products they were about to buy, usually bonds or insurance products structured on Lehman Bros. bonds.

Investors usually thought that they were buying a sort of "saving policies" with almost no risk, as they believed the "guarantee" of the money they invested was provided by their own bank (e.g. Citibank in the Deminor case).

Secondly, the commercial brochures which had been used to present those financial products, proved to be incomplete and misleading as they have induced investors to believe the investments were absolutely safe.

Thirdly, the investor's profile was not always taken into account before advising on a service and so many investors with a wary-risk profile were thus sold highly risky products.

The three elements quoted above may qualify as unfair commercial practices under the Unfair Commercial Practices Directive as they "materially distort or (are) likely to materially distort the economic behaviour with regard to the product of the average consumer whom it reaches or to whom it is addressed".

Liability of the Dutch Supervisory body

In the Netherlands, the supervision of Financial Markets is carried out by two authorities: the Dutch Central Bank and the Netherlands Authority for Financial Markets (the AFM). The AFM supervises the exercise of due care by financial intermediaries in dealing with clients.

Dutch courts have been extremely moderate in sentencing the AFM. In theory, the financial regulator can be held liable on the basis of a wrongful act, but in practice, courts have shown increasing reservation over finding regulators liable.

In another case involving BeFRA, the Dutch court found that the nature of the AFM's supervisory duties does not imply the AFM is liable whenever it subsequently appears that individual interests have been harmed because a securities service provider acted unlawfully.

According to the court, the AFM will be liable, due to negligence, for damages incurred by individual investors only if it follows from the circumstances that the AFM have unreasonably decided to refrain itself from using its powers.

3. Improving the methodology for identifying infringements

Effective enforcement of consumer rights at the EU level depends on the availability of accurate and comparable information on markets and problems. Systematic screening is needed to detect emerging trends and threats to consumers in a timely manner and in order to establish common enforcement priorities. The CPC Regulation requires Member States to coordinate their market surveillance and to alert CPC competent authorities and/or the Commission on specific suspected cross-border infringements. However, no practical procedures are provided and it is necessary to define the best ways to strengthen the alerts and intelligence knowledge basis available within the CPC, possibly enlarging it to contributions coming from parties outside the CPC network.

3.1 Do you consider that the current system of surveillance and alerts under the CPC Regulation is sufficient to ensure an efficient identification of infringements?

- Fully sufficient
- Sufficient
- Insufficient
- No opinion**

3.2 Gathering and sharing intelligence on markets

What would be, according to you, the most important measures at EU level to support the knowledge base for enforcement prioritisation?

Please indicate your priority level for each of the following (1 = top, highest priority, 2= medium priority, 3= low priority)

Gathering intelligence on markets and consumer trends form part of the duties of the 3 ESAs. However the reports they publish each year in this area have not yet been followed by joint supervision initiatives throughout the EU.

- | | |
|--|---|
| A mechanism to gather and analyse enforcement intelligence from available sources in Member States and at EU level | x |
| A requirement for coordinated surveillance actions by Member States | x |
| EU-funded surveillance actions | x |

EU-funded studies on emerging consumer threats and new market practices which are relevant for enforcement of consumer rights	x
An IT platform to share enforcement expertise (e.g. investigative techniques, legal expertise)	x
An EU complaint system directly accessible on-line to citizens	x
Other? (Please specify) (2000 characters)	
An EU complaint system directly accessible to national consumer organisations	1

3.3 Scope of the CPC alert mechanism

The CPC Regulation currently contains an alert mechanism (Article 7) that allows designated competent authorities to circulate early warning messages between one another when they become aware of a suspected cross-border infringement.

What are the main requirements for an efficient alert system according to you?

Please indicate your priority level for each of the following, from 1 to 3 (1 = top, highest priority, 2 = medium priority, 3 = low priority)

Action categorisation of alerts (e.g. with an obligation to act/for information only)	x
Possibility for the European Commission to post alerts	x
Possibility for other organisations with an interest in enforcement of consumer rights (e.g. consumer and trade associations, self-regulatory bodies, European Consumer Centres (ECC-Net), local authorities) to post alerts	x
Possibility for alerts to be made public	x
Other? (Please specify)	

To make the alert system more efficient, a feedback mechanism needs to be established to see why the alert has not been acted upon. This will make sure the alerts are properly taken into attention.

Also, the information contained in the alerts could be shared in discussions with consumer organisations in order to identify if similar practices exist in different

countries, if there are many consumer complaints regarding the issue and deciding on the possible enforcement avenues.

3.4 Can you give best-practices, examples of effective alerts or intelligence sharing practices in your Member State which could be relevant for other Member States and contribute to enforcement in the EU?

The cooperation between the Slovenian consumer organisation (ZPS), the Slovene central bank and the banking services supervisor could serve as an example for the strengths and weaknesses of such an approach.

The supervisor co-finances some of ZPS's activities, for example regular market reviews of payment services, savings and credit, as well as comparative tests.

Every year, the findings of these activities are presented to the supervisor. Also, both sides exchange data on consumer complaints. However, the capacity of the supervisor to take action is limited due to both missing legal basis and inadequate capacity in the field of consumer protection. Also, the supervisor cannot disclose the concrete action it has taken in a specific case and whether sanctions were applied.

4. Enhancing the capacity of national authorities to perform the CPC duties

The CPC Regulation makes available to national authorities a number of concrete powers and procedures - a common toolbox - to tackle cross-border infringements of consumer legislation and to coordinate market surveillance and enforcement activities for example to check websites in a given sector across Europe to identify malpractices.

The Regulation requires Member States to ensure that enforcement authorities have the following set of minimum powers to perform their duties under the Regulation:

access to information, on-site inspections, written requests to stop an infringement, the ability to obtain an undertaking from traders and, where appropriate, publication of the undertakings, to request to cease or to prohibit an infringement, where appropriate, publication of resulting enforcement decisions, and requests for penalty payments in case of non-respect of a decision.

To increase the credibility, strength and efficiency of enforcement actions carried out through the CPC, the toolbox provided to national enforcement authorities could be extended to some additional powers and common procedures.

4.1 Additional intervention tools for national enforcement authorities. Indicate to what extent you would agree with the inclusion into the CPC Regulation of ...:

The powers provided by the CPC regulation should be made available to all national authorities in order to carry out their national supervision activities and cover all EU legislation related to consumer protection in the financial services area. In particular, they should be included in the next revised version of the 3 ESA regulations or in a regulation creating a new EU authority in charge of consumer protection (see question 2.3.).

The CPC regulation has had a very real impact in some Member States: before the adoption of the CPC regulation, there was no authority in charge of consumer protection in the Netherlands.

It is also thanks to the CPC regulation the authority in charge of air transport in France (DGAC) has been endowed with powers of enquiry including conducting

enquiries at national level. However, there is no data available proving that all national authorities who have been designated under the CPC Regulation really use all the investigative powers at their disposal.

- a: Fully agree
- b: Somewhat agree
- c: Somewhat disagree
- d: Fully disagree
- e: No opinion

The possibility to request the application of sanctions, regardless of whether the infringement has ceased or not a

The power to apply more stringent sanctions due to the cross-border nature of the infringement c

The power to require interim measures, awaiting the completion of full proceedings a

The power to request penalty payments to recover illicitly obtained gains a

An explicit power (under defined conditions) to name infringing traders a

The power to carry out test purchases for investigative purposes a
Mystery shopping - actual purchase without revealing the authority's identity

Other? (Please specify)

4.2 Making it easier for consumers to claim compensation following an enforcement decision taken within the CPC.
CPC decisions, for example calling on a trader to change their terms and conditions that infringe consumer protection legislation, are made with the collective interest of consumers in mind. As CPC decisions do not address individual cases, they may not be known or available in a format useable to consumers seeking redress for the harm they have suffered from such infringements.
How necessary do you think it is to include elements into the CPC Regulation in order to make CPC decisions more user-friendly to consumers to assist them claim compensation for the harm caused by infringements dealt with in the CPC?

- Very necessary**
- Necessary
- Not so necessary

Not necessary
No opinion

It is crucial that it is made easier for consumers to claim compensation following an enforcement decision and the public enforcers are perfectly placed to facilitate this task.

Only making CPC decisions available for consumers or their representatives' awareness of an infringement and the fact that they might be entitled to the compensation is not enough. Public authorities have to do more than this. Redress opportunities are often scarce and difficult to pursue for individual consumers, particularly in legal systems where the legal advice and representation is very costly or court cases take a long time.

Therefore national authorities have to facilitate redress and compensation for the consumers harmed by infringements:

- Consumer harm should be taken into account in the investigation;
- Authorities must have powers to order compensation from the infringing party to be paid to the victims if known;
- If the above is not possible, CPC authorities and all national authorities dealing with consumer protection have to facilitate access to justice for victims by making their files accessible in order to allow the victims, or their representatives, have evidence about the infringement and the harm caused by it.

Last, but not least, the authorities' decisions should be available for the victims to use in courts, also in a cross border context and to check whether national authorities actually apply the legislation protecting consumers. This can have a powerful impact on market practices.

4.3 Common standards to handle infringements within the CPC Regulation.

When responding to a mutual assistance request from a partner authority in another country, an enforcement authority has to follow its national procedural rules. Differences in these rules between the two countries may be a barrier to smooth cooperation. For example the quality of evidence required to establish an infringement may diverge and the information transmitted by the partner country be insufficient for a legal action.

To overcome this procedural fragmentation, common standards or criteria could be introduced in the CPC Regulation.

4.3 (a) Would you consider it useful to introduce common standards or criteria in the CPC Regulation, to overcome procedural differences between EU countries?

Yes, and not only for the CPC regulation

No

No opinion

4.3 (b) In which circumstances would the introduction of common procedural standards be the most useful?

Please indicate the priority level that you attach to each of the following from 1 to 3 (1=high priority, 2=medium priority, 3=low priority)

For all cases 1

For cases covering at least three countries

For cases representing a consumer detriment over a certain threshold (e.g. estimated amount)

For cases requiring urgent interim measures, awaiting the completion of proceedings initiated in conformity with national laws

For recurrent cases of limited legal complexity, according to defined criteria

None of the above

4.3 (c) In which areas would the introduction of common procedural standards be most useful?

Please indicate for each of the following your priority level, from 1 to 3 (1= high priority, 2 = medium priority, 3= low priority)

Collection of evidence 1

On-site inspections 1

Access to documents 1

Investigation of websites 1

Test purchases 1

Mystery shopping - the ability to make purchases without revealing the authority's identity

Acceptance of the results of a partner authority's investigation ?

Establishment of an undertaking by an infringing trader x

Publication of enforcement decisions, including naming of infringing parties 1

None of the above

Other? (Please specify)
(maximum 2000 characters)

4.4 Can you give best-practice examples relating to the enforcement powers and procedures available in your country which could be relevant for other Member States and contribute to a more effective enforcement across the EU

The use of 'mystery shopping' is often the only way to demonstrate that a seller does not comply with the legal rules (e.g.: 'botched' interviews to establish the MiFID profile of the retail investor in accordance with MiFID; non delivery of pre-contractual information in due time before signature of the contract; non-disclosure of conflicts of interest). Unfortunately, there are still very few national authorities authorised to use this investigative power (see FSMA recently in Belgium).

5. Tackling widespread infringements in the Single Market

One of the purposes of the Single Market is to offer economies of scale to market players in facilitating the easy establishment of operations across the EU and in allowing consumers a wider choice of products and services. The consequence of the opening of markets is that possible infringements to consumer rights may also be spread easily and fast in many countries at the same time. For example, consumers in several countries may be harmed by the same misleading advertising campaign carried out by a large retailer through its on-line shops or its establishments in these countries. They can also be harmed, by traders which apply unfair contract terms across the internal market as an "usual practice" of a given industry. Such widespread infringements affecting several Member States at the same time and/or made by transnational traders across the EU market transcend the national dimension and are referred to as infringements of "EU-level relevance". The following questions examine whether and how specific or enhanced EU-level coordination mechanism would be needed for these types of infringements so as to achieve a cost-effective approach, for example by pooling resources of Member States and avoiding lengthy and costly parallel procedures.

5.1 How significant are EU-level relevant infringements according to you? Based on your experience of infringements of consumer laws occurring in the Single Market, would you say that those affecting several Member States at the same time and/or made by transnational traders are ...

- Very significant
- Significant
- Not so significant
- Insignificant
- No opinion

5.2 According to you, how important is it to provide for a specific enforcement cooperation procedure to handle EU-level relevant infringements?

- Very important
- Important
- No so important
- Unimportant
- No opinion

Targeting such practices with national actions does not always lead to the best result - the outcomes can be disparate depending on the strength of national enforcement. So specific enforcement cooperation procedures or a specific EU-wide procedure would be most useful to handle EU-level infringements.

In general, we advocate a shifting of enforcement perspectives from cross-border infringements to genuine enforcement without borders. If the Single Market is to be achieved, modalities must be found to effectively tackle EU-level infringements and guarantee the result is coherent throughout all Member States.

5.3 What are the main benefits of carrying out joint enforcement actions in relation to EU-level relevant infringements?

For each of the following please indicate the benefit level you would expect, from 1 to 3 (1 = top, highest benefits, 2 = medium benefits, 3= low benefits)

Sharing of expertise in investigation and legal analysis	1
Cost efficiency gains in handling the infringements	2
More effective enforcement actions to stop infringements	1
Higher and more consistent compliance with consumer legislation across the EU	1
More transparency and predictability of enforcement action in the EU	2
Boost consumer confidence when shopping in the Single Market	1
Other? (Please specify) (maximum 2000 characters)	

5.4 Which of the following approaches would be the most effective to stop or to deter EU-level relevant infringements?

- a: Very effective
- b: Highly effective
- c: Not so effective
- d: Not effective
- e: No opinion

An obligation for Member States to notify cases corresponding to defined criteria for EU-level relevance so as to trigger a joint enforcement action	x
Following sufficient evidence on a case of EU-level relevance, brought by the Commission, and obligation for the concerned Member States to conduct a joint enforcement action	x

An obligation for Member States to alert other enforcement authorities on an enforcement action when it is suspected that similar practices by the same company or its branches are done in other markets, so as to trigger a joint enforcement action

a

A single EU level procedure, where the Commission or any Member State can bring the evidence of an EU-level infringement

x

A mechanism of mutual recognition of enforcement decisions

x

Other? (Please specify)
Please specify: (maximum 2000 characters)

If a single EU-level procedure is to be set, it is important it is not only the Commission or any Member State who can bring evidence of an EU-level infringement, but also any qualified European organisation.

In parallel with national organisations having standing to bring national injunctions or enforcement cases, there should be room for European organisations in the new European procedure.

5.5 How far should the Commission be directly involved in tackling EU-level relevant infringements?
For the following successive steps, state the ones in which the Commission should play a leadership role

Yes to all the powers below
No
No opinion

Define evidence based priority sectors where consumer conditions are the poorest

Carry out preparatory prima facie investigations (e.g based on website studies, complaint data)

Carry out case investigations (including the power to do on-site investigations, request information from traders) on the basis of complaints

Determine the existence and nature of an infringement

Request trader(s) to cease an infringement

Establish an undertaking with the trader(s) and ensure follow-up monitoring

Request Member States to enforce and/or impose a sanction in case of non-compliance with the undertaking

Other? (please specify)
Please specify: (maximum 2000 characters)

5.6 What role can other organisations (consumer and/or business representative or other organisations) play to deter or tackle EU-level relevant infringements?

Please indicate which organisation(s), how and at what stages of the process their involvement is most important:

Consumer organisations are very well placed to identify various breaches, as consumers turn to them with the complaints.

In addition, many consumer organisations cooperate among themselves and share information, thus enabling the discovery of similar breaches in many countries.

It is important however that there is a good and constructive relationship and information sharing between the consumer organisations and national enforcers, which would enable rapid exchange of information.

Such cooperation exists in a number of Member States (e.g. the Netherlands, Denmark), but not everywhere. We believe it is both at this national and also European levels that the real structured dialogue on enforcement between public enforcers and consumer organisations has to be set up.

But structured dialogue cannot just be a unilateral flow of information from consumer organisations towards enforcers. In order to enable real dialogue and information sharing which identifies and tackles infringements most effectively, consumer organisations need to be considered a genuine partner at national level.

Too often it happens that consumer organisations receive no feedback about what happened with the information they provide - have there been any enforcement actions concerning the infringement? etc.

On the other hand, approaches to enforcement and the role of consumer organisations vary quite a lot in different Member States. Consumer organisations are not involved in all countries in enforcement issues, so there is not 'one size fits all' solution. The national enforcement dialogue should take into account the respective roles of participating public authorities and consumer organisations.

5.7 Do you have any further comments or suggestions on the issue of EU-level relevant cases and ways to tackle them?

6. Final remarks

6.1 What else would you suggest that the European Commission should do or propose to improve overall enforcement of consumer rights and, in particular, the coordination of national enforcement efforts within the EU?

In order to improve overall enforcement of consumer rights in the EU, the European Commission should also aim to establish more efficient cooperation with US authorities or those of other countries where traders engaged with EU consumers are often established. For instance, the occasion could be seized to include closer enforcement cooperation within the TTIP agreement.

Additionally, national authorities should have enough powers to deal with infringements when the trader is established outside the EU.