

Cooperation between national authorities responsible for the enforcement of consumer protection laws

2016/0148(COD) - 25/05/2016 - Legislative proposal

PURPOSE: to develop more modern, efficient and effective enforcement cooperation mechanisms in the consumer protection area and contribute to the completion of the Digital Single Market.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Regulation 2006/2004 on cooperation between national authorities responsible for enforcement of consumer protection laws (the Regulation on consumer protection cooperation, the "CPC Regulation") has strengthened the enforcement of consumer laws across the EU. However, a high level of non-compliance with the key Union consumer rules persists in the main consumer markets.

The coordinated screenings of online e-commerce websites ("sweeps") carried out by CPC authorities since 2007 show rates of non-compliance with basic consumer rules, between 32% and 69%, in the checked markets. Further, a conservative estimate based on a representative sample of five online sectors (clothing, electronic goods, recreation, consumer credit and package travel) shows that 37% of EU e-commerce did not respect Union consumer law in 2014.

The Commission evaluation report under the CPC Regulation concluded that the current Regulation needs to be replaced to respond to the challenges of the digital economy and the development of cross-border retail trade in the EU.

A legislative proposal is therefore needed to address the identified shortcomings of the CPC Regulation. The general objective of the proposal is to develop modern, efficient and effective CPC mechanisms that will reduce the consumer detriment caused by cross-border and widespread infringements to Union consumer law.

The [Single Market strategy](#) adopted by the Commission on 28 October 2015 further reiterated that the Commission will improve the enforcement of Union consumer law by national authorities through the reform of the CPC Regulation.

IMPACT ASSESSMENT: among the five policy options examined, the preferred option is the option to revise the CPC Regulation by extending its scope and strengthening its efficiency.

It was estimated for the subset of five online markets studied in the impact assessment that a decrease of 10 points in the non-compliance rate of 37% could reduce the detriment from an estimated EUR 770 million per year to about EUR 539 million, i.e. by 30%.

CONTENT: the Commission proposes to modernise the current CPC Regulation, by deepening the level of harmonisation, in order to address the above issues and to boost the cross-border enforcement of Union consumer laws in the Single Market.

The main elements of the proposal are as follows:

Introductory provisions: the proposal updates the definitions to take account the extension of the Regulation to widespread infringements and ceased infringements (infringements of short duration that ceased before enforcement measures can be taken, but which may be causing harm to consumers afterwards. It introduces a limitation period for the possibility to impose penalties (five years from the termination of such infringements) and sets rules for the calculation of the limitation period and for its suspension.

Competent authorities and their powers: this Chapter: (i) defines how to designate competent authorities and single liaison offices for this Regulation; (ii) clarifies the roles of the single liaison offices; (iii) calls on the Member States to ensure smooth cooperation among the members of the enforcement network in their territory; (iv) requires Member States to ensure that other national authorities support the work of the competent authorities.

Further minimum powers have been added, such as the power to make test purchases and carry out mystery shopping, power to adopt interim measures, block websites and the power to impose penalties and to safeguard consumer compensation in a cross-border context.

Mutual Assistance Mechanism: this mechanism shall be used to address intra-Union infringements, which affect consumers in one Member State but have a cross-border element (e.g. the responsible trader is located in another Member State). The proposal newly sets out that the requested authority has an obligation to reply to a mutual assistance request within the time limit set by implementing measures.

Coordinated surveillance, investigation and enforcement mechanism for widespread infringements: the proposal provides for instruments to address widespread infringements. These include coordinated actions, common actions against widespread infringements with Union-dimension and concerted investigations of consumer markets. The proposal also establishes a new instrument to address widespread infringements with Union-dimension which are likely to harm consumers in a large part of the Union. It sets out the thresholds that determine which suspected infringements have a Union-dimension. The Commission establishes whether the thresholds for Union-dimension are fulfilled and launches the common action by decision. It has also an obligation to coordinate investigation and other measures that Member States need to take to stop the infringement. Participation in a common action is mandatory for competent authorities in Member States concerned by the infringement.

Surveillance Mechanism: the new surveillance mechanism replaces the current CPC system of alerts. It combines the alerts under the current CPC Regulation with wider exchange of information that is relevant and necessary for timely detection of widespread infringements. Other entities may participate in the alert mechanism through external alerts.

Professional and commercial secrecy: the proposed Regulation ensures protection of professional and commercial secrets. It also provides that the information collected using the minimum powers under the Regulation will only be used for the purposes of ensuring compliance with

the laws that protect consumers' interests. Annex: it is proposed to include the following EU legislative act to the Annex of the CPC Regulation: [Directive](#) on consumer rights; [Directive](#) on services in the internal market; [Directive](#) on credit agreements; [Directive](#) on payment accounts; [Regulation](#) on railway passenger rights and obligations; [Regulation](#) concerning the rights of disabled persons and persons with reduced mobility when travelling by air; [Regulation](#) on common rules for the operation of air services in the Community.

BUDGETARY IMPLICATIONS: the Commission estimated that there will be approximately four common actions per year against widespread infringements with Union-dimension. This will trigger an additional workload for the Commission, estimated to require two full-time officials to coordinate these common actions. These resources will be obtained through the redistribution and refocusing of the existing personnel.

The Commission will also incur additional costs in monitoring the functioning of the mutual assistance and alert mechanisms. The Commission's total additional costs for its enhanced coordination and monitoring role are estimated to be below EUR 300 000 per year and these costs will be covered by internal reallocation of resources.