

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

2016/0148(COD) - 12/12/2017 - Final act

PURPOSE: strengthen cooperation between EU national authorities responsible for enforcing consumer protection legislation.

LEGISLATIVE ACT: Regulation (EU) 2017/2394 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004.

CONTENT: the Regulation aims to modernise the cooperation mechanisms between national authorities to further reduce the harm suffered by consumers as a result of cross-border infringements of EU consumer protection legislation. The new rules aim particularly to tackle the enforcement challenges of e-commerce and the digital environment in the EU.

The Regulation applies to intra-Union infringements, widespread infringements and widespread infringements with a Union dimension, the latter meaning widespread infringements that have done to the collective interests of consumers in at least two-thirds of the Member States, accounting, together, for at least two-thirds of the population of the Union.

Powers of competent authorities: each Member State shall ensure that its competent authorities and, where appropriate, the designated bodies responsible for compiling the relevant information concerning an infringement or taking the necessary enforcement measures to put an end to or prohibit such an infringement, cooperate effectively.

The new Regulation sets out a number of minimum investigative and enforcement powers that should be available to each competent national authority in order to ensure appropriate coordination in the fight against infringements. Powers of investigation will cover at least:

- the power of access to any relevant document or information relating to an infringement covered by the Regulation;
- the power to require the provision of any relevant information for the purposes of establishing the details of such infringement, including tracing financial and data flows, ascertaining the identity of persons involved, and ascertaining bank account information and ownership of websites;
- the power to carry out necessary on-site inspections;
- the power to purchase goods or services as test purchases, where necessary, under a cover identity.

Competent authorities may also (i) open investigations or proceedings on their own initiative if they learn of infringements by means other than consumer complaints; (ii) publish any final decision or undertaking of the trader, including making public the identity of the trader responsible for the infringement.

Where the Commission has a reasonable suspicion that a widespread infringement with a Union dimension has occurred, it should notify the competent authorities and single liaison offices concerned by that alleged infringement. Where the competent authorities concerned conclude that their investigations reveal that an infringement might be taking place, they should start coordinated action, which should always be coordinated by the Commission.

Mutual assistance mechanism: the mutual assistance mechanism between administrations is strengthened to help establish and put an end to an infringement within the EU. The Regulation sets out a period of 30 days within which information must be provided to an applicant authority. The requested authority shall determine the appropriate enforcement measures needed to bring about the cessation or prohibition of the intra-Union infringement and shall take them not later than 6 months after receiving the request.

Alerts: a competent authority shall without delay notify the Commission, and other competent authorities of any reasonable suspicion that an infringement that may affect consumers interests in other Member States is taking place on its territory.

Each Member State shall confer on designated bodies, European Consumer Centres, consumer organisations and associations, and, where appropriate, trader associations, that have the necessary expertise, the power to issue external alerts to the competent authorities of the relevant Member States.

Sweeps: concerted investigations of consumer markets through simultaneous coordinated control actions have proven to be an effective tool against infringements of Union laws. These operations will be maintained and strengthened in the future, both in the online and offline sectors.

The Commission shall submit to the European Parliament and the Council, by 17 January 2023 at the latest, a report on the application of the Regulation.

ENTRY INTO FORCE: 28.12.2017.

APPLICATION: from 17.1.2020. Regulation (EC) n° 2006/2004 is repealed with effect on the same date.