

Permanent Representation to the EU

The Consumer Voice in Europe

BE - Brussels

Ref.: BEUC-X-2017-014/UPA/AMA/rs

15 February 2017

Consumer Protection Cooperation (CPC) Regulation review

Dear Deputy Ambassador,

We are writing on behalf of the European Consumer Organisation (BEUC) to express our concern about the Council's approach to the Regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws (so called 'CPC Regulation').¹ The file is due to be discussed during the Competitiveness Council on 20 February.

BEUC supports the Commission proposal to review the Consumer Protection Cooperation regulation and to strengthen public enforcement of consumer rights. At the moment, national authorities do not always act, or have the tools necessary to act. This is despite clear breaches of consumer legislation and even large scale infringements across the EU, for example the Volkswagen defeat device case with 8 million vehicles affected in Europe.

The changes to the Consumer Protection Cooperation regulation, proposed by the European Commission, could make substantive improvement in the enforcement of consumer rights. Especially important additions are strong powers of public authorities to impose sanctions or order compensation to consumers, closer and more solid cooperation among the authorities on widespread infringements, and the active involvement of the European Commission.

We are calling on you not to water down the Commission's proposed improvements and in particular to support a new enforcement culture in the EU which involves partners like consumer organisations in efforts to ensure better law compliance.

Here below are the main elements that need to be included in the final result of the review:

- i) In Article 8 (minimum powers of competent authorities), authorities should have the necessary powers to order compensation for consumers and to take away illegal profits (Art. 8, para 2 points n) and o)). Those powers would make a big difference to the life of the European consumers, as currently it is very difficult or even impossible for consumers to get compensated. It would also create an additional deterrent for infringing businesses, which is now missing, as unfair traders can just keep illegal profits.

.../...

¹ Proposal for a Regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws, COM(2016) 283 final.

- ii) With respect to penalties, the review should give clear powers to authorities so they can impose fines for all infringements falling under the scope of the Regulation. Those fines should not be limited to the situations where they are already provided for in the Union or national legislation. The fact that the infringement is widespread and many consumers have suffered should be taken into account (Article 47 of the Commission's proposal, now deleted).
- iii) In case of intra-Union infringements (Article 16) the European Commission should have a strong role and be able to launch an action, and not only notify the suspected infringements to authorities.
- iv) The involvement of consumer organisations in the external alert mechanism (to notify the competent authorities of suspected infringements) should be clearly stated as an obligation, as it was in the original Commission proposal (Article 35 paragraphs 1 and 2). Consumer organisations have, and will remain, the frontline when it comes to consumer complaints and addressing them, particularly in the digital marketplace. Consumer organisations are the market watchdogs. Numerous widespread infringements (such as misleading practices by Apple on legal guarantees, unfair practices by Facebook, Google and other big market players, misleading information in mobile applications and others) have first been notified to or seen by consumer organisations, and only afterwards brought to courts or notified to public authorities.

We are very concerned that these essential points might not be included in the envisaged Council's agreement and would consequently significantly weaken the review of the regulation from a consumer's point of view.

We hope that you will consider our views and suggestions we have expressed in this letter and remain at your disposal should you wish to discuss this further.

Yours sincerely,

Ursula Pacht
Deputy Director General

Augusta Maciuleviciūtė
Senior Legal Officer

C/c: Permanent Representations Consumer Attachés