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NOTE

From: Presidency

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL on cooperation between national authorities
responsible for the enforcement of consumer protection laws (Text with
EEA relevance)
- Presidency compromise

Delegations will find attached the compromise text to be submitted to the Competitiveness Council
of 20 February 2017.

New text is **bold underlined** and deletions in ~~striketrough~~ with respect to the Commission
proposal.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on cooperation between national authorities responsible for the enforcement of consumer protection laws

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EC) No 2006/2004 of the European Parliament and of the Council² provides for harmonised rules and procedures to facilitate cooperation between national authorities responsible for the enforcement of cross-border consumer protection laws. Article 21a provides for a review of the effectiveness and operational mechanisms of that Regulation and pursuant to that Article, the Commission concluded that Regulation (EC) No 2006/2004 is not sufficient to effectively address the enforcement challenges of the Single Market, and in particular the Digital Single Market.

¹ OJ C 108, 30.4.2004, p. 86.

² Regulation (EC) 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (OJ L 364, 9.12.2004, p. 1).

- (2) The Digital Single Market Strategy adopted by the Commission on 6 May 2015 identified as one of the priorities the need to enhance consumer trust through more rapid, agile and consistent enforcement of consumer rules. The Single Market Strategy adopted by the Commission on 28 October 2015 reiterated that enforcing Union consumer protection legislation should be further strengthened by the Regulation on Consumer Protection Cooperation.
- (3) The resulting ineffective enforcement of cross-border infringements, in particular in the digital environment, enables traders to evade enforcement by relocating within the Union, giving rise to a distortion of competition for law-abiding traders operating either domestically or cross-border, and thus directly harming consumers and undermining consumer confidence in cross-border transactions and the Single Market. An increased level of harmonisation setting effective and efficient enforcement cooperation among competent public enforcement authorities is therefore necessary to detect, investigate and order the cessation of intra-Union infringements and widespread infringements.
- (4) Regulation (EC) No 2006/2004 of the European Parliament and of the Council established a network of competent public authorities throughout the Union. Effective coordination among different competent authorities participating in the network, as well as other public authorities at the level of Member States, is necessary. The coordination role of the single liaison office should be entrusted to a ~~competent~~ **public** authority in each Member State that has sufficient powers and resources to undertake this key role ~~in the network of competent authorities~~.
- Member States are encouraged to designate one of the competent authorities pursuant to this regulation as the single liaison office.**

- (5) Consumers should also be protected from ~~short-lived~~ intra-Union infringements and widespread infringements that ~~only last for a short period of time~~ **already ceased** but whose harmful effects may continue ~~long~~ after the infringement has stopped. Competent authorities should have the necessary powers to investigate and order a cessation of such infringements in the future, **in order to avoid their repetition.**
- (6) Competent authorities should have a minimum set of powers of investigation and enforcement to apply this Regulation effectively, to cooperate with each other, and to deter traders from committing intra-Union infringements and widespread infringements. Those powers should be adequate to tackle the enforcement challenges of e-commerce and the digital environment where the possibilities of a trader easily concealing its identity or changing it are of particular concern. **Competent authorities should therefore be able to request the supply of any relevant information from any public authority, body or agency within their Member State and/or any natural or legal person including for instance payment service providers, internet service providers, telecommunication operators, domain registries and registrars and hosting services providers for the purpose of establishing whether an intra-Union infringement or a widespread infringement occurs.** Those powers should ensure that evidence can be validly exchanged among competent authorities to achieve effective enforcement at an equal level in all Member States.
- (6a) Each Member States should ensure that all competent authorities within its jurisdiction have all the minimum powers, which are necessary to ensure the proper application of this Regulation. However, provided that every power can be effectively exercised as necessary in relation to any infringement covered by this Regulation by at least one competent authority, Member States may decide not to confer all the powers to each competent authority. Member States may also decide, in accordance with the provisions of this Regulation, to confer certain tasks under this Regulation to designated bodies. However, Member States should not be under any obligation to involve designated bodies in the application of this Regulation.**

- (6b) The implementation and exercise of powers in application of this Regulation should be proportionate and adequate to the nature and actual or potential harm of the infringement. Competent authorities should take into account all facts and circumstances of the case and choose the most appropriate measures which are essential to address the infringement. Those measures should be proportionate, effective and deterrent.**
- (6c) The implementation and exercise of powers in application of this Regulation should also be in accordance with other Union and national legislation, in particular with applicable procedural safeguards and principles of the fundamental rights. Since the exercise of the powers in the application of this Regulation may affect fundamental rights, such as the protection of property, the freedom to engage in commercial activity, the right to privacy, and freedom of expression, the Member States should remain free to set out conditions and limits for the exercise of the powers in national law. Where, for instance, in accordance with national law prior authorisation to enter premises of natural and legal persons is needed from the judicial authority of the Member State concerned, the power to enter such premises should be used only after having obtained such prior authorisation.**
- (7) Member States may choose whether the competent authorities exercise those powers directly under their own authority, **with the assistance of other public authorities, by instructing designated bodies** or by application to the competent courts. ~~Where the Member States choose that competent authorities exercise their powers by application to the competent courts,~~ Member States should ensure that those powers ~~can be~~ **are** exercised effectively and in a timely manner ~~and that the cost of exercise of those powers be proportionate and does not hamper the application of this Regulation.~~

- (8) When responding to requests made through the mutual assistance mechanism, competent authorities should, where appropriate, also make use of other powers or measures granted to them at the national level, including the power to initiate or refer matters for criminal prosecution. It is of the utmost importance that courts and other authorities, in particular those involved in criminal prosecution, have the necessary means and powers to cooperate with competent authorities effectively and in a timely manner.
- (9) Competent authorities should be in a position to open investigations on their own initiative if they become aware of intra-Union infringements or widespread infringements by means other than consumer complaints. This is particularly necessary to ensure effective cooperation among competent authorities when addressing widespread infringements.
- (10) Competent authorities should have access to all necessary evidence, data and information to determine whether an intra-Union infringement or widespread infringement has occurred, and in particular to identify the trader responsible, irrespective of who possesses this evidence, information or data, of where it is located and of its format. Competent authorities should be able to directly request that third parties in the digital value chain provide all the evidence, data and information necessary **in accordance with Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.**
- (10a) Information exchanged between competent authorities should be subject to strict guarantees of confidentiality and professional secrecy in order to ensure investigations are not compromised or the reputation of sellers or suppliers unfairly harmed.**
- (11) Competent authorities should be able to verify compliance with consumer protection legislation and to obtain evidence of intra-Union infringements or widespread infringements, especially **including** those that take place ~~during or~~ after the purchase of goods and services. They should therefore have the power to ~~make test purchases and to~~ purchase goods or services under a cover identity **to detect infringements, such as the refusal to implement the consumer right to withdraw in the case of distance contracts.**

(12) In the digital environment in particular, the competent authorities should be able to stop infringements quickly and effectively, notably where the trader selling goods or services conceals its identity or relocates within the Union or to a third country to avoid enforcement. In cases where there is a risk of serious ~~and irreparable~~ harm to consumers, **in accordance with national law**, the competent authorities should ~~to~~ be able to adopt interim measures ~~to prevent such harm or reduce it~~, including, **the restriction or blocking of access to an online interface or ordering the explicit display of a warning to consumers when accessing the online interface** where necessary, the suspension of a website, domain or a similar digital site, service or account. Furthermore, the competent authorities should have the power to ~~take down or have a third party service provider take down a website, domain or a similar digital site, service or account~~ **restrict or disable the access to an online interface, order the explicit display of a warning to consumers when accessing the online interface or order the removal or modification of digital content when there are no other effective means to stop an illegal practice.**

(12a) Pursuing the objective of the Regulation along with stressing the importance of the traders will to act in accordance with the consumer protection legislation and to remedy the consequences of his infringements, competent authorities should have the possibility to agree with traders on commitments containing steps and measures the trader has to take regarding the infringement, in particular to make the infringement cease.

(13) In order to ensure that traders are sufficiently deterred from committing or repeating infringements and that they will not profit from those infringements, the rules on penalties which have been adopted by Member States in accordance with the requirements of Union laws that protect consumers' interests should also be applied to intra-Union infringements and widespread infringements **and competent authorities should where possible take into account the overall harm of the infringement in Member States concerned.** ~~For those same reasons, consumers should be entitled to redress for harm caused by such infringements.~~

- (14) ~~As regards consumer redress, the competent authorities should choose proportionate, just and reasonable measures that would prevent or reduce the risk of recurrence or repetition of infringements, taking into account in particular the anticipated benefits to consumers and the reasonable administrative costs likely to be associated with the implementation of those measures. Where the consumers concerned cannot be identified or where they cannot be identified without disproportionate cost to the trader responsible, the competent authority may order that the restitution of profits obtained through the infringement be paid to the public purse or to a beneficiary designated by the competent authority or under national legislation.~~
- (15) The effectiveness and efficacy of the mutual assistance mechanism should be improved. Information requested should be provided in a timely manner and the necessary **investigation and** enforcement measures should be adopted in a timely manner. ~~The Commission should therefore set binding time periods for~~ Competent authorities **should** ~~to~~ reply to information and enforcement requests **in set time periods, unless specific reasons for the delay are provided**, ~~and clarify procedural and other aspects of handling information and enforcement requests, by means of implementing measures.~~
- (16) The Commission ~~must~~ **should** be better able to coordinate and monitor the functioning of the mutual assistance mechanism, ~~issue guidance, make recommendations and issue opinions to the Member States when problems arise.~~ The Commission also ~~must~~ **should** be better able to effectively and quickly assist competent authorities to resolve disputes over the interpretation of their obligations of the competent authorities stemming from the mutual assistance mechanism.

(17) Harmonised rules setting out the procedure for the coordination, ~~of the surveillance,~~ investigation and enforcement of widespread infringements should be provided. Coordinated actions against widespread infringements should ensure that competent authorities may choose the most appropriate and efficient tools to stop widespread infringements ~~and to ensure consumer compensation.~~

(17a) The competent authorities concerned by a widespread infringement should launch a coordinated action by a common agreement. In order to establish which competent authorities are concerned by a widespread infringement all aspects of the infringement should be considered, in particular the place of establishment or residence of the trader, location of the assets of the traders, location of the consumers who suffered harm by the infringement and the place of the points of sale of the trader, i. e. shops and websites.

(17b) Competent authorities concerned should coordinate their investigation and enforcement measures in the coordinated action in order to effectively tackle the infringement and bring about its cessation or prohibition. To that end evidence and other necessary information should be exchanged between the competent authorities and the necessary assistance should be provided. Competent authorities concerned should in a coordinated way take the necessary enforcement measures to bring about the cessation or prohibition of the widespread infringement.

(17c) The extent of participation of each competent authority in a coordinated action should be adequate to the extent of the investigation and enforcement measures the competent authority is required to take. Therefore participation in a coordinated action should not put an unreasonable burden on competent authorities. Competent authorities concerned should be under the obligation to take only the necessary investigation and enforcement measures which are needed to obtain the necessary evidence regarding the widespread infringement and to bring about the cessation or the prohibition of the infringement. However, lack of available resources of the competent authority concerned should not be considered as a justified reason not to take part in a coordinated action.

(17d) Competent authorities concerned which participate in a coordinated action should be able to conduct national investigation and enforcement measures in relation to the same infringement. However, at the same time, the obligation of the competent authority to coordinate its investigation and enforcement activities in the framework of the coordinated action with other competent authorities concerned should remain intact, unless it is likely that investigation and enforcement actions taken at national level outside the framework of the coordinated action will ensure a swift and effective cessation or prohibition of the widespread infringement. In those exceptional cases, competent authorities should be entitled to decline to participate in the coordinated action.

~~(18) Coordinated screening of online e-commerce websites (sweeps) are another form of enforcement coordination that has proven to be an effective tool against infringements that should be retained and strengthened in the future,~~

- (19) Widespread infringements with a Union dimension may cause large scale harm to a majority of consumers in the Union. They therefore require a specific Union level coordination procedure with the Commission as the mandatory coordinator. To ensure that the procedure is launched in a timely, coherent and effective manner and that the conditions are verified in a uniform manner, Commission should be in charge of verifying whether the conditions for the launch of the procedure are fulfilled. Evidence and information collected during the common action should be used seamlessly in national proceedings when required. **The Commission should cooperate more closely with Member States to prevent large scale infringements from occurring. Therefore, it should actively notify competent authorities of any suspicion of infringements under this Regulation. If the Commission has, for instance by monitoring the alerts submitted by competent authorities, the reasonable suspicion that a widespread infringements harmed, harms or is likely to harm consumers in at least three quarters of the Member States accounting together for at least three quarters of the population of the Union occurs, it should notify Member States, through the competent authorities and single liaison offices concerned by the alleged infringement, as well as state the grounds justifying a possible coordinated action in the notification. Competent authorities concerned should conduct appropriate investigations based on information available or easily accessible to them. Where such investigations reveal that an infringement may be taking place, competent authorities concerned by the alleged infringement should launch a coordinated action. A coordinated action, launched following the Commission's notification shall be coordinated by the Commission. If it is apparent that the Member State is concerned by that infringement, it should take part in a coordinated action in order to help to collect the necessary information and evidence related to the infringement and to bring about its cessation or prohibition. As regards the enforcement measures, criminal and judicial proceedings in Member States should not be affected by the application of this regulation. The principle of *ne bis in idem* should be respected. However, if the same trader reiterates the same acts or omission constituting an infringement which had already been addressed by an enforcement procedure resulting in cessation or prohibition of the infringement, it should be considered a new infringement and competent authorities should address it.**

(19a) Competent authorities concerned should take the necessary investigation measures to establish the particularities of the widespread infringement, in particular the identity of the trader, acts or omissions committed by the trader and the effects of the infringement. Enforcement measures taken should be based on the outcome of the investigation. Where appropriate, the outcome of the investigation and the assessment of the widespread infringement should be set out in a common position agreed among the competent authorities of the Member States concerned by the coordinated action and addressed to the traders concerned by the infringement. The common position should not constitute a binding decision of the competent authorities. It should, however, give the addressee the opportunity to be heard on the matters which are part of the common position.

(20) In the context of widespread infringements ~~and widespread infringement with a Union dimension,~~ the rights of defence of the traders concerned should be respected. This requires, in particular, giving the trader the right to be heard and to use **during the proceedings** the **official** language ~~of its choice~~ **or one of the official languages used for official purposes of the Member State of its establishment or residence** ~~during the proceedings.~~

(21) ~~If a trader responsible for the widespread infringement or the widespread infringement with a Union dimension fails to cease the infringement voluntarily, the competent authorities of the Member States concerned should designate one competent authority in a Member State to take the enforcement action adapted to preserve the rights of consumers residing in the other Member States concerned by the infringement. That competent authority should be designated, taking into account its capacity to take effective action against the trader, for instance where the trader is established in the Member State of that authority. The designated competent authority should act as if the consumers of the other Member States were its own consumers. Where necessary, to avoid extraterritorial application of the law, several or all the Member States concerned by the infringement should be allowed to adopt enforcement measures at the same time to protect their own consumers or consumers residing in other Member States. This may be needed, for instance, to stop infringements of a similar nature by subsidiaries of a company, established in more than one Member State, which affect the consumers of those Member States only, without an apparent cross-border element (parallel infringements).~~ **Competent authorities concerned should take within their jurisdiction the necessary investigation and enforcement measures. However, the effects of widespread infringements are not limited to a single Member State. Therefore cooperation of competent authorities is required to address widespread infringement and to bring about their cessation or prohibition.**

(21a) Concerted investigation of consumer markets (sweeps) are another form of enforcement coordination that has proven to be an effective tool against infringements that should be retained and strengthened in the future.

- (22) ~~The surveillance mechanism and alert mechanism should be strengthened to ensure the timely and~~ Effective detection of widespread infringements **should be supported by exchanging information between competent authorities and the Commission by the means of sending alerts if there is a reasonable suspicion of such infringements.** ~~The information which should be exchanged and the follow up required following an exchange of information should be clarified in order to ensure that alerts that require action are duly acted upon and addressed.~~ ~~The Commission should coordinate the functioning of the surveillance mechanism~~ exchange of information.
- (23) Consumer organisations play an essential role in informing consumers about their rights and educating them and protecting their interests, including the settlement of disputes. Consumers should be encouraged to cooperate with the competent authorities to strengthen the application of this Regulation. Consumer organisations, in particular consumer organisations that may be delegated enforcement tasks under this Regulation and European Consumer Centres, should be in a position to notify competent authorities of suspected infringements and share information needed to detect, investigate and stop intra-Union infringements and widespread infringements with them.
- (24) ~~Infringements which are widespread throughout the Union should be effectively and efficiently resolved. To this end, enforcement prioritisation and planning at the Member State level should be coordinated and the available resources of competent authorities should be pooled. A system of biennial rolling enforcement plans should be put in place to achieve this.~~

- ~~(25) Data related to consumer complaints may help policymakers at a national and Union level to assess the functioning of consumer markets and detect infringements. With a view to facilitating the exchange of such data at a Union level, the Commission has adopted a Recommendation on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries³. That Recommendation should be implemented to fully support enforcement cooperation and facilitate the detection of intra-Union infringements and widespread infringements.~~
- (26) Enforcement challenges that go beyond the frontiers of the Union, and the interests of Union consumers should be protected from rogue traders based in third countries. Hence, international agreements with third countries regarding mutual assistance in the enforcement of legislation that protects consumers' interests should be negotiated. Those international agreements should include the subject matter laid down in this Regulation and should be negotiated at Union level in order to ensure the optimum protection of Union consumers and smooth cooperation with third countries.
- ~~(27) In order to ensure uniform conditions for the implementation and exercise of the minimum powers of competent authorities, set time limits and set out other details of procedures to address intra-Union infringements, widespread infringements and details of the surveillance mechanism and administrative cooperation among competent authorities, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁴.~~

³ Commission Recommendation on the use of harmonised methodology for classifying consumer complaints and enquiries (2010/304/EU, OJ L 136, 2.6. 2010, p. 1-31).

⁴ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2. 2011, p. 13-18).

- (28) The examination procedure should be used for the adoption of the acts pursuant to Articles 10, 11, 12, 13, 15, 20, 27, 31, 32, 34, 35, 36, 37, 39, 43 and 46 of this Regulation given that those **that** acts are **is** of general scope.
- (29) This Regulation complements sectoral Union rules providing for cooperation among sectoral regulators and sectoral Union rules on the compensation of consumers for harm resulting from infringements of those rules. This Regulation is without prejudice to other cooperation systems and networks set out in sectoral Union legislation. This Regulation furthers cooperation and coordination among the consumer protection network and the networks of regulatory bodies and authorities established by sectoral Union legislation. **This Regulation shall be without prejudice to the application in the Member States of measures relating to judicial cooperation.**
- (29a) This Regulation is without prejudice to the right to claim individual or collective compensation, which is subject to the national law and does not provide for the enforcement of those claims.**
- (29b) Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data and Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data should apply in the context of this Regulation.**

(30) This Regulation is without prejudice to the existing Union rules concerning the powers of national regulatory bodies established by Union sectoral legislation. Where appropriate and possible, those bodies should use the powers available to them under Union and national law to cease or prohibit intra-Union infringements or widespread infringements or to assist the competent authorities in doing so.

~~(31) For the calculation of compensation for harm to the collective interests of consumers, the rules of Union sectoral for passengers such as Regulation (EC) No 261/2004 of the European Parliament and of the Council⁵, Regulation (EC) No 1371/2007 of the European Parliament and of the Council⁶, Regulation (EU) No 1177/2010 of the European Parliament and of the Council⁷ and Regulation (EU) No 181/2011 of the European Parliament and of the Council⁸ should apply. Where the sectoral Union legislation does not cover compensation for the harm caused by intra-Union or widespread infringements, the compensation should be established based on applicable national law.~~

⁵ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights (OJ L 46, 17.2.2004, p. 1).

⁶ Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on railway passenger rights and obligations (OJ L 315, 3.12.2007, p. 14).

⁷ Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway (OJ L 334, 17.12.2010, p. 1)

⁸ Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (OJ L 55, 28.2.2011, p. 1).

- (32) This Regulation is without prejudice to the role and the powers of the competent authorities and of the European Banking Authority in relation to the protection of the collective economic interests of consumers in matters concerning payment accounts services and credit agreements relating to residential immovable property under Directive 2014/17/EU of the European Parliament and of the Council⁹ and Directive 2014/92/EU of the European Parliament and of the Council¹⁰.
- (33) In view of the existing cooperation mechanisms under Directive 2014/17/EU of the European Parliament and of the Council and Directive 2014/92/EU of the European Parliament and of the Council, the mutual assistance mechanism (Chapter III) shall not apply to intra-Union infringements of these Directives.
- ~~(34) This Regulation is without prejudice to penalties laid down in sectoral Union legislation and Union consumer legislation and applied to national infringements. The competent authorities should, as appropriate, apply the provisions of national law implementing those provisions, taking into account the actual scale and scope of the infringement and the harm caused by the infringement to consumers in other Member States.~~

⁹ Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property (OJ L 60, 28.2.2014, p. 34)

¹⁰ Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214)

- (35) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union¹¹ **and by the constitutional law of the Member States**. Accordingly this Regulation should be interpreted and applied with respect to those rights and principles. When exercising the minimum powers set out in this Regulation, the competent authorities should strike an appropriate balance between the interests protected by fundamental rights such as a high level of consumer protection, the freedom to conduct business and freedom of information. **Furthermore, the application of this Regulation should not prevent Member States from applying their fundamental rules and principles relating to the freedom of press and freedom of expression.**
- (36) Since the objective of this Regulation, namely cooperation between national authorities responsible for the enforcement of consumer protection law, cannot be sufficiently achieved by the Member States because they cannot ensure cooperation and coordination by acting alone, and this objective can therefore, by reason of its territorial and personal scope, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective. **In order to ensure protection of the rights and freedoms, including appropriate safeguards for data subjects, with regard to the processing of personal data and on the free movement of such data, Regulation (EU) 2016/679 should be respected.**
- (37) Regulation (EC) No 2006/2004 should therefore be repealed.

HAVE ADOPTED THIS REGULATION:

¹¹ OJ C 364, 18.12.2000, p. 1.

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

Subject matter

This Regulation lays down the conditions under which the competent authorities in the Member States designated as responsible for the enforcement of ~~the~~ **Union** laws that protect consumers' interests cooperate with each other and with the Commission in order to ensure compliance with those laws and the smooth functioning of the internal market and in order to enhance the protection of consumers' economic interests.

Article 2

Scope

1. This Regulation applies to intra-Union infringements **and** widespread infringements defined in points (b) and (c) of Article 3 **respectively, even if those infringements have ceased before enforcement starts or is completed.**
- ~~2. This Regulation also applies to short lived intra Union infringements and widespread infringements, even if those infringements have ceased before enforcement started or could be completed.~~

3. This Regulation shall be without prejudice to the Union rules on private international law, in particular rules related to court jurisdiction and applicable laws.
4. This Regulation shall be without prejudice to the application in the Member States of measures relating to judicial cooperation in criminal and civil matters, in particular the operation of the European Judicial Networks **and to the application of legal instruments regarding the judicial cooperation in criminal matters.**
5. This Regulation shall be without prejudice to the fulfilment by the Member States of any additional obligations in relation to mutual assistance for the protection of the collective economic interests of consumers, including criminal matters stemming from other legal acts, including bilateral or multilateral agreements.
6. **Chapter III of this Regulation shall not apply to intra-Union infringements** This Regulation shall be without prejudice to the role and powers of competent authorities and European Banking Authority under Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts.
7. ~~Chapter III of this Regulation shall not apply to intra-Union infringements of the following legislation:~~
 - (a) ~~Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property~~

(b) — ~~Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.~~

8. This Regulation shall be without prejudice to Directive 2009/22/EC of the European Parliament and of the Council¹².

9. This Regulation shall be without prejudice to Regulation No 1 determining the languages to be used by the European Economic Community¹³.

10. This Regulation shall be without prejudice to relevant Union law applicable to the protection of individuals with regard to the processing of personal data.

11. This Regulation shall be without prejudice to national law applicable to compensation of consumers for harm caused by infringement of Union law that protects consumer interest.

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

(a) ‘**Union** laws that protect consumers' interests’ means the Directives as transposed into the internal legal order of the Member States and the Regulations listed in the Annex;

¹² Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests (OJ L 110, 1.5.2009, p. 30).

¹³ **Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 401–402)**

(b) 'intra-Union infringement' means any ~~ongoing or ceased~~ act or omission contrary to the **Union** laws that protect consumers' interests that harmed, harms, or is likely to harm the collective interests of consumers residing in a Member State other than the Member State where the act or omission originated or took place, where the trader responsible for the act or omission is established or where evidence or assets of the trader pertaining to the act or omission are to be found;

(c) 'widespread infringement' means:

(1) any act or omission contrary to the **Union** laws that protect consumers' interests that harmed, harms, or is likely to harm the collective interests of consumers residing in at least two Member States other than the Member State where the act or omission originated or took place, or where the trader responsible for the act or omission is established, or where evidence or assets **of the trader** pertaining to the act or omission are to be found; ~~irrespective of whether the act or omission is ongoing or has ceased~~; or

(2) any ~~acts~~ or ~~omissions~~ contrary to the **Union** laws that protect consumers interests that **harmed, harms, or is likely to harm the collective interests of consumers and** have common features, such as the same unlawful practice, the same interest being infringed ~~or~~ **and** that are occurring concurrently, **committed by the same trader,** in at least ~~two~~ **three** Member States;

(ca) 'competent authority' means any public authority established either at national, regional or local level which is responsible for enforcing the Union laws that protect consumers' interests and designated according to paragraph 1 of Article 5;

(cb) ‘single liaison office’ means the public authority in each Member State designated as responsible for coordinating the application of this Regulation within that Member State;

(d) ‘applicant authority’ means the competent authority that makes a request for mutual assistance;

(e) ‘requested authority’ means the competent authority that receives a request for mutual assistance;

(ea) ‘designated body’ means a body having a legitimate interest in the cessation or prohibition of infringements of the Union laws that protect consumers' interests designated by a competent authority to gather the necessary information and to take the necessary enforcement measures available to it under national law to bring about the cessation or prohibition of the infringement acting on behalf of that competent authority,

(f) ‘trader’ means any natural or legal person, irrespective of whether privately or publicly owned, who is acting for purposes relating to his trade, business, craft or profession, including through any other person acting in his name or on his behalf;

~~(g) ‘market surveillance’ means activities, actions or measures of a competent authority designed to detect whether intra-Union infringements or widespread infringements have taken or are taking place;~~

~~(h) ‘consumer complaint’ means a statement, supported by reasonable evidence, that a trader has committed, or is likely to commit, an infringement of the laws that protect consumers' interests;~~

(i) ~~'harm to collective interests of consumers' means actual or potential harm to the interests of a number of consumers that are concerned~~ **harmed or are likely to be harmed** by intra-Union infringements or widespread infringements; ~~and that shall be presumed in particular where the infringement potentially; or actually harmed, harms or is likely to harm a significant number of consumers in a similar situation~~

(ia) 'online interface' means any software, including a website or part of a website and applications, operated by or on behalf of a trader, which serves as a means to give consumers access to the trader's goods or services.

Article 4

Notification of limitation periods for infringements

1. ~~The competent authorities may investigate infringements referred to in Article 2 and prohibit traders from engaging in such infringements in the future. The competent authorities may impose penalties for those infringements within five years from the cessation of the infringement.~~
2. ~~The limitation period for the imposition of penalties shall begin to run on the day on which the infringement ceased.~~
3. ~~Any action taken by the competent authority for the purpose of the investigation or enforcement proceedings in respect of the infringement shall suspend the limitation period for the imposition of penalties until the final decision concerning the matter is adopted. The limitation period for the imposition of penalties shall be suspended for as long as the decision, order or other action of the competent authority is the subject of proceedings pending before a court.~~

The single liaison offices shall notify the Commission of the limitation periods in place in their jurisdiction applicable to taking enforcement measures pursuant to Article 8(3). The Commission shall summarise the notified limitation periods and make the summary available to competent authorities.

CHAPTER II

COMPETENT AUTHORITIES AND THEIR POWERS

Article 5

Competent authorities and single liaison offices

1. Each Member State shall designate as the competent authorities ~~public authorities established either at national, regional or local level with specific responsibilities to enforce the laws that protect consumers' interests~~ **and the single liaison office responsible for the application of this Regulation.**
2. Competent authorities shall ~~fulfill~~ their obligations under this Regulation as though acting on behalf of consumers in their own Member State and on their own account.
- ~~3. Each Member State shall designate one competent authority as single liaison office.~~
4. **Within each Member State** the single liaison office shall be responsible for coordinating investigation and enforcement activities related to intra-Union infringements and widespread infringements by the competent authorities, other public authorities as set out in Article 6, **and, if applicable,** designated bodies as set out in Article 13 **6a** ~~and entities participating in the alert mechanism as set out in Article 34.~~

5. Member States shall ensure that competent authorities and single liaison offices have the adequate resources necessary for the application of this Regulation ~~and for the effective use of their powers pursuant to Article 8~~, including sufficient budgetary and other resources, expertise, procedures and other arrangements.
6. Where there is more than one competent authority on their territory, Member States shall ensure that their respective duties are clearly defined and that those authorities collaborate closely so that they can discharge their respective duties effectively.

Article 6

~~Cooperation with other public authorities and designated bodies~~ **Cooperation for application of this Regulation within Member States**

1. ~~Each Member State may impose an obligation on other public authorities to assist competent authorities in the fulfilment of their obligations.~~ **For the proper application of this Regulation each Member States shall ensure that its competent authorities, other public authorities and, if applicable, designated bodies cooperate effectively with each other.**
2. ~~A competent authority may request the~~ **Other** public authorities referred to in paragraph 1 ~~to~~ **shall** take, **upon request from a competent authority,** all necessary ~~enforcement~~ measures available to them under national law **in order to** bring about the cessation or prohibition of intra-Union infringements and widespread infringements.

3. The Member States shall ensure that the other public authorities have the means and powers necessary to cooperate effectively with the competent authorities in the application of this Regulation. Those other public authorities shall regularly inform the competent authority about the measures taken in the application of this Regulation.
- ~~4. Each Member State may designate bodies having a legitimate interest in the cessation or prohibition of infringements ("designated bodies") to gather the necessary information and to take the necessary enforcement measures available to them under national law on behalf of a requested competent authority.~~
- ~~5. Member States shall ensure cooperation between the competent authorities and designated bodies, in particular to ensure that infringements referred to in Article 2 are brought to the attention of competent authorities without delay.~~

Article 6a

Role of designated bodies

- 1. Where applicable and in accordance with national law, a competent authority ('instructing authority') may instruct a designated body to gather the necessary information regarding an intra-Union infringement or widespread infringement or to take the necessary enforcement measures to bring about the cessation or prohibition of that infringement, if, after consultation with the applicant authority or the other competent authorities concerned, both applicant and requested authority or all competent authorities concerned are in agreement that by these means it is likely that the necessary information will be obtained or the cessation or the prohibition of the infringement will be brought about in at least equally efficient and effective a way as action by the instructing authority.**

- 2. If the applicant authority or the other authorities concerned are of the opinion that the conditions set out under paragraph 1 are not fulfilled, they shall inform the instructing authority in writing without delay, setting out the grounds for their opinion. In case of disagreement, the instructing authority may refer the matter to the Commission, which shall issue an opinion without delay.**
- 3. In the event of a failure by the designated body to obtain the necessary information or to bring about the cessation or prohibition of the infringement without delay or when the competent authorities concerned are not in agreement that the designated body may be instructed pursuant to paragraph 1, the obligations of the instructing authority to take the necessary investigation or enforcement measure shall remain.**
- 4. The instructing authority shall take all necessary measures to prevent the disclosure of information which is subject to the rules on confidentiality and professional and commercial secrecy set out in Article 41.**

Article 7

Information and lists

1. Each Member State shall communicate without delay to the Commission and the other Member States the identities of the competent authorities, of the single liaison office, of the designated bodies as set out in Article 43 **6a** and of the entities participating in the alert mechanism as set out in Article 34, as well as any changes thereto.
2. The Commission shall maintain and update a publicly available list of single liaison offices, competent authorities, designated bodies and entities **as set out in Article 35** on its website.

Minimum powers of competent authorities

1. Each competent authority shall have the investigation and enforcement powers **pursuant to paragraphs 2, 3, 4 and 5** necessary for the application of this Regulation and shall exercise them ~~in accordance with this Regulation and national law~~ **under the conditions set out in Article 9.**
- 1a. Notwithstanding paragraph 1, Member States may decide not to confer all the powers to each competent authority provided that every power can be effectively exercised as necessary in relation to any infringement covered by this Regulation under the conditions set out in Article 9.**
2. Each ~~Competent authorities~~ shall have at least the following **investigation** powers ~~and exercise them under the conditions set out in Article 9, to:~~
 - (a) have access to any relevant document, data or information related to an **intra-Union infringement and widespread** infringement ~~under this Regulation~~, in any form or format and irrespective of the medium on which or the place where they are stored;
 - (b) require the supply ~~by any natural or legal person, including banks, internet service providers, domain registries and registrars and hosting service providers of any relevant information, data or document in any format or form and irrespective of the medium on which or the place where they are stored,~~ **from any public authority, body or agency within the Member State of the competent authority and/or any natural or legal person** for the purpose of ~~among others identifying and following~~ **establishing whether an intra-Union infringement or a widespread infringement occurs and establishing the particularities of such infringement, including the tracing** financial and data flows, or of ascertaining the identity of persons involved in financial and data flows, bank account information and ownership of websites;

- ~~(c) require any public authority, body or agency within the Member State of the competent authority to supply any relevant information, data or document in any format or form and irrespective of the medium on which or the place where they are stored, for the purpose among others, of identifying and following of financial and data flows, or of ascertaining the identity of persons involved in financial and data flows, bank account information and ownership of websites;~~
- (d) carry out the necessary on-site inspections **of business**, ~~including in particular the power to enter any premises, land or means of transport or to request other authorities to do so in order to examine, seize, take or obtain copies of information, data or documents, irrespective of the medium on which they are stored; to seal **seize** any premises or information, data or documents for a necessary period and to the extent necessary for the inspection; to request any representative or member of the staff of the trader concerned to give explanations on facts, information or documents relating to the subject matter of the inspection and to record the answers;~~
- (e) purchase goods or services as test purchases **and, where necessary, act under a cover identity** in order to detect **intra-Union infringements and widespread** ~~infringements under this Regulation~~ and obtain evidence;
- ~~(f) purchase goods or services under a cover identity in order to detect infringements and to obtain evidence;~~
- ~~(g) adopt interim measures to prevent the risk of serious and irreparable harm to consumers, in particular the suspension of a website, domain or a similar digital site, service or account;~~

- ~~(h) — start investigations or procedures to bring about the cessation or prohibition of intra-Union infringements or widespread infringements of its own initiative and where appropriate to publish information about this;~~
- ~~(i) — obtain a commitment from the trader responsible for the intra-Union infringement or widespread infringement to cease the infringement and where appropriate to compensate consumers for the harm caused;~~
- ~~(j) — request in writing the cessation of the infringement by the trader;~~
- ~~(k) — bring about the cessation or the prohibition of the infringement;~~
- ~~(l) — close down a website, domain or similar digital site, service or account or a part of it, including by requesting a third party or other public authority to implement such measures;~~
- ~~(m) — impose penalties, including fines and penalty payments, for intra-Union infringements and widespread infringements and for the failure to comply with any decision, order, interim measure, commitment or other measure adopted pursuant to this Regulation;~~
- ~~(n) — order the trader responsible for the intra-Union infringement or widespread infringement to compensate consumers that have suffered harm as a consequence of the infringement including, among others, monetary compensation, offering consumers the option to terminate the contract or other measures ensuring redress to consumers who have been harmed as a result of the infringement;~~
- ~~(o) — order the restitution of profits obtained as a result of infringements, including an order that those profits are paid to the public purse or to a beneficiary designated by the competent authority or under national legislation;~~

- ~~(p) — publish any final decisions, interim measures or orders, including the publication of the identity of the trader responsible for the intra-Union infringement or widespread infringement;~~
- ~~(q) — consult consumers, consumer organisations, designated bodies and other persons concerned about the effectiveness of the proposed commitments in ceasing the infringement and removing the harm caused by it.~~

3. Competent authorities shall have at least the following enforcement powers:

- (a) adopt interim measures to prevent the risk of serious harm to the collective interest of consumers;**
- (b) seek to obtain or accept commitments from the trader responsible for the intra-Union infringement or widespread infringement to cease the infringement;**
- (c) order in writing the cessation of the Intra-Union infringements and widespread infringements by the trader;**
- (d) bring about the cessation or the prohibition of the Intra-Union infringements and widespread infringements;**
- (e) where no other effective means are available to bring about the cessation or prohibition of the infringement, restrict or block the access to an online interface or order the explicit display of a warning to consumers when accessing the online interface, including by requesting a third party or other public authority to implement such measures, or order the removal or modification of digital content, to prevent the risk of serious harm to the collective interests of consumers;**

(f) impose fines or periodic penalty payments, for intra-Union infringements and widespread infringements and for the failure to comply with any decision, order, interim measure, commitment or other measure adopted pursuant to this Regulation.

3a. The power to impose fines for intra Union and widespread infringements applies to any infringement to Union laws that protect consumers' interests which provide for penalties. This is without prejudice to the power for national authorities to impose penalties, including fines, under the conditions set out by national law though Union laws that protect consumers' interests do not provide for penalties.

4. Competent authorities shall have the power to start investigations or procedures to bring about the cessation or prohibition of intra-Union infringements or widespread infringements of their own initiative.

5. Competent authorities may publish any final decision, trader's commitments or orders adopted pursuant to this Regulation, including the publication of the identity of the trader responsible for the intra-Union infringement or widespread infringement.

Article 9

Exercise of minimum powers

1. ~~The competent authorities shall exercise the powers set out in Article 8~~ **shall be exercised** ~~in accordance with this Regulation and national law either:~~

(a) directly **by competent authorities** under their own authority;

(aa) where appropriate, upon recourse to other competent authorities or other public authorities for the application of the powers;

(ab) by instructing designated bodies if applicable; or

(b) by application to courts competent to grant the necessary decision, including, where appropriate, by appeal, if the application to grant the necessary decision is not successful.

2. ~~Insofar as competent authorities exercise their powers by application to courts, those courts shall have the power to grant the necessary decisions and shall act within the framework of this Regulation.~~ **The implementation and the exercise of powers set out in Article 8 in application of this Regulation shall be proportionate and in accordance with this Regulation, Union and national law, including applicable procedural safeguards and principles of the fundamental rights. Investigation and enforcement measure adopted in application of this Regulation shall be adequate to the nature and the overall actual or potential harm of the infringement.**

3. ~~The Member States shall ensure that the court fees and other costs linked to the adoption of the court decisions in the proceedings initiated in application of this Regulation are proportionate and do not hamper the application of this Regulation.~~

Article 10

Implementing powers

~~The Commission may adopt implementing acts setting out the conditions for the implementation and exercise of the minimum powers of competent authorities referred to in Article 8. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

CHAPTER III

MUTUAL ASSISTANCE MECHANISM

Article 11

Requests for information

1. A requested authority shall, on request from an applicant authority, supply **to the applicant authority within 30 days, unless specific reasons for the delay are provided,** any relevant information required to establish whether an intra-Union infringement has occurred and to bring about the cessation of that infringement. ~~The requested authority shall notify the Commission without delay of the request for information and of its reply.~~
2. The requested authority shall undertake the appropriate **and necessary** investigations or take any other necessary or appropriate measures in order to gather the required information. If necessary, those investigations shall be carried out with the assistance of other public authorities or designated bodies.
3. On request from the applicant authority, the requested authority may allow competent officials of the applicant authority to accompany the officials of the requested authority in the course of their investigations.
4. ~~The requested authority shall reply to the request using the procedure for information requests and within the time limits set out by the Commission in the implementing act.~~
5. ~~The Commission shall adopt implementing acts setting out the time limits, standard forms and details of the procedures for requests for information. The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

Requests for enforcement measures

1. A requested authority shall on request from an applicant authority, take all necessary **and proportionate** enforcement measures to bring about the cessation or prohibition of the intra-Union infringement, ~~including imposing penalties and ordering or facilitating the compensation of consumers for harm caused by the infringement~~ **by exercising powers set out under Article 8 and any additional powers granted to it under national law. 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 without delay but not later than 6 months after receiving the request, unless specific reasons for the delay are provided. Where appropriate, the requested authority shall impose fines or periodic penalty payments on the trader responsible for the intra-Union infringement.**
- ~~2. In order to fulfil its obligations laid down in paragraph 1, the requested authority shall exercise the powers set out under Article 8 and any additional powers granted to it under national law. The requested authority shall determine the enforcement measures appropriate to bring about the cessation or prohibition of the intra-Union infringement in a proportionate, efficient and effective way. If necessary, those measures shall be determined and implemented with the assistance of other public authorities.~~
3. The requested authority shall regularly inform ~~and consult~~ the applicant authority about the steps and measures taken **and the steps and measures it intends to take**. The requested authority shall notify through the database set out in Article 43 the applicant authority, the competent authorities of other Member States and the Commission of the measures taken and their effect on the intra-Union infringement without delay, including ~~the following~~:
 - ~~(a) whether interim measures have been imposed;~~

~~(b) — whether the infringement has ceased;~~

~~(e) — which penalties **measures** have been imposed **adopted and**;~~

~~(d) — to what extent consumers have been compensated~~

~~(e) — whether the **those** measures ~~taken~~ have been implemented.~~

~~4. — The requested authority shall reply to the request using the procedures for requests for enforcement measures and within the time limits set out by the Commission in the implementing act.~~

~~5. — The Commission shall adopt implementing acts setting out the time limits, standard forms and details of the procedures for requests for enforcement measures. The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

Article 13

Role of designated bodies

~~1. — The requested authority may instruct a designated body to gather the necessary information or take the enforcement measures necessary to bring about the cessation or prohibition of the infringement. The requested authority may only do so where that body is likely to obtain the requested information or to bring about the cessation or prohibition of the infringement as efficiently and as effectively as the requested authority.~~

- ~~2. The requested authority shall ensure that the instruction of the designated body does not lead to the disclosure of information which is subject to the rules on confidentiality and professional and commercial secrecy set out in Article 41.~~
- ~~3. Where the designated body fails to bring about the cessation or prohibition of the intra-Union infringement within the time limit set out pursuant to Article 11(4) and Article 12(4), the requested authority itself shall act upon the request pursuant to Articles 11 and 12.~~
- ~~4. Before instructing the designated body, the requested competent authority shall consult the applicant authority about its intention to instruct a designated body. Where the applicant authority does not agree with the instruction of a designated body, it shall inform the requested authority in writing without delay and give grounds for its objection. In that case, the requested authority shall not instruct the designated body and shall act itself on the request.~~
- ~~6. The Commission shall adopt implementing acts setting out the time limits, standard forms and details of the procedures involving designated bodies. The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

Article 14

Procedure for mutual assistance requests

1. In requests for mutual assistance, the applicant authority shall provide sufficient information to enable a requested authority to fulfil the request, including any necessary evidence obtainable only in the Member State of the applicant authority.

2. Requests shall be sent by the applicant authority to the single liaison office of the Member State of the requested authority and to the single liaison office of the Member State of the applicant authority for information. The single liaison office of the Member State of the requested authority shall pass the requests on to the appropriate competent authority without delay.
3. Requests for mutual assistance and all communication linked to them shall be made in writing using standard forms and communicated electronically via the database established pursuant to Article 43.
4. The languages used for requests for mutual assistance and for all communication linked to them shall be agreed upon by the competent authorities concerned.
5. If no agreement about languages can be reached, requests shall be sent in the official language of the Member State of the applicant authority and replies in the official language of the Member State of the requested authority. In that case, each competent authority shall ensure the necessary translations of the requests, replies and other documents that it receives from another competent authority.
6. The requested authority shall reply directly to the applicant authority and to the single liaison offices of the Member States of the applicant and requested authorities.

Refusal to comply with a request for mutual assistance

1. A requested authority may refuse to comply with a request for information under Article 11 if one or more of the following applies:
 - (a) in its opinion, following consultation with the applicant authority, **it appears that** the information requested is not needed by the applicant authority to establish whether an intra-Union infringement has occurred or to establish whether there is a reasonable suspicion that it may occur;
 - (b) the applicant authority does not agree that the information is subject to the provisions on confidentiality and professional and commercial secrecy set out in Article 41;
 - (c) **criminal investigations or judicial proceedings have already been initiated, or there is a final judgment has already been given, a court settlement or a judicial order** in respect of the same intra-Union infringement and against the same trader before the judicial authorities in the Member State of the requested ~~or applicant~~ authority;
 - (d) **the exercise of the necessary investigation or enforcement powers have already been initiated, or an administrative decision has already been adopted in respect of the same intra-Union infringement and against the same trader in that Member State in order to bring about the cessation or prohibition of the intra-Union infringement.**

2. A requested authority may refuse to comply with a request for enforcement measures under Article 12 following a consultation with the applicant authority, if one or more of the following applies:

- (a) criminal investigations or judicial proceedings have already been initiated ~~or final~~, **or there is a judgment has already been given, a court settlement or a judicial order** in respect of the same intra-Union infringement and against the same trader before the judicial authorities in the Member State of the requested ~~or applicant~~ authority;
- (aa) the exercise of the necessary investigation or enforcement powers have already been initiated, or an administrative decision has already been adopted in respect of the same intra-Union infringement and against the same trader in that Member State in order to bring about the cessation or prohibition of the intra-Union infringement;**
- (b) in its opinion, following appropriate investigation by the requested authority, no intra-Union infringement has occurred;
- (c) in its opinion, the applicant authority has not provided sufficient information in accordance with Article 12~~4~~4(1);
- (d) the requested authority has accepted commitments by the trader to cease the intra-Union infringement in a set time limit and that time limit has not yet passed.**

However, the requested authority shall comply with the request for enforcement measures under Article 12 if the trader fails to implement commitments pursuant to point (d).

~~A request for enforcement measures cannot be refused on the ground that insufficient information has been provided if a request for information on the same intra-Union infringement was refused on the grounds that criminal investigations or judicial proceedings have already been initiated or final judgment has already been given in respect of the same intra-Union infringement and against the same trader, as referred to in paragraph (1)(c).~~

3. The requested authority shall inform the applicant authority and the Commission of the refusal to comply with a request for mutual assistance and provide grounds for the refusal.
4. In the event of a disagreement between the applicant and the requested authority, the applicant authority or the requested authority shall **may** without delay refer the matter to the Commission which shall issue an opinion **without delay**. Where the matter is not referred to it, the Commission may of its own motion issue an opinion.
5. The Commission shall monitor the functioning of the mutual assistance mechanism, the compliance of competent authorities with the procedures and the time limits for handling mutual assistance requests. The Commission shall have access to the mutual assistance requests and to the information and documents exchanged between the applicant and requested authority.
- ~~6. Where appropriate, the Commission may issue guidance and provide advice to the Member States to ensure the effective and efficient functioning of the mutual assistance mechanism.~~

7.—~~The Commission may adopt implementing acts setting out the details of the procedures to address cases of disagreement between competent authorities under paragraphs 3 and 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

CHAPTER IV

~~COORDINATED SURVEILLANCE, INVESTIGATION AND ENFORCEMENT MECHANISM FOR WIDESPREAD INFRINGEMENTS~~

~~SECTION I~~

~~WIDESPREAD INFRINGEMENTS~~

Article 15a

Procedure for decisions amongst Member States

For matters pursuant to this Chapter, the competent authorities concerned shall act by consensus.

Article 15aa

General principles of cooperation

1. Where there is a reasonable suspicion that a widespread infringement is taking place, competent authorities concerned and the Commission shall without delay, by sending alerts pursuant to Article 34, inform each other and the single liaison offices concerned.

- 2. The competent authorities concerned by the widespread infringement shall coordinate their investigation and enforcement measures to address infringements. They shall exchange all necessary information and provide each other and the Commission with any assistance needed without delay.**
- 3. The competent authorities concerned shall ensure that necessary evidence and information are gathered and all necessary enforcement measures are taken to bring about the cessation or prohibition of the widespread infringement.**
- 4. Without prejudice to paragraph 2, conducting of national investigation and enforcement activities in respect of the same infringement and the same trader by competent authorities concerned shall not be affected by the application of this Regulation.**
- 5. Where appropriate, the competent authorities may invite Commission officials and other accompanying persons authorised by the Commission to participate in the coordinated investigations, enforcement actions and other measures pursuant to this Chapter.**

Article 16

Opening Launch of coordinated action and designation of the coordinator

- ~~1. Where a competent authority has a reasonable suspicion that a widespread infringement is taking place, it shall notify the competent authorities of the other Member States concerned by the widespread infringement and the Commission without delay.~~

- ~~2. Where the Commission has a reasonable suspicion that a widespread infringement is taking place, it shall notify the competent authorities concerned by the widespread infringement.~~
- ~~3. After receiving the notifications referred to in paragraphs 1 and 2, the competent authorities concerned by the widespread infringement shall, acting by consensus, designate the competent authority that shall coordinate the action.~~
- ~~4. The competent authorities concerned may invite the Commission to take up the coordination role. The Commission shall inform the competent authorities concerned without delay whether it accepts the coordination role.~~
- ~~5. When notifying the competent authority pursuant to paragraph 2, the Commission may propose to take up the coordination role. The competent authorities concerned shall inform the Commission without delay whether they accept that the Commission coordinates the action.~~
- ~~6. Where the Commission declines to take up the coordination role or where the competent authorities concerned do not accept that the Commission coordinates the action, the competent authorities concerned shall designate a competent authority that shall coordinate the action. Where no agreement among competent authorities is reached, the competent authority that first notified the suspected infringement to the other competent authorities shall coordinate the action.~~

1. In case of a reasonable suspicion of a widespread infringement the competent authorities concerned shall launch a coordinated action by an agreement between them. The launch of the coordinated action shall be notified to the single liaison offices concerned by the coordinated action and to the Commission.

- 2. The competent authorities concerned by the suspected widespread infringement shall designate one competent authority among themselves to take the role of the coordinator. If no agreement can be reached on the coordinator, the competent authorities shall invite the Commission to take the role of coordinator. If the Commission declines to take the role of the coordinator, the competent authorities concerned may decide to close the coordinated action and shall pursue their national enforcement actions to address the widespread infringement using, where appropriate, the mutual assistance mechanism pursuant to Chapter III.**
- 3. If the Commission has the reasonable suspicion that a widespread infringement harmed, harms or is likely to harm consumers in at least three quarters of the Member States accounting together for at least three quarters of the population of the Union, it shall notify without delay pursuant to Article 34 the competent authorities and the single liaison offices concerned by the alleged infringement. The Commission shall state in the notification the grounds justifying a possible coordinated action. Competent authorities concerned shall conduct appropriate investigations based on information available or easily accessible to them. Where such investigations reveal that an infringement may be taking place, competent authorities concerned by the infringement shall launch a coordinated action pursuant to paragraph 1.**
- 4. The coordinated action launched following the Commission's notification pursuant to paragraph 3 shall be coordinated by the Commission.**

5. A competent authority shall join the coordinated action, if during the coordinated action it becomes apparent that it is concerned by the widespread infringement.

Article 16a

Decline to take part in the coordinated action

1. A competent authority may decline to take part in the coordinated action for one of the following reasons:

- (a) criminal investigation or judicial proceedings have already been initiated, a judgement has been given, or a court settlement was reached concerning the same infringement against the same trader in that Member State;**
- (b) the exercise of the necessary investigation or enforcement powers has already been initiated, or an administrative decision has been adopted in respect of the same infringement against the same trader in that Member State in order to bring about the cessation or prohibition of the widespread infringement;**
- (c) following appropriate investigation it is apparent that the actual or potential impact of the alleged infringement on consumers in its Member State is insignificant and no enforcement measures need to be adopted by the competent authority;**
- (d) the competent authority has accepted commitments by the trader to cease the widespread infringement in its Member State and those commitments have been implemented and no enforcement measures need to be adopted by the competent authority.**

- 2. Where a competent authority declines to take part in the coordinated action pursuant to paragraph 1, it shall without delay inform the Commission, single liaison offices concerned and the other competent authorities concerned about its decision, state the reasons for it and provide the necessary supporting documents.**

Article 17

Investigation measures in coordinated actions

1. ~~The competent authorities concerned shall ensure that the necessary evidence, data and information are gathered effectively and efficiently. The competent authorities concerned shall ensure that investigations and inspections are conducted~~ **effectively, efficiently and in a coordinated manner, in particular they shall seek to conduct investigations and inspections** ~~simultaneously and that interim measures are applied simultaneously.~~
- ~~2. The competent authorities concerned may use the mutual assistance mechanism pursuant to Chapter III, in particular to gather evidence and information from Member States other than the Member States concerned by the coordinated action or to ensure that the trader concerned does not circumvent enforcement measures.~~
- 2a. The mutual assistance mechanism pursuant to Chapter III may be used, if it is needed, in particular to gather evidence and information from Member States other than the Member States concerned by the coordinated action or to ensure that the trader concerned does not circumvent enforcement measures.**

3. **Where appropriate**, the competent authorities concerned ~~may~~ **shall** set out the outcome of the investigation and the assessment of the widespread infringement in a common position agreed upon among themselves.

3a. The coordinator, if not agreed otherwise between the competent authorities concerned, shall communicate the common position to the trader responsible for the infringement who shall be given the opportunity to be heard on the matters which are part of the common position.

4. Where appropriate and without prejudice to the rules on professional and commercial secrecy set out in Article 41, the competent authorities concerned may ~~decide to~~ publish the common position or parts of it on their websites and ~~on~~ the Commission **may publish the common position on its website if requested by the competent authorities concerned** and seek the view of other parties concerned.

Article 18

Enforcement measures in coordinated actions Commitments

1. The competent authorities concerned may invite the trader responsible for the **widespread** infringement to propose **in a set time limit** commitments to cease the infringement ~~and where appropriate to compensate or take other measures facilitating compensation of consumers that have suffered harm~~. The trader may also, on its own initiative, propose commitments to cease the infringement ~~and to compensate consumers~~.

~~2. Where the trader proposes commitments, the competent authorities concerned, may, where appropriate, publish the proposed commitments on their websites or, as appropriate, on the Commission website~~

2a. Where appropriate and without prejudice to the rules on professional and commercial secrecy set out in Article 41, the competent authorities concerned, may publish the commitments proposed by the trader on their websites or, as appropriate, the Commission may publish the commitments proposed on its website if requested by the competent authorities concerned to seek the views of other parties concerned and to verify whether the commitments are sufficient to cease the infringement and to compensate consumers.

3. The competent authorities concerned ~~may designate one competent authority to take enforcement measures on behalf of the other competent authorities in order to bring about the cessation or to prohibit the widespread infringement, to ensure compensation of consumers or to impose penalties. When designating a competent authority to take enforcement measures the competent authorities shall take into consideration the location of the trader concerned. Once the competent authority has been designated to take enforcement measures by the other competent authorities concerned, it shall become competent to act on behalf of the consumers of each such Member State as if they were its own consumers~~ **shall assess the proposed commitments and communicate the outcome of the assessment to the trader. Where commitments are sufficient and proportionate to cease the infringement, the competent authorities shall accept them and set a time limit within which the commitments have to be implemented.**

4. The competent authorities ~~may decide to take enforcement measures simultaneously in all or some Member States concerned by the widespread infringement. In such a case, the competent authorities shall ensure that those enforcement measures are launched simultaneously in all Member States concerned~~ **shall monitor the implementation of the commitments. They shall in particular ensure that the trader concerned regularly reports to the coordinator about the progress of the implementation of the commitments. The competent authorities may, where appropriate, seek the views of consumer organisations and experts to verify whether the steps taken by the trader are in line with the commitments.**
5. ~~The instruction of a designated body to take enforcement measures pursuant to paragraphs 1 to 4 shall only be possible if the competent authorities concerned give their consent to such instruction and where such instruction does not lead to disclosure of information which is subject to the rules on professional and commercial secrecy set out in Article 41.~~

Article 18a

Enforcement measures in coordinated actions

- 1. The competent authorities concerned shall take within their jurisdiction all necessary enforcement measures against the trader responsible for the widespread infringement to bring about the cessation or prohibition of the widespread infringement. Where appropriate they shall impose fines or periodic penalty payments on the trader responsible for the widespread infringement.**

- 2. Enforcement measures pursuant to paragraph 1 shall be taken in an effective, efficient and coordinated manner to bring about the cessation or prohibition of the widespread infringement. The competent authorities concerned shall seek to take enforcement measures simultaneously in Member States concerned by the widespread infringement.**

Article 19

Closure of the coordinated actions

- 1. The coordinated action shall be closed if the competent authorities concerned conclude that the widespread infringement has ceased or has been prohibited in all Member States concerned or there was no widespread infringement committed.**
- 2. The coordinated action shall be closed if the Commission declines to take the role of the coordinator pursuant to Paragraph 2 of Article 16 and the competent authorities concerned decide to close the coordinated action.**
- 3. The ~~coordinating authority~~ coordinator or one of the competent authorities concerned in cases where the coordinated action was closed pursuant to paragraph 2 shall inform notify the Commission, single liaison offices concerned and competent authorities of the Member State concerned without delay the closure of the coordinated action when the widespread infringement has ceased or has been prohibited.**

Article 20

Implementing powers

~~The Commission may adopt implementing acts setting out the details of the procedures for coordinated actions for widespread infringements and widespread infringement with Union dimension, in particular the standard forms for notifications and other exchanges between competent authorities and the Commission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

Section II is deleted.

SECTION III

**~~GENERAL PROVISIONS APPLICABLE TO COORDINATED ACTIONS AND TO COMMON
ACTIONS UNDER THIS CHAPTER~~**

Article 28

~~Procedure for decisions amongst Member States~~

~~For matters pursuant to this Chapter, the competent authorities concerned shall act by consensus.~~

Role of the coordinator

1. The coordinator appointed in accordance with Articles 16, ~~21~~ or ~~32~~ **36a** shall in particular:
 - (a) ensure that all the competent authorities concerned and the Commission are duly informed in a timely manner of the progress of the enforcement action, the anticipated next steps and the measures to be adopted;
 - (b) coordinate **and follow** the investigations, ~~the inspections and the adoption of interim measures that are decided upon~~ **measures taken** by the competent authorities concerned ~~in accordance with sections I and II, monitor investigations, inspections and interim measures, as well as other measures, pursuant to Article 8;~~
 - (c) coordinate the preparation and sharing of all necessary documents among the competent authorities concerned and the Commission;
 - (d) maintain contact with the trader and other parties concerned by the ~~surveillance,~~ investigation and enforcement measures, unless otherwise agreed upon by the competent authorities concerned and the ~~Commission~~ **coordinator**;
 - (e) coordinate the assessment, the consultations and the monitoring by the competent authorities concerned as well as other steps necessary to process and implement commitments proposed by the traders concerned;

- (f) coordinate ~~other~~ enforcement measures adopted by the competent authorities concerned, including applications to the courts for the necessary orders and decisions, the imposition of penalties and the adoption of measures ensuring consumer compensation;
- (g) coordinate mutual assistance requests lodged by the competent authorities concerned pursuant to Chapter III.

2. The coordinator shall not be held responsible for the actions or the omissions of the competent authorities concerned when making use of the powers set out in Article 8.

2a. Where the coordinated actions concern widespread infringements of the Union legislation pursuant to paragraph 6 of Article 2 the coordinator shall invite the European Banking Authority to take an observer role.

Article 30

Duty of cooperation and Language arrangements

- ~~1. The competent authorities shall coordinate their market surveillance activities and their investigation and enforcement measures to address widespread infringements pursuant to sections I and II. They shall exchange all necessary information and provide each other and the Commission with any other assistance needed without delay.~~
- ~~2. The competent authorities shall make available adequate resources to conduct coordinated investigations and enforcement actions. The competent authorities may invite Commission officials and other accompanying persons authorised by the Commission to participate in the coordinated investigations, enforcement actions and other measures pursuant to this Chapter.~~

3. The languages used by the competent authorities ~~and the Commission~~ for notifications and for all communications linked to the coordinated actions, ~~common actions~~ and concerted investigations of consumer markets pursuant to this Chapter shall be agreed upon by the competent authorities concerned ~~and the Commission~~.
4. If no agreement can be reached **between the competent authorities concerned**, notifications and other communications shall be sent in the official language of the Member State making the notification or other communication. In that case, **if necessary**, each competent authority concerned shall ensure the ~~necessary~~ translations of the notifications, communications and other documents that it receives from other competent authorities.
5. ~~Where the coordinated or common actions pursuant to sections I and II concern widespread infringements of the following Union legislation the coordinator shall invite the European Banking Authority to take an observer role:~~
- ~~(a) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property;~~
 - ~~(b) Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.~~

Common position and hearing of Language arrangements for communication with traders

1. — ~~The common position referred to in Articles 17 shall be communicated to the trader responsible for the infringement. The trader responsible for the infringement shall be given the opportunity to be heard on the matters which are part of the common position.~~
2. — ~~The trader shall be entitled to communicate in the official language of the Member State of its establishment or residence. The trader may waive that right or request that another official language of the Union be used for communicating with the competent authorities.~~
3. — ~~The Commission may adopt implementing acts setting out the details of the implementation of traders' rights of defence in coordinated and common actions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

For the purposes of the procedures set out in this Chapter, the trader shall be entitled to communicate in the official language or one of the official languages used for official purposes of the Member State of its establishment or residence.

Concerted investigations of consumer markets

1. ~~Where market trends, consumer complaints or other indications suggest that widespread infringements may have occurred, occur or may occur, the competent authorities concerned may decide to conduct a concerted investigation of consumer markets ("sweep") such a concerted investigation shall be coordinated by the Commission.~~
2. ~~When conducting concerted investigations, the competent authorities concerned shall make effective use of the powers set out in Article 8 and other powers conferred upon them by national law.~~
3. ~~The competent authorities may invite Commission officials and other accompanying persons authorised by the Commission to participate in sweeps.~~
4. ~~The Commission may adopt implementing acts setting out the details of the procedures for sweeps. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

CHAPTER V

~~CONSUMER PROTECTION COOPERATION SURVEILLANCE~~ MECHANISM UNION-WIDE ACTIVITIES

Article 33

Surveillance mechanism

- ~~1. The Commission shall maintain a mechanism for the submission of alerts and the exchange of information related to infringements or suspected infringements.~~
- ~~2. The activities under this mechanism shall be conducted through the database referred to in Article 43.~~

Article 34

Alerts mechanism

1. A competent authority shall without delay notify the Commission and other competent authorities **concerned** of any reasonable suspicion that an **intra-Union infringement or widespread** infringement is taking place on its territory that may affect consumers' interests in other Member States ('alert') ~~using the standard form via the database referred to in Article 43.~~
2. The Commission shall without delay notify the competent authorities concerned of any reasonable suspicion that an **widespread** infringement has occurred in at least ~~two~~ **three** Member States ~~on the Union's territory~~ ('alert') ~~via the database referred to in Article 43.~~

3. In an alert the competent authority or the Commission shall provide, where available, in particular the following information about the suspected infringement:
- (a) a description of the act or omission that constitutes the infringement;
 - (b) the product or service concerned by the infringement;
 - (c) the Member States concerned or possibly concerned by the infringement;
 - (d) the trader responsible or suspected of being responsible for the infringement;
 - (e) the legal basis for possible actions by reference to national law and the corresponding provisions of the Union acts in the Annex to this Regulation;
 - (f) the nature **description and status** of legal proceedings, enforcement measures or other measures taken concerning the infringement and their dates and duration;
 - ~~(g) the status of legal proceedings, enforcement measure or other measures taken concerning the infringement;~~
 - (h) the competent authorities **ies** conducting legal proceedings and other measures;
 - ~~(i) whether the alert is 'for information' or 'for action'.~~
4. In an alert '~~for action~~', the competent authority or the Commission may ask ~~other~~ competent authorities **and single liaison offices concerned in other Member States** and the Commission to verify whether, **based on information available or easily accessible to the competent authorities concerned or the Commission**, similar suspected **intra-Union or widespread** infringements ~~may be~~ **are** taking place in the territory of other Member States or whether any enforcement measures have already been taken against such infringements in other Member States. Those competent authorities and the Commission shall reply to the request without delay.

5. ~~To address the suspected infringements effectively, the competent authorities concerned shall, depending on the replies to the alert, take the necessary measures set out in Chapters III and IV.~~
6. ~~The Commission shall adopt implementing acts setting out the details of the functioning of the alert mechanism, including in particular standard forms for alerts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

Article 35

Participation of other entities in the alert mechanism External alerts

1. **Member States may entitle** designated bodies, and European Consumer Centres, ~~shall participate in the alert mechanism set out in Article 34. Member States shall designate consumer organisations and associations, and other entities such as~~ **and, where appropriate,** trader associations, with the appropriate expertise and legitimate interest in consumer protection that shall participate in the alert mechanism **to notify the competent authorities of the Member States concerned and the Commission of suspected intra-Union infringements or widespread infringements and to provide information available to them set out in paragraph 3 of Article 34 ('external alert')**. Member States shall notify the Commission **the list** of those entities **and any changes of it** without delay.
2. The Commission, **following a consultation with Member States,** may designate **entitle** other entities **associations** representing consumer and, **where appropriate,** business interests at a Union level **to make an external alert** that shall participate in the alert mechanism.

- ~~3. The entities described in paragraphs 1 and 2 shall be entitled to notify the competent authorities of the Member States concerned and the Commission of suspected infringements and provide the information set out in Article 34(3), using the standard form for external notifications provided by the database referred to in Article 43 ('external alert').~~
4. The external alerts shall only be 'for information'. The competent authorities shall not be bound to initiate a procedure or take any other action in response to **an external alert** the alerts and information provided by those entities. Entities making external alerts shall ensure that the information provided is correct, up to date and accurate and shall correct the information posted without delay or withdraw it as appropriate. For that purpose, they shall have access to the information they have provided, subject to the limitations referred to in Articles 41 and 43.
- ~~5. The Commission may adopt implementing acts setting out the details of the designation and participation of other entities in the alert mechanism. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

Article 36

~~Exchange of other information relevant for the detection of infringements~~

- ~~1. Via the database referred to in Article 43, the competent authorities shall without delay notify the Commission and other competent authorities of any measure that they have taken to address an infringement of the laws which protect consumers' interests on their territory if they suspect that the infringement may affect consumers' interests in other Member States, in particular:~~

- ~~(a) any notice, order, decision or similar measure of a competent authority or another authority relating to the opening of national proceedings concerning an infringement or suspected infringement;~~
- ~~(b) any decision of a court or other judicial authority, judicial order, injunction or other similar measure that concerns an infringement or suspected infringement;~~
- ~~(c) any other information, decision, order or act of other national authorities or designated bodies, as appropriate, that may concern an infringement or suspected infringement.~~

~~2. The Commission may adopt implementing acts setting out the details of the exchange of other information relevant for the detection of infringements under this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

Article 36a

Concerted investigations of consumer markets

- 1. The competent authorities may decide to conduct a concerted investigation of consumer markets ("sweep") to check compliance with Union laws that protect consumers interests and/or detect infringements. Unless otherwise agreed upon by the competent authorities involved, sweeps shall be coordinated by the Commission.**
- 2. When conducting sweeps, the competent authorities involved may make effective use of investigation powers set out in Article 8 and other powers conferred upon them by national law.**

3. The competent authorities may invite designated bodies, Commission officials and other accompanying persons authorised by the Commission to participate in sweeps.

~~CHAPTER VI~~

~~OTHER UNION-WIDE ACTIVITIES~~

Article 37

Coordination of other activities contributing to ~~surveillance~~ investigation and enforcement

1. **To the extent necessary to achieve the objective of this Regulation,** Member States shall **may** inform each other and the Commission of their activities in the following areas:
- (a) the training of their officials involved in ~~enforcing consumer protection, including language training, and the organisation of training seminars~~ **the application of this Regulation;**
 - (b) the collection, classification and exchange of data on consumer complaints;
 - (ba) best practices in investigation and enforcement techniques;**
 - (c) the development of sector-specific networks of competent officials;
 - (d) the development of information and communication tools;
 - ~~(e) the development of standards, methodologies and guidelines for officials involved in enforcing consumer protection;~~

~~(f) — the exchange of their officials, including the ability to carry out activities under Chapters III and IV.~~

2. **To the extent necessary to achieve the objective of this Regulation**, Member States shall **may** coordinate and jointly organise the activities **in the areas** set out in paragraph 1.
- ~~3. — The Commission and the Member States shall regularly share information and data concerning consumer complaints. For that purpose, the Commission shall develop and maintain a harmonised methodology for classifying and reporting consumer complaints in cooperation with Member States.~~
- ~~4. — The Commission may adopt implementing acts necessary to develop the framework for cooperation under paragraphs 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

Article 38

Exchange of officials between competent authorities

1. The competent authorities may participate in exchange schemes of competent officials from other Member States in order to improve cooperation. The competent authorities shall take the necessary measures to enable competent officials from other Member States to play an effective role in the activities of the competent authority. To that end, those officials shall be authorised to carry out the duties entrusted to them by the host competent authority in accordance with the laws of its Member State.

2. During the exchange, the civil and criminal liability of the competent official shall be treated in the same way as that of the officials of the host competent authority. The competent officials from other Member States shall observe professional standards and ~~shall be subject to~~ the appropriate internal rules of conduct of the host competent authority. Those rules of conduct shall ensure in particular the protection of individuals with regard to the processing of personal data, procedural fairness and the proper observance of the rules on confidentiality and professional and commercial secrecy pursuant to Article 41.

Article 39

Exchange of consumer policy information

- ~~1. Member States shall inform each other and the Commission of their activities in protecting consumers' interests such as:~~
- ~~(a) consumer information and advice;~~
 - ~~(b) support for the activities of consumer representatives;~~
 - ~~(c) support for the activities of bodies responsible for the extra-judicial settlement of consumer disputes;~~
 - ~~(d) support for consumers' access to justice;~~
 - ~~(e) the collection of statistics, the results of research or other information relating to consumer behaviour and attitudes.~~

- ~~2. Member States may, in cooperation with the Commission, carry out common activities in the areas set out in paragraph 1. The Member States shall, in cooperation with the Commission, develop a common framework for the activities set out to in point (e) of paragraph 1.~~
- ~~3. The Commission may adopt implementing acts necessary to develop the framework for exchange of information referred to paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

Article 40

International cooperation

1. **To the extent necessary to achieve the objective of this Regulation,** the Union shall cooperate with third countries and with the competent international organisations in the areas covered by this Regulation in order to protect consumers' interests. The arrangements for cooperation, including the establishment of mutual assistance arrangements, the exchange of confidential information and exchange of staff programmes, may be subject to agreements between the Union and the third countries concerned.
2. Agreements concluded between the Union and third countries concerning cooperation and mutual assistance to protect and enhance consumers' interests shall be ~~subject to the protection of confidential information and personal data equivalent to the rules set out in Article 41~~ **in accordance with the relevant data protection rules applicable to the transfer of personal data to third countries.**

3. When a competent authority receives information from an authority of a third country **relevant to competent authorities of other Member States**, ~~that competent authority it~~ shall communicate the information to ~~the~~ **those** relevant competent authorities ~~of other Member States~~ insofar as it is permitted to do so by bilateral assistance agreements with the third country and in accordance with Union legislation regarding the protection of individuals with regard to the processing of personal data.
4. Information communicated under this Regulation may also be communicated to an authority of a third country by a competent authority under a bilateral assistance agreement with the third country, provided that the ~~consent~~ **approval** of the competent authority that originally communicated the information has been obtained and in accordance with Union legislation regarding the protection of individuals with regard to the processing of personal data.

CHAPTER VII

PROFESSIONAL SECRECY AND OTHER COMMON ARRANGEMENTS

Article 41

Use of information and professional and commercial secrecy

1. Information collected ~~pursuant to Article 8~~ ~~which is~~ **by or** communicated to the competent authorities and the Commission **by applying this Regulation** shall only be used for the purposes of ensuring compliance with the **Union** laws that protect consumers' interests.

2. Information **collected or** communicated **pursuant to paragraph 1 shall be confidential, used and disclosed in accordance with Union legislation and with due regards to** ~~in~~ any form to persons working for competent authorities, courts, other public authorities and ~~the,~~ including information notified to the Commission and stored on the database referred to in Article 43, shall be confidential and shall be covered by the obligations of professional secrecy where its disclosure would undermine:
- (a) ~~the protection of the privacy and the integrity of the individual, in particular in accordance with Union legislation regarding the protection of personal data,~~
 - (b) the commercial interests of a natural or legal person, including **trade secrets and** intellectual property;
 - (c) ~~court proceedings and legal advice, or~~
 - (d) ~~the purpose of inspections or investigations.~~
3. ~~Notwithstanding~~ **Without prejudice to** paragraph ~~2~~ **1**, the competent authorities **upon prior consultation from the competent authority which provided the information** may ~~use and~~ disclose the information necessary:
- (a) to prove intra-Union infringements or widespread infringements;
 - (b) to bring about the cessation or prohibition of intra-Union infringements or widespread infringements.

Article 42

Use of evidence and investigation findings

1. — Competent authorities may use, **for proceedings initiated in application of this Regulation as evidence**, any information, documents, findings, statements, certified true copies or intelligence **made by a competent authority in another Member State in accordance with Articles 8 and 9 and** communicated as evidence **in accordance with this Regulation**, irrespective of their format and medium on which they are stored, **on the same basis as similar evidence obtained in their own Member State to the extent that this is in accordance with the national procedural law of the Member State in which the proceedings are initiated.**
2. — ~~Evidence, documents, information, explanations and investigation findings made by a competent authority in one Member State in accordance with Article 8 may be used for proceedings initiated in application of this Regulation by competent authorities in other Member States without further formal requirements.~~

Electronic database and system for exchange of information on infringements

1. The Commission shall establish and maintain the necessary electronic database **for all communication between competent authorities, single liaison offices and the Commission under this Regulation** in which it shall store and process the information received to support mutual assistance requests pursuant to Chapter III, measures pursuant to Chapter IV and the surveillance mechanism pursuant to Chapter V. The database shall be made available for consultation to the competent authorities and the Commission. **Every information sent by the means of the electronic database shall be stored and processed in the electronic database** the information received to support mutual assistance requests pursuant to Chapter III, measures pursuant to Chapter IV and the surveillance mechanism pursuant to Chapter V. The database shall be made available for consultation to the competent authorities and the Commission.
2. Information provided by ~~other authorities, entities~~ **entitled to make an external alert pursuant to paragraph 1 and 2 of Article 35** and ~~designated bodies~~ shall be stored and processed in the electronic database but those ~~authorities, entities and designated bodies~~ shall not have access to this database.
3. The stored data relating to an infringement shall be ~~deleted five years after the infringement has ceased~~ **stored in the database for no longer than it is necessary for the purposes for which it was collected and processed but for no longer than five years following the day**. The period of five years shall start from the date on which:

- (a) ~~a requested authority notifies the Commission pursuant to Article 12(3) that an intra-Union infringement has ceased;~~
- (b) the coordinating authority **coordinator** notifies the Commission pursuant to Article 19(1) **the closure of the coordinated action** ~~that the widespread infringement has ceased or has been prohibited;~~
- (c) ~~the Commission decides pursuant to Article 26 that the common action concerning a widespread infringement with a Union dimension is closed but traders' commitments shall be stored for 10 years to ensure compliance with the laws that protect consumers' interests;~~
- (d) the information has been entered in the database in all other cases.
4. The Commission shall adopt implementing acts necessary to implement the database, in particular, the steps in the workflows necessary to implement the various procedures covered by this Regulation and the standard forms to be used. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).

Article 44

Waiver of reimbursement of expenses

- 1.** Member States shall waive all claims for the reimbursement of expenses incurred in applying this Regulation.

2. ~~However~~ **Notwithstanding paragraph 1, in case of acting upon request pursuant to Article 12**, the Member State of the applicant authority shall remain liable to the Member State of the requested authority for any costs and any losses incurred as a result of measures dismissed and held to be unfounded by a court as far as the substance of the infringement in question is concerned.

Article 45

National Enforcement plans and prioritisation

1. Every two years from xx/xx/20xx [the date of entry into force of this Regulation], ~~each~~ Member States shall **exchange among themselves and with the Commission information on** ~~submit to the Commission~~ biennial enforcement plans **priorities concerning the application of this Regulation**, ~~using a dedicated online standard form provided by the Commission.~~ The enforcement **priorities** plans shall contain, **to the extent they are available** in particular:
 - (a) information concerning market trends that may affect consumers' interests in their Member State **and**, ~~thus highlighting issues that may be likely to exist in other~~ Member States;
 - (b) ~~where applicable, an~~ summary of the implementation of the previous biennial enforcement plan, including overview of actions **carried out** under this Regulation, **in the last two years, in particular**, ~~consumer complaints and other complaints received, surveillance~~ **investigation** and enforcement activities ~~and important court actions, judgments and other orders or measures and reasons why the previous biennial plan may not have been fully implemented;~~

- (c) **summary** information about the organisation, powers and responsibilities of the competent authorities **for the application of this Regulation** as well as any changes or planned changes thereof;
- (d) ~~the~~ **tentative** priority areas for the enforcement of the **Union** laws that protect consumers' interests for the next two years in the Member State;
- (e) the proposed priority areas for enforcement of the **Union** laws that protect consumers' interests Union-wide **for the next two years**;
- ~~(f) an overview of resources available and committed for enforcement of the laws that protect consumers' interests in the Member State for the two years;~~
- ~~(g) a statement of resources committed to the implementation of this Regulation for the next two years.~~

2. In case of substantial change of circumstances or market conditions during the two years after the submission of the last enforcement **priorities plan**, Member States ~~may~~ **shall** **update their enforcement priorities** ~~submit a revised enforcement plan.~~

2a. The Commission shall summarise the information provided in accordance with paragraph 1 and report annually to the Committee referred to in Article 48 to facilitate prioritisation of actions under this Regulation, exchange of best practices and benchmarking, especially in view of developing capacity building activities.

Article 46

Monitoring and implementation of national enforcement plans

1. ~~The Commission shall monitor the implementation of the national enforcement plans. The Commission may give advice concerning the implementation of national enforcement plans, establish benchmarks as regards resources necessary for the implementation of this Regulation and promote best practices.~~
2. ~~The Commission shall adopt implementing acts necessary to develop the online standard forms and details of the national enforcement plans referred to in Article 45. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

Article 47

Principles for imposing penalties for intra-Union and widespread infringements

1. ~~When imposing penalties in the context of intra-Union infringements and widespread infringements, the competent authorities shall take into account among others:~~
 - (a) ~~the territorial scope of the infringement;~~
 - (b) ~~the overall harm or likely harm caused to consumers in other Member States;~~

~~(e) — the repetition of the infringement in the same Member State or in the Union.~~

~~2. — The Commission may issue recommendations on penalties for intra-Union infringements and widespread infringements and their coordination pursuant to Chapter IV.~~

CHAPTER VIII

FINAL PROVISIONS

Article 48

Committee

1. The Commission shall be assisted by a Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 49

Notifications

Member States shall communicate to the Commission without delay the text of any provisions of national law that they adopt, or of agreements other than to deal with individual cases that they conclude, on matters covered by this Regulation.

Article 50

Evaluation

By [*xx/xx/20xx at the latest, no later than within seven years from its entry into application*], the Commission shall present a report to the European Parliament and the Council on the application of this Regulation.

The report shall contain an evaluation of the application of the Regulation including an assessment of the effectiveness of enforcement of the laws that protect consumers' interests under this Regulation and an examination of, among others, how the compliance with the laws that protect consumers' interests by traders has evolved in key consumer markets concerned by cross-border trade.

Article 51

~~Amendment of the Annex to Regulation (EU) No 2006/2004~~

~~In the Annex to Regulation (EU) No 2006/2004 the following points are added:~~

~~"18. Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights (OJ L 304, 22.11.2011, p.64).~~

~~19. Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market: Article 20 (OJ L 376, 27.12. 2006, p. 36).~~

~~20. Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on railway passenger rights and obligations (OJ L 315, 3.12. 2007, p. 14).~~

21. — Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p. 1)

22. — Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community: Articles 22, 23 and 24 (OJ L 293, 31.10.2008, p. 3).

23. — Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property: Articles 10, 11, 13, 14, 15, 16, 17, 18, 21, 22, 23, Chapter 10 and Annexes I and II (OJ L 60, 28.2.2014, p. 34).

24. — Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, Articles 4 to 18 and 20(2) (OJ L 257, 28.8.2014, p. 214)."

Article 52

Repeal

Regulation (EU) No 2006/2004 is repealed from [date of application of this Regulation].

Entry into force and application

The Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

This Regulation shall apply from [~~one~~ two years] after its entry into force].

~~However, Article 51 shall apply from [the entry into force of this Regulation].~~

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

Directives and Regulations referred to in point (a) of Article 3

1. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).
2. Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers (OJ L 80, 18.3.1998, p. 27).
3. Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (OJ L 171, 7.7.1999, p. 12).
4. Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (OJ L 178, 17.7.2000 p. 1).
5. Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use: Articles 86 to 100 (OJ L 311, 28.11.2001, p. 67).
6. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications): Article 13 (OJ L 201, 31.7.2002, p. 37).

7. Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC (OJ L 271, 9.10.2002, p. 16).
8. Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. 1).
9. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).
10. Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p. 1.).
11. Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ L 376, 27.12.2006, p. 21): Article 1, Article 2(c) and Articles 4 to 8.
12. Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12. 2006, p. 36): Article 20.

13. Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12. 2007, p. 14).
14. Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).
15. Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3.): Articles 22, 23 and 24
16. Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts (OJ L 33, 3.2.2009, p. 10).
17. Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1): Articles 9, 10, 11 and Articles 19 to 26.
18. Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ L 334, 17.12.2010, p. 1.).
19. Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (OJ L 55, 28.2.2011, p. 1.).

20. Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p.64).
21. Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 63): Article 13.
- 21a. Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR) (OJ L 165, 18.3.2013, p. 1) : Article 14 of ODR no 524/2013.**
22. Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34): Articles 10, 11, 13, 14, 15, 16, 17, 18, 21, 22, 23, Chapter 10 and Annexes I and II.
23. Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214): Articles 3 to 18 and Article 20(2).

24. Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1).
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