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#### INFORMATION NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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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.  
- Outcome of the European Parliament's first reading  
(Strasbourg, 13 to 16 November 2017)

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#### I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure<sup>1</sup>, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

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<sup>1</sup> OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Mrs Olga SEHNALOVA (S&D, CZ) presented one amendment (amendment 151) to the proposal for Regulation, reflecting the provisional agreement, on behalf of the Committee on Internal Market and Consumer Protection. This amendment had been agreed during the informal contacts referred to above.

For the plenary, the Greens/EFA group tabled four amendments (amendments 152-155) and the EFDD political group six amendments (amendments 156-161).

## II. VOTE

When it voted on 14 November 2017, the plenary adopted the amendment reflecting the provisional agreement (amendment 151). No other amendment was voted.

The Commission proposal as thus amended and the legislative resolution constitute the Parliament's first-reading position<sup>2</sup>, it reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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<sup>2</sup> The text of the amendment adopted and the European Parliament's legislative resolution are set out in the Annex. The amendment is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in bold and italics. The symbol "■" indicates deleted text.

## **Cooperation between national authorities responsible for the enforcement of consumer protection laws \*\*\*I**

**European Parliament legislative resolution of 14 November 2017 on the 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 (COM(2016)0283 – C8-0194/2016 – 2016/0148(COD))**

### **(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0283),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0194/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Bulgarian Parliament, the Czech Chamber of Deputies, the Austrian Federal Council and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinion of the European Economic and Social Committee of 19 October 2016<sup>3</sup>,
  - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 30 June 2017 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinion of the Committee on Legal Affairs (A8-0077/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>3</sup> OJ C 34, 2.2.2017, p. 100.

**P8\_TC1-COD(2016)0148**

**Position of the European Parliament adopted at first reading on 14 November 2017 with a view to the adoption of Regulation (EU) .../... of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of 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 Committee<sup>4</sup>,

Acting in accordance with the ordinary legislative procedure<sup>5</sup>,

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<sup>4</sup> OJ C 34, 2.2.2017, p. 100

<sup>5</sup> Position of the European Parliament of 14 November 2017.

Whereas:

- (1) Regulation (EC) No 2006/2004 of the European Parliament and of the Council<sup>6</sup> provides for harmonised rules and procedures to facilitate cooperation between the national authorities that are responsible for the enforcement of cross-border consumer protection laws. Article 21a *of Regulation (EC) No 2006/2004* provides for a review of the effectiveness of that Regulation and its operational mechanisms. Following such review, the Commission concluded that Regulation (EC) No 2006/2004 is not sufficient to effectively address the enforcement challenges of the Single Market, *including* the challenges of the Digital Single Market.
- (2) The communication of the Commission of 6 May 2015, ‘A Digital Single Market Strategy for Europe’, identified as one of the priorities of that strategy, the need to enhance consumer trust through more rapid, agile and consistent enforcement of consumer rules. The communication of the Commission of 28 October 2015 ‘Upgrading the Single Market Strategy: more opportunities for people and business’ reiterated that the enforcement of Union consumer protection legislation should be further strengthened by the *reform of Regulation (EC) No 2006/2004*.

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<sup>6</sup> Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (OJ L 364, 9.12.2004, p. 1).

- (3) The ineffective enforcement in cases of cross-border infringements, *including* infringements in the digital environment, enables traders to evade enforcement by relocating within the Union. It also gives rise to a distortion of competition for law-abiding traders operating either domestically or cross-border, *online or offline*, and thus directly harms consumers and *undermines* consumer confidence in cross-border transactions and the internal market. An increased level of harmonisation that includes effective and efficient enforcement cooperation among competent public enforcement authorities is therefore necessary to detect, to investigate and to order the cessation or prohibition of infringements covered by this Regulation.
- (4) Regulation (EC) No 2006/2004 established a network of competent public enforcement authorities throughout the Union. Effective coordination among different competent authorities participating in that network is necessary, as well as effective coordination among other public authorities at the Member State level. The coordination role of the single liaison office should be entrusted to a *public* authority in each Member State. That authority should have sufficient powers and necessary resources to undertake that key role. *Each Member State is encouraged to designate one of the* competent authorities *as the single liaison office pursuant to this Regulation.*

- (5) Consumers should also be protected against **█** infringements covered by this Regulation that have *already ceased*, but the harmful effects of which may continue **█**. Competent authorities should have the necessary minimum powers to investigate and to order the cessation of such infringements or their prohibition in the future, *in order to prevent them from being repeated, and in so doing, to ensure a high level of consumer protection*.
- (6) Competent authorities should have a minimum set of investigation and enforcement powers *in order* to apply this Regulation **█**, **█** to cooperate with each other *more quickly* and *more efficiently and* to deter traders from committing **█** infringements covered by this Regulation. Those powers should be *sufficient* to tackle the enforcement challenges of e-commerce and the digital environment *effectively and to prevent non-compliant traders from exploiting gaps in the enforcement system by relocating to Member States whose competent authorities are not equipped to tackle unlawful practices*. Those powers should enable Member States to ensure that *necessary information and* evidence can be validly exchanged among competent authorities to achieve an equal level of effective enforcement in all Member States.

**(7) *Each Member State should ensure that all competent authorities within its jurisdiction have all the minimum powers that are necessary to ensure the proper application of this Regulation. However, Member States should be able to decide not to confer all the powers on every competent authority, provided that each of those powers can be exercised effectively and as necessary in relation to any infringement covered by this Regulation. Member States should also be able to decide, in accordance with this Regulation, to ascribe certain tasks to designated bodies or to confer on competent authorities the power to consult consumer organisations, trader associations, designated bodies, or other persons concerned, regarding the effectiveness of the commitments proposed by a trader to cease the infringement covered by this Regulation. However, Member States should not be under any obligation to involve designated bodies in the application of this Regulation or to provide for consultations with consumer organisations, trader associations, designated bodies, or other persons concerned, regarding the effectiveness of the proposed commitments to cease the infringement covered by this Regulation.***

- (8) Competent authorities should be in a position to open investigations or proceedings on their own initiative if they become aware of infringements covered by this Regulation by means other than consumer complaints. ■
- (9) Competent authorities should have access to any relevant documents, data and information that *relate to the subject matter of an investigation or concerted investigations of a consumer market (“sweeps”) in order* to determine whether an ■ infringement of Union laws that protect consumers' interests has occurred *or is occurring*, and in particular to identify the trader responsible, irrespective of who possesses *the* documents, data or information *in question, and regardless* of their form or format, their storage medium, or the place where they are stored. Competent authorities should be able to directly request that third parties in the digital value chain provide any relevant evidence, data and information *in accordance with Directive 2000/31/EC of the European Parliament and of the Council<sup>7</sup> and in accordance with the legislation on personal data protection.*

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<sup>7</sup> 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).

- (10) *Competent authorities should be able to request any relevant information from any public authority, body or agency within their Member State, or from any natural person or legal person, including, for example, payment service providers, internet service providers, telecommunication operators, domain registries and registrars, and hosting service providers, for the purpose of establishing whether an infringement covered by this Regulation has occurred or is occurring.*
- (11) *Competent authorities should be able to carry out necessary on-site inspections, and should have the power to enter any premises, land or means of transport, that the trader concerned by the inspection uses for purposes related to his trade, business, craft or profession.*
- (12) *Competent authorities should be able to request any representative or member of the staff of the trader concerned by the inspection to give explanations of facts, information, data or documents relating to the subject matter of the inspection, and should be able to record the answers given by that representative or staff member.*

- (13) Competent authorities should be able to verify compliance with Union laws that protect consumers' interests and to obtain evidence of infringements covered by this Regulation, ***including*** infringements that take place during or after the purchase of goods or services. Competent authorities should therefore have the power to **■** purchase goods or services as test purchases, where necessary, under a cover identity, ***in order to detect infringements covered by this Regulation, such as refusals to implement the consumer right of withdrawal in the case of distance contracts, and to obtain evidence. That power should also include the power to inspect, observe, study, disassemble or test a product or service that has been purchased by the competent authority for those purposes. The power to purchase goods or services as test purchases might include the power on the part of competent authorities to ensure the return of any payment made where such return would not be disproportionate and would otherwise comply with Union and national law.***

- (14) In the digital environment in particular, the competent authorities should be able to stop infringements covered by this Regulation quickly and effectively, and in particular where the trader selling goods or services conceals his identity or relocates within the Union or to a third country in order to avoid enforcement. In cases where there is a risk of serious harm to the collective interests of consumers, the competent authorities should be able to adopt interim measures *in accordance with national law, including the removal of content from an online interface or ordering the explicit display of a warning to consumers when they access an online interface. Interim measures should not go beyond what is necessary to achieve their objective.* Furthermore, the competent authorities should have the power to *order the explicit display of a warning to consumers when they access an online interface, or to order the removal or modification of digital content if there are no other effective means to stop an illegal practice. Such measures should not go beyond what is necessary to achieve the objective of bringing to an end or prohibiting the infringement covered by this Regulation.*
- (15) *Pursuing the objective of this Regulation while stressing the importance of the traders' willingness to act in accordance with Union laws that protect consumers' interests and to remedy the consequences of their infringements covered by this Regulation, competent authorities should have the possibility to agree with traders on commitments containing steps and measures that a trader has to take regarding an infringement, and in particular the ceasing of an infringement.*

- (16) *Because they have a direct impact on the degree to which public enforcement acts as a deterrent, penalties for infringements of consumer law represent an important part of the enforcement system. Since national penalties regimes do not always allow the cross-border dimension of an infringement to be taken into account, competent authorities should, as part of their minimum powers, have the right to impose penalties for infringements covered by this Regulation. Member States should not be required to establish a new penalty regime for infringements covered by this Regulation. Instead, they should require competent authorities to apply the applicable regime for the same domestic infringement, where possible taking into account the actual scale and scope of the infringement concerned. In view of the findings of the Commission's Report of the Fitness Check of consumer and marketing law, it might be considered to be necessary to strengthen the level of penalties for breaches of Union consumer law.*
- (17) *Consumers should be entitled to redress for harm caused by infringements covered by this Regulation. Depending on the case, the power of the competent authorities to receive from the trader, on the trader's initiative, additional remedial commitments for the benefit of consumers that have been affected by the alleged infringement covered by this Regulation, or where appropriate to seek to obtain commitments from the trader to offer adequate remedies to the consumers that have been affected by that infringement should contribute to removing the adverse impact on consumers caused by a cross-border infringement. Those remedies might include, inter alia, repair, replacement, price reductions, the termination of contract or the reimbursement of the price paid for the goods or services, as appropriate, to mitigate the negative consequences of the infringement covered by this Regulation on the affected consumer in accordance with the requirements of Union law. This should be without prejudice to a consumer's right to seek redress through appropriate means. Where applicable, competent authorities should inform, by appropriate means, consumers that claim that they have suffered harm as a consequence of an infringement covered by this Regulation about how to seek compensation under national law.*

- (18) *The implementation and exercise of powers in application of this Regulation should be proportionate and adequate in view of the nature and the overall actual or potential harm of the infringement of Union laws that protect consumers' interests. Competent authorities should take all facts and circumstances of the case into account and should choose the most appropriate measures which are essential to address the infringement covered by this Regulation. Those measures should be proportionate, effective and dissuasive.*
- (19) *The implementation and exercise of powers in the application of this Regulation should also comply with other Union and national law, including with applicable procedural safeguards and principles of the fundamental rights. Member States should remain free to set out conditions and limits for the exercise of the powers in national law, in accordance with Union law. Where, for example, in accordance with national law, prior authorisation to enter the premises of natural persons and legal persons is required from the judicial authority of the Member State concerned, the power to enter such premises should be used only after such prior authorisation has been obtained.*
- (20) Member States should be able to choose whether the competent authorities exercise those powers directly, under their own authority, *by recourse to other competent authorities or other public authorities, by instructing designated bodies* or by application to the competent courts. ■ Member States should ensure that those powers *are* exercised effectively and in a timely manner.
- (21) When responding to requests submitted 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.

- (22) The effectiveness and efficiency of the mutual assistance mechanism should be improved. Requested information should be provided within the time limits set out in this Regulation, and necessary *investigation and* enforcement measures should be adopted in a timely manner. █ Competent authorities *should* reply to information and enforcement requests *within set periods, unless otherwise agreed. The obligations of the competent authority within the mutual assistance mechanism should remain intact, unless it is likely that enforcement actions and administrative decisions taken at national level outside the mutual assistance mechanism would ensure the swift and effective cessation or prohibition of the intra-Union infringement. Administrative decisions in that regard should be understood as decisions giving effect to the measures taken to bring about the cessation or the prohibition of the intra-Union infringement. In those exceptional cases, competent authorities should be entitled to refuse to comply with a request for enforcement measures submitted under the mutual assistance mechanism.*
- (23) The Commission *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 *should* also █ be better able to assist competent authorities effectively and quickly to resolve disputes over the interpretation of their obligations █ stemming from the mutual assistance mechanism.

- (24) This Regulation should provide for harmonised rules setting out the procedures for the coordination of investigation and enforcement measures relating to widespread infringements and widespread infringements with a Union dimension. Coordinated actions against widespread infringements and widespread infringements with a Union dimension should ensure that competent authorities are able to choose the most appropriate and efficient tools to stop those infringements and, *where appropriate, to receive or seek to obtain from the traders responsible remedial commitments for the benefit of consumers.*
- (25) *As part of a coordinated action, the competent authorities concerned should coordinate their investigation and enforcement measures in order to tackle effectively the widespread infringement or widespread infringement with a Union dimension and to bring about its cessation or prohibition. To that end, all necessary evidence and information should be exchanged between the competent authorities and necessary assistance should be provided. Competent authorities concerned by the widespread infringement or widespread infringement with a Union dimension should take the necessary enforcement measures in a coordinated way in order to bring about the cessation or prohibition of that infringement.*

- (26) *The participation of each competent authority in a coordinated action, and in particular the investigation and enforcement measures that a competent authority is required to take should be sufficient in order to address the widespread infringement or widespread infringement with a Union dimension effectively. Competent authorities concerned by that infringement should be required to take only those investigation and enforcement measures which are needed to obtain all necessary evidence and information regarding the widespread infringement or widespread infringement with a Union dimension and to bring about the cessation or prohibition of the infringement. However, a lack of available resources on the part of the competent authority concerned by that infringement should not be considered to justify not taking part in a coordinated action.*
- (27) *Competent authorities concerned by the widespread infringement or widespread infringement with a Union dimension which participate in a coordinated action should be able to conduct national investigation and enforcement activities in relation to the same infringement and against the same trader. 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 by that infringement should remain intact, unless it is likely that enforcement actions and administrative decisions taken at national level outside the framework of the coordinated action would ensure the swift and effective cessation or prohibition of the widespread infringement or widespread infringement with a Union dimension. Administrative decisions in that regard should be understood as decisions giving effect to the measures taken to bring about the cessation or the prohibition of the infringement. In those exceptional cases, competent authorities should be entitled to decline to participate in the coordinated action.*

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- (28) *Where there is a reasonable suspicion of a widespread infringement, the competent authorities concerned by that infringement should, by agreement, launch a coordinated action. In order to establish which competent authorities are concerned by a widespread infringement, all relevant aspects of that infringement should be considered, and in particular the place where the trader is established or resides, the location of the trader's assets, the location of the consumers who were harmed by the alleged infringement, and the place of the points of sale of the trader, namely, shops and websites.*
- (29) *The Commission should cooperate more closely with Member States to prevent large-scale infringements from occurring. The Commission should therefore notify competent authorities if it suspects any infringements covered by this Regulation. If, for example by monitoring the alerts issued by competent authorities, the Commission has a reasonable suspicion that a widespread infringement with a Union dimension has occurred, it should notify Member States, through the competent authorities and single liaison offices concerned by that alleged infringement, stating the grounds which justify a possible coordinated action in the notification. Competent authorities concerned should conduct appropriate investigations on the basis of information that is available or easily accessible to them. They should notify the results of their investigations to the other competent authorities, to the single liaison offices concerned by that infringement and to the Commission. Where the competent authorities concerned conclude that such investigations reveal that an infringement might be taking place, they should start the coordinated action by taking the measures set out in this Regulation. A coordinated action tackling a widespread infringement with a Union dimension should always 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 all necessary evidence and information 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 repeats the same act or omission that constituted an infringement covered by this Regulation which had already been addressed by enforcement proceedings that resulted in the cessation or prohibition of that infringement, it should be considered to be a new infringement and the competent authorities should address it.*

- (30) *Competent authorities concerned should take the necessary investigation measures to establish the details of the widespread infringement or widespread infringement with a Union dimension, and in particular the identity of the trader, acts or omissions committed by the trader, and the effects of the infringement. The competent authorities should take enforcement measures based on the outcome of the investigation. Where appropriate, the outcome of the investigation and the assessment of the widespread infringement or the widespread infringement with a Union dimension should be set out in a common position agreed among the competent authorities of the Member States concerned by the coordinated action, and should be addressed to the trader responsible for that 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.*
- (31) In the context of widespread infringements or widespread infringements with a Union dimension **■**, the rights of defence of the traders should be respected. This requires, in particular, giving the trader the rights to be heard and to use, *during the proceedings*, the *official language or one of the official languages used for official purposes in the Member State in which the trader is established or resides. It is also essential to ensure compliance with Union law on the protection of undisclosed know-how and business information.*

- (32) *Competent authorities concerned should take within their jurisdiction the necessary investigation and enforcement measures. However, the effects of widespread infringements or widespread infringements with a Union dimension are not limited to a single Member State. Therefore cooperation between competent authorities is required to address those infringements and to bring about their cessation or prohibition.*
- (33) **█** *The effective detection of infringements covered by this Regulation should be supported by exchanging information between competent authorities and the Commission by the means of issuing alerts if there is a reasonable suspicion of such infringements.* **█** *The Commission should coordinate the functioning of the exchange of information.*

- (34) 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. █
- (35) *Consumer organisations, and where appropriate trader associations, should be allowed to notify competent authorities of suspected infringements covered by this Regulation and to share with them the information needed to detect, investigate and stop infringements, to give their opinion about investigations or infringements and to notify competent authorities of abuses of Union laws that protect consumers' interests.*
- (36) *In order to ensure the correct implementation of this Regulation, Member States should confer on designated bodies, European Consumer Centres, consumer organisations and associations, and, where appropriate, trader associations, that have the necessary expertise, the power to issue external alerts to the competent authorities of the relevant Member States and the Commission of suspected infringements covered by this Regulation and to provide the necessary information available to them. Member States might have appropriate reasons for not conferring on such entities the power to undertake those actions. In this context, where a Member State decides not to allow one of those entities to issue external alerts, it should provide an explanation justifying its reasons for doing so.*
- (37) *Sweeps are another form of enforcement coordination that has proven to be an effective tool against infringements of Union laws that protect consumers' interests, and should be retained and strengthened in the future, for both online and offline sectors. In particular, sweeps should be conducted where market trends, consumer complaints or other indications suggest that infringements of Union laws that protect consumers' interests have occurred or are occurring.*

- (38) Data related to consumer complaints might help policymakers at Union and national level to assess the functioning of consumer markets and *to* detect infringements. The exchange of such data at *Union level should be promoted*.
- (39) *It is essential that, to the extent necessary to contribute to achieving the objective of this Regulation, Member States inform each other and the Commission about their activities in protecting consumers' interests, including about their support for the activities of consumer representatives, their support for the activities of bodies responsible for the extra-judicial settlement of consumer disputes and their support for consumers' access to justice. In cooperation with the Commission, Member States should be able to carry out joint activities with respect to the exchange of consumer policy information in the aforementioned areas.*
- (40) The enforcement challenges that exist go beyond the frontiers of the Union, and the interests of Union consumers need to be protected from rogue traders based in third countries. Hence, international agreements with third countries regarding mutual assistance in the enforcement of Union laws that protect 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.

(41) *Information exchanged between competent authorities should be subject to strict rules on confidentiality and on professional and commercial secrecy, in order to ensure investigations are not compromised or that the reputations of traders are not unfairly harmed. Competent authorities should decide to disclose such information only when appropriate and necessary, in accordance with the principle of proportionality, taking into account the public interest, such as public safety, consumer protection, public health, environmental protection or proper conduct of criminal investigations, and on a case-by-case basis.*

(42) *In order to enhance the transparency of the cooperation network, and to raise awareness amongst consumers and the public in general, every two years the Commission should produce an overview of the information, statistics and developments in the area of consumer law enforcement, collected within the enforcement framework of the cooperation provided for by this Regulation, and make it publicly available.*

(43) Widespread infringements should be resolved effectively and efficiently. ■ A system of *biennial exchange of enforcement priorities* should be put in place to achieve this.

(44) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission, *to lay down the practical and operational arrangements for the functioning of the electronic database*. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>8</sup>.

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<sup>8</sup> 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).

- (45) This Regulation *is without prejudice to* sectoral Union rules providing for cooperation among sectoral regulators or to *applicable* sectoral Union rules on the compensation of consumers for harm resulting from infringements of those rules. This Regulation is also without prejudice to other cooperation systems and networks set out in sectoral Union legislation. This Regulation promotes cooperation and coordination among the consumer protection network and the networks of regulatory bodies and authorities established by sectoral Union legislation. ***This Regulation is without prejudice to the application in the Member States of measures relating to judicial cooperation in civil and criminal matters.***
- (46) ***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.***
- (47) ***Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>9</sup>, Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>10</sup> and Directive (EU) 2016/680 of the European Parliament and of the Council<sup>11</sup> should apply in the context of this Regulation.***
- (48) This Regulation is without prejudice to the applicable 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 law and national law to bring about the cessation or prohibition of infringements covered by this Regulation, and to assist the competent authorities in doing so.

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<sup>9</sup> ***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 (OJ L 8, 12.1.2001, p. 1).***

<sup>10</sup> ***Regulation (EU) 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, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).***

<sup>11</sup> ***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, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).***

- (49) 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 Council<sup>12</sup> and Directive 2014/92/EU of the European Parliament and of the Council<sup>13</sup>.
- (50) In view of the existing cooperation mechanisms under Directive 2014/17/EU and Directive 2014/92/EU, the mutual assistance mechanism should not apply to intra-Union infringements of those Directives.

**(51) *This Regulation is without prejudice to Council Regulation No 1<sup>14</sup>.***

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<sup>12</sup> 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).

<sup>13</sup> 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).

<sup>14</sup> ***Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).***

- (52) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union *and present in the constitutional traditions of the Member States*. Accordingly, this Regulation should be interpreted and applied *in accordance* with ■ those rights and principles, *including those related to the freedom of expression and the freedom and pluralism of the media*. 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 a business and the freedom of information.
- (53) Since the objective of this Regulation, namely, cooperation between national authorities responsible for the enforcement of consumer protection laws, cannot be sufficiently achieved by the Member States because they cannot ensure cooperation and coordination by acting alone, but can rather, 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 that objective.
- (54) Regulation (EC) No 2006/2004 should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I  
INTRODUCTORY PROVISIONS

Article 1  
Subject matter

This Regulation lays down the conditions under which competent authorities, having been designated by their Member States as responsible for the enforcement of *Union* laws that protect consumers' interests, cooperate and coordinate actions with each other and with the Commission, in order to enforce compliance with those laws and to ensure 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, widespread infringements and *widespread infringements with a Union dimension, even if those infringements have ceased before enforcement starts or is completed.*
  
2. This Regulation is without prejudice to the Union rules on private international law, in particular rules related to court jurisdiction and applicable laws.

3. This Regulation is without prejudice to the application in the Member States of measures relating to judicial cooperation in civil and criminal matters, in particular the operation of the European Judicial Network.
4. This Regulation is 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 in criminal matters, stemming from other legal acts, including bilateral or multilateral agreements.

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5. This Regulation is without prejudice to Directive 2009/22/EC of the European Parliament and of the Council<sup>15</sup>.
6. *This Regulation is without prejudice to the possibility of bringing further public or private enforcement actions under national law.*
7. *This Regulation is without prejudice to relevant Union law applicable to the protection of individuals with regard to the processing of personal data.*
8. *This Regulation is without prejudice to national law applicable to compensation of consumers for harm caused by infringements of Union laws that protect consumers' interests.*
9. *This Regulation is without prejudice to the right of the competent authorities to conduct investigation and enforcement actions against more than one trader for similar infringements covered by this Regulation.*
10. *Chapter III of this Regulation does not apply to intra-Union infringements of Directives 2014/17/EU and 2014/92/EU.*

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<sup>15</sup> 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).

Article 3  
Definitions

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

- (1) ‘**Union** laws that protect consumers' interests’ means the Regulations and the Directives, as transposed into the internal legal order of the Member States, that are listed in the Annex *hereto*;
- (2) ‘intra-Union infringement’ means any **■** act or omission contrary to **Union** laws that protect consumers' interests that has done, does or is likely to do harm to the collective interests of consumers residing in a Member State other than the Member State in which:
  - (a) the act or omission originated or took place;
  - (b) the trader responsible for the act or omission is established; or
  - (c) evidence or assets of the trader pertaining to the act or omission are to be found;
- (3) ‘widespread infringement’ means:
  - (a) any act or omission contrary to **Union** laws that protect consumers' interests that has done, does or is likely to do harm to the collective interests of consumers residing in at least two Member States other than the Member State in which:
    - (i) the act or omission originated or took place;
    - (ii) the trader responsible for the act or omission is established; or
    - (iii) evidence or assets *of the trader* pertaining to the act or omission are to be found; **■** or

- (b) any acts or omissions contrary to *Union* laws that protect consumers interests *that have done, do or are likely to do harm to the collective interests of consumers and* that have common features, *including* the same unlawful practice, the same interest being infringed *and* that are occurring concurrently, *committed by the same trader*, in at least *three* Member States;
- (4) *'widespread infringement with a Union dimension' means a widespread infringement that has done, does or is likely to do harm to the collective interests of consumers in at least two-thirds of the Member States, accounting, together, for at least two-thirds of the population of the Union;*
- (5) *'infringements covered by this Regulation' means intra-Union infringements, widespread infringements and widespread infringements with a Union dimension;*
- (6) *'competent authority' means any public authority established either at national, regional or local level and designated by a Member State as responsible for enforcing the Union laws that protect consumers' interests;*
- (7) *'single liaison office' means the public authority designated by a Member State as responsible for coordinating the application of this Regulation within that Member State;*
- (8) *'designated body' means a body having a legitimate interest in the cessation or prohibition of infringements of the Union laws that protect consumers' interests which is designated by a Member State and instructed by a competent authority for the purpose of gathering the necessary information and to take the necessary enforcement measures available to that body under national law in order to bring about the cessation or prohibition of the infringement, and which is acting on behalf of that competent authority;*

- (9) ‘applicant authority’ means the competent authority that makes a request for mutual assistance;
- (10) ‘requested authority’ means the competent authority that receives a request for mutual assistance;
- (11) ‘trader’ means any natural person or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession;

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(12) *‘consumer’ means any natural person who is acting for purposes which are outside his trade, business, craft or profession;*

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

(14) ‘harm to collective interests of consumers’ means actual or potential harm to the interests of a number of consumers that are affected by intra-Union infringements, *by widespread infringements or by widespread infringements with a Union dimension;* ■

- (15) *'online interface' means any software, including a website, part of a website or an application, that is operated by or on behalf of a trader, and which serves to give consumers access to the trader's goods or services;*
- (16) *'sweeps' means concerted investigations of consumer markets through simultaneous coordinated control actions to check compliance with, or to detect infringements of, Union laws that protect consumers' interests.*

#### Article 4

##### *Notification of limitation periods*

*Each single liaison office shall notify the Commission of the limitation periods that are in place in its own Member State and that apply to enforcement measures referred to in Article 9(4). The Commission shall summarise the notified limitation periods and shall make that summary available to the competent authorities.*

CHAPTER II  
COMPETENT AUTHORITIES AND THEIR POWERS

Article 5

Competent authorities and single liaison offices

1. Each Member State shall designate **■** one or more competent authorities *and the single liaison office that are responsible for the application of this Regulation*.
2. Competent authorities shall fulfil their obligations under this Regulation as though acting on behalf of consumers in their own Member State and on their own account.
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3. *Within each Member State*, the single liaison office shall be responsible for coordinating the investigation and enforcement activities of the competent authorities, other public authorities referred to in Article 6 and, if applicable, designated bodies, in relation to infringements covered by this Regulation.
4. Member States shall ensure that competent authorities and single liaison offices have the necessary *resources* for the application of this Regulation **■**, including sufficient budgetary and other resources, expertise, procedures and other arrangements.
5. Where there is more than one competent authority in their territory, Member States shall ensure that the respective duties of those competent authorities are clearly defined and that they collaborate closely in order to discharge those duties effectively.

## Article 6

### Cooperation *for the application of this Regulation within Member States*

1. *For the purpose of the proper application of this Regulation each Member State shall ensure that its competent authorities, other public authorities and, if applicable, designated bodies cooperate effectively with one another.*
2. **█** Other public authorities referred to in paragraph 1 *shall, at the request of a competent authority, take* all necessary **█** measures available to them under national law *in order* to bring about the cessation or prohibition of infringements covered by this Regulation.
3. The Member States shall ensure that the other public authorities referred to in paragraph 1 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 authorities about the measures taken in the application of this Regulation.

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## *Article 7*

### *Role of designated bodies*

- 1. Where applicable, a competent authority ('instructing authority') may, in accordance with its national law, instruct a designated body to gather the necessary information regarding an infringement covered by this Regulation or to take the necessary enforcement measures available to it under national law, in order to bring about the cessation or prohibition of that infringement. The instructing authority shall only instruct a designated body if, after consulting the applicant authority or the other competent authorities concerned by the infringement covered by this Regulation, both the applicant authority and requested authority, or all competent authorities concerned, agree that the designated body is likely to obtain the necessary information or to bring about the cessation or the prohibition of the infringement in a manner that is at least as efficient and effective as the instructing authority would have done.*
- 2. If the applicant authority or the other competent authorities concerned by an infringement covered by this Regulation are of the view that the conditions set out in paragraph 1 have not been fulfilled, they shall inform the instructing authority in writing without delay, setting out the reasons justifying that view. If the instructing authority does not share that view, it may refer the matter to the Commission, which shall issue an opinion on the matter without delay.*

3. ***The instructing authority shall continue to be obliged to gather the necessary information or to take the necessary enforcement measures if:***
- (a) ***the designated body fails to obtain the necessary information or to bring about the cessation or prohibition of the infringement covered by this Regulation without delay; or***
  - (b) ***the competent authorities concerned by an infringement covered by this Regulation do not agree that the designated body may be instructed pursuant to paragraph 1.***
4. ***The instructing authority shall take all necessary measures to prevent the disclosure of information which is subject to the rules on confidentiality and on professional and commercial secrecy laid down in Article 33.***

#### Article 8

##### Information and lists

1. Each Member State shall, without delay, communicate to the Commission the following information and any changes thereto:
  - (a) the identities ***and contact details*** of the competent authorities, of the single liaison office, of the designated bodies ■ and of the entities issuing external alerts pursuant to Article 27(1); ***and***
  - (b) ***information about the organisation, powers and responsibilities of the competent authorities.***
2. The Commission shall maintain and update on its website a publicly available list of competent authorities, single liaison offices, designated bodies and entities issuing external alerts pursuant to ***Article 27(1) or (2).***

## Article 9

### Minimum powers of competent authorities

1. Each competent authority shall have the minimum investigation and enforcement powers *set out in paragraphs 3, 4, 6 and 7 of this Article that are* necessary for the application of this Regulation and shall exercise those powers *in accordance with Article 10*.
2. *Notwithstanding paragraph 1, Member States may decide not to confer all the powers on every competent authority, provided that each of those powers can be exercised effectively and as necessary in relation to any infringement covered by this Regulation in accordance with Article 10.*
3. **█** Competent *authorities* shall have at least the following *investigation* powers **█** :
  - (a) *the power of* access to any relevant documents, data or information related to an infringement covered by this Regulation, in any form or format and irrespective of their storage medium, or the place where, they are stored;
  - (b) the power to require *any public authority, body or agency within their Member State or any natural person or legal person* to provide any relevant information, data or documents, in any form or format and irrespective of their storage medium, or the place where they are stored, *for the purposes of establishing whether an infringement covered by this Regulation has occurred or is occurring, and for the purposes of establishing the details of such infringement, including tracing* financial and data flows, ascertaining the identity of persons involved in financial and data flows, and ascertaining bank account information and ownership of websites;

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- (c) *the power to* carry out necessary on-site inspections, including **■** the power to enter any premises, land or means of transport *that the trader* concerned by the inspection *uses for purposes related to his trade, business, craft or profession*, or to request other public authorities to do so, in order to examine, seize, take or obtain copies of information, data or documents, irrespective of their storage medium; the power to *seize* any **■** information, data or documents for a necessary period and to the extent necessary for the inspection; the power to request any representative or member of the staff of the trader concerned by the inspection to give explanations of facts, information, data or documents relating to the subject matter of the inspection and to record the answers;
- (d) *the power to purchase* goods or services as test purchases, *where necessary, under a cover identity*, in order to detect infringements covered by this Regulation and to obtain evidence, including *the power to inspect, observe, study, disassemble or test goods or services*.

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

- (a) *the power to adopt interim measures to avoid the risk of serious harm to the collective interests of consumers;*

- (b) the power to seek to obtain or to accept commitments from the trader responsible for the infringement covered by this Regulation to cease that infringement;*
- (c) the power to receive from the trader, on the trader's initiative, additional remedial commitments for the benefit of consumers that have been affected by the alleged infringement covered by this Regulation, or, where appropriate, to seek to obtain commitments from the trader to offer adequate remedies to the consumers that have been affected by that infringement;*
- (d) where applicable, the power to inform, by appropriate means, consumers that claim that they have suffered harm as a consequence of an infringement covered by this Regulation about how to seek compensation under national law;*
- (e) the power to order in writing the cessation of infringements covered by this Regulation by the trader;*
- (f) the power to bring about the cessation or the prohibition of infringements covered by this Regulation;*

- (g) where no other effective means are available to bring about the cessation or the prohibition of the infringement covered by this Regulation and in order to avoid the risk of serious harm to the collective interests of consumers:**
- (i) the power to remove content or to restrict access to an online interface or to order the explicit display of a warning to consumers when they access an online interface;**
  - (ii) the power to order a hosting service provider to remove, disable or restrict access to an online interface; or**
  - (iii) where appropriate, the power to order domain registries or registrars to delete a fully qualified domain name and to allow the competent authority concerned to register it;**
- including by requesting a third party or other public authority to implement such measures;**
- (h) the power to impose penalties, such as fines or periodic penalty payments, for infringements covered by this Regulation and for the failure to comply with any decision, order, interim measure, trader's commitment or other measure adopted pursuant to this Regulation.**

**The penalties referred to in point (h) shall be effective, proportionate and dissuasive, in accordance with the requirements of Union laws that protect consumers' interests. In particular, due regard shall be given, as appropriate, to the nature, gravity and duration of the infringement in question.**

5. *The power to impose penalties, such as fines or periodic penalty payments, for infringements covered by this Regulation applies to any infringement of Union laws that protect consumers' interests, where the relevant Union legal act listed in the Annex provides for penalties. This is without prejudice to the power of national authorities under national law to impose penalties, such as administrative or other fines, or periodic penalty payments, in cases where the Union legal acts listed in the Annex do not provide for penalties.*
6. *Competent authorities shall have the power to start investigations or proceedings on their own initiative to bring about the cessation or prohibition of infringements covered by this Regulation.*
7. *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 an infringement covered by this Regulation.*
8. *Where applicable, competent authorities may consult consumer organisations, trader associations, designated bodies or other persons concerned, regarding the effectiveness of the proposed commitments in bringing the infringement covered by this Regulation to an end.*

Article 10  
Exercise of minimum powers

1. The powers set out in Article 9 *shall be exercised* either:
  - (a) directly *by competent authorities* under their own authority; █
  - (b) *where appropriate, by recourse to other competent authorities or other public authorities;*
  - (c) *by instructing designated bodies, if applicable; or*
  - (d) 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. *The implementation and the exercise of powers set out in Article 9 in application of this Regulation shall be proportionate and shall comply with Union and national law, including with applicable procedural safeguards and with the principles of the Charter of Fundamental Rights of the European Union. The investigation and enforcement measures adopted in application of this Regulation shall be appropriate to the nature and the overall actual or potential harm of the infringement of Union laws that protect consumers' interests.*

CHAPTER III  
MUTUAL ASSISTANCE MECHANISM

Article 11  
Requests for information

1. At the request of an applicant authority, a requested authority shall, *without delay, and in any event within 30 days unless otherwise agreed*, provide *to the applicant authority* any relevant information necessary to establish whether an intra-Union infringement has occurred or is occurring, and to bring about the cessation of that infringement. ■
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 officials of the applicant authority to accompany the officials of the requested authority in the course of their investigations.

## Article 12

### Requests for enforcement measures

1. At the request of an applicant authority, a requested authority shall take all necessary ***and proportionate*** enforcement measures to bring about the cessation or prohibition of the intra-Union infringement ***by exercising*** the powers set out in Article 9 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 and not later than six months after receiving the request, unless it provides specific reasons for extending that period. Where appropriate, the requested authority shall impose penalties, such as fines or periodic penalty payments, on the trader responsible for the intra-Union infringement. The requested authority may receive from the trader, on the trader's initiative, additional remedial commitments for the benefit of consumers that have been affected by the alleged intra-Union infringement, or, where appropriate, may seek to obtain commitments from the trader to offer adequate remedies to consumers that have been affected by that infringement.***

2. The requested authority shall regularly inform the applicant authority about the steps and measures taken *and the steps and measures that it intends to take*. The requested authority shall use the electronic database *provided for* in Article 35 *to notify* without delay the applicant authority, the competent authorities of other Member States and the Commission of the measures taken and *the effect of those measures* on the intra-Union infringement, including the following:

- (a) whether interim measures have been imposed;
- (b) whether the infringement has ceased;
- (c) which *measures* have been *adopted, and whether those measures have been implemented*;
- (d) the extent to which consumers affected by the alleged infringement have been offered *remedial commitments*.

## Article 13

### Procedure for requests for mutual assistance

1. When making a request for mutual assistance, the applicant authority shall provide the information necessary to enable the requested authority to fulfil that request, including any necessary evidence which can only be obtained in the Member State of the applicant authority.
2. The applicant authority shall send such requests for mutual assistance 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 communications linked to them shall be made in writing using standard forms and shall be communicated electronically via the electronic database provided for in Article 35.
4. The competent authorities concerned shall agree on the languages to be used for requests for mutual assistance and for all communications linked to them.
5. If no agreement about languages can be reached, requests for mutual assistance shall be sent in the official language, or one of the official languages, of the Member State of the applicant authority and replies in the official language, or one of the official languages, of the Member State of the requested authority. In that case, each competent authority shall be responsible for the necessary translations of the requests, replies and other documents that it receives from another competent authority.

6. The requested authority shall reply directly both to the applicant authority and to the single liaison offices of the Member States of the applicant authority and of the requested authority.

#### Article 14

##### 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) following a 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 is occurring, 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 rules on confidentiality and on professional and commercial secrecy laid down in Article 33;
  - (c) criminal investigations or judicial proceedings have already been initiated against the same trader in respect of the same intra-Union infringement before the judicial authorities in the Member State of the requested authority or of the applicant authority.
2. A requested authority may refuse to comply with a request for enforcement measures under Article 12 if, having consulted with the applicant authority, one or more of the following applies:

- (a) criminal investigations or judicial proceedings have already been initiated, or ***there is a judgment, 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 ■ authority;
- (b) ***the exercise of the necessary enforcement powers has 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 the Member State of the requested authority in order to bring about the swift and effective cessation or prohibition of the intra-Union infringement;***
- (c) following an appropriate investigation ■, the requested authority concludes that no intra-Union infringement has occurred;
- (d) the requested authority concludes that the applicant authority has not provided the information that is necessary in accordance with Article 13(1);
- (e) ***the requested authority has accepted commitments proposed by the trader to cease the intra-Union infringement within 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 accepted commitments within the time limit referred to in point (e) of the first subparagraph.*

3. The requested authority shall inform the applicant authority and the Commission of any refusal to comply with a request for mutual assistance, together with the reasons for that refusal.
4. In the event of a disagreement between the applicant *authority* and the requested authority, either the applicant authority or the requested authority *may* refer the matter to the Commission, which shall issue an opinion on the matter *without delay*. Where the matter has not been referred to the Commission, the Commission may nevertheless issue an opinion on its own initiative. *For the purpose of issuing that opinion, the Commission may ask for relevant information and documents that have been exchanged between the applicant authority and the requested authority.*
5. The Commission shall monitor the functioning of the mutual assistance mechanism and the compliance of competent authorities with the procedures and the time limits for handling requests for mutual assistance. The Commission shall have access to the requests for mutual assistance and to the information and documents that have been exchanged between the applicant authority 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.

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## CHAPTER IV

# COORDINATED INVESTIGATION AND ENFORCEMENT MECHANISMS FOR WIDESPREAD INFRINGEMENTS AND FOR WIDESPREAD INFRINGEMENTS WITH A UNION DIMENSION

### *Article 15*

#### *Procedure for decisions amongst Member States*

*For matters covered by this Chapter, the competent authorities concerned shall act by consensus.*

### *Article 16*

#### *General principles of cooperation*

- 1. Where there is a reasonable suspicion that a widespread infringement or widespread infringement with a Union dimension is taking place, competent authorities concerned by that infringement and the Commission shall inform each other and the single liaison offices concerned by that infringement without delay, by issuing alerts pursuant to Article 26.*
- 2. The competent authorities concerned by the widespread infringement or widespread infringement with a Union dimension shall coordinate the investigation and enforcement measures that they take to address those infringements. They shall exchange all necessary evidence and information and provide each other and the Commission with any necessary assistance without delay.*
- 3. The competent authorities concerned by the widespread infringement or widespread infringement with a Union dimension shall ensure that all necessary evidence and information are gathered, and that all necessary enforcement measures are taken to bring about the cessation or prohibition of that infringement.*

4. *Without prejudice to paragraph 2, this Regulation shall not affect national investigation and enforcement activities carried out by competent authorities in respect of the same infringement by the same trader.*
5. *Where appropriate, the competent authorities may invite Commission officials and other accompanying persons, who have been authorised by the Commission, to participate in the coordinated investigations, enforcement actions and other measures covered by this Chapter.*

#### Article 17

##### *Launch* of coordinated action and designation of the coordinator

1. *Where there is a reasonable suspicion of a widespread infringement, the competent authorities concerned by that infringement shall launch a coordinated action which shall be based on an agreement between them. The launch of the coordinated action shall be notified to the single liaison offices concerned by that infringement and to the Commission, without delay.*
2. *The competent authorities concerned by the suspected widespread infringement shall designate one competent authority concerned by the suspected widespread infringement to be the coordinator. If those competent authorities are unable to reach agreement on that designation, the Commission shall take the role of coordinator.*

3. *If the Commission has a reasonable suspicion of a widespread infringement with a Union dimension, it shall without delay notify the competent authorities and the single liaison offices concerned by that alleged infringement pursuant to Article 26. The Commission shall state in the notification the grounds which justify a possible coordinated action. The competent authorities concerned by the alleged widespread infringement with a Union dimension shall conduct appropriate investigations on the basis of information that is available or easily accessible to them. The competent authorities concerned by the alleged widespread infringement with a Union dimension shall notify the results of such investigations to the other competent authorities, the single liaison offices concerned by that infringement and the Commission pursuant to Article 26, within one month from the date of the Commission's notification. Where such investigations reveal that a widespread infringement with a Union dimension might be taking place, the competent authorities concerned by that infringement shall start with the coordinated action and shall take the measures set out in Article 19 as well as, where appropriate, the measures set out in Articles 20 and 21.*
4. *The coordinated actions referred to in paragraph 3 shall be coordinated by the Commission.*
5. *A competent authority shall join the coordinated action, if it becomes apparent during that coordinated action that the competent authority is concerned by the widespread infringement or the widespread infringement with a Union dimension.*

## *Article 18*

### *Reasons for declining to take part in the coordinated action*

- 1. *A competent authority may decline to take part in a coordinated action for any of the following reasons:***
  - (a) *in respect of the same trader, a criminal investigation or judicial proceedings have already been initiated, a judgement has been given, or a court settlement has been reached, concerning the same infringement in that competent authority's Member State;***
  - (b) *the exercise of the necessary enforcement powers has already been initiated before the issuing of an alert referred to in Article 17(3), or an administrative decision has been adopted against the same trader in respect of the same infringement in that competent authority's Member State in order to bring about the swift and effective cessation or prohibition of the widespread infringement or widespread infringement with a Union dimension;***
  - (c) *following an appropriate investigation, it is apparent that the actual or potential impact of the alleged widespread infringement or widespread infringement with a Union dimension in that competent authority's Member State is negligible and therefore no enforcement measures need to be adopted by that competent authority;***
  - (d) *the relevant widespread infringement or the widespread infringement with a Union dimension has not occurred in that competent authority's Member State and therefore no enforcement measures need to be adopted by that competent authority;***

(e) *the competent authority has accepted commitments proposed by the trader responsible for the widespread infringement or widespread infringement with a Union dimension to cease that infringement in that competent authority's Member State and those commitments have been implemented, and therefore no enforcement measures need to be adopted by that competent authority.*

2. *Where a competent authority declines to take part in the coordinated action, it shall inform the Commission and the other competent authorities and single liaison offices concerned by the widespread infringement or widespread infringement with a Union dimension about its decision without delay, stating the reasons for its decision and providing any necessary supporting documents.*

## Article 19

### Investigation measures in coordinated actions

1. The competent authorities concerned by the coordinated action shall ensure that investigations and inspections are conducted in an *effective, efficient and coordinated manner. They shall seek, simultaneously with one another, to conduct investigations and inspections and, to the extent that national procedural law so allows, to apply* interim measures **■** .
2. The **■** mutual assistance mechanism pursuant to Chapter III *may be used if it is needed*, in particular to gather necessary evidence and other 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 by the coordinated action *shall* set out the outcome of the investigation and the assessment of the widespread infringement *or, where applicable, the widespread infringement with a Union dimension* in a common position agreed upon among themselves.

4. *Unless otherwise agreed between the competent authorities concerned by the coordinated action, the coordinator shall communicate the common position to the trader responsible for the widespread infringement or the widespread infringement with a Union dimension. The trader responsible for the widespread infringement or the widespread infringement with a Union dimension shall be given the opportunity to be heard on the matters forming part of the common position.*
5. Where appropriate, and without prejudice to *Article 15* or to the rules on confidentiality and on professional and commercial secrecy laid down in Article 33, the competent authorities concerned by the coordinated action *shall* decide to publish the common position or parts thereof on their websites, and *may* seek the views of *consumer organisations, trader associations* and other parties concerned. *The Commission shall publish the common position or parts thereof on its website with the agreement of the competent authorities concerned.*

#### *Article 20*

##### *Commitments in coordinated actions*

1. *On the basis of a common position adopted pursuant to Article 19(3), the competent authorities concerned by the coordinated action may invite the trader responsible for the widespread infringement or the widespread infringement with a Union dimension to propose within a set time limit commitments to cease that infringement. The trader may also, on his own initiative, propose commitments to cease that infringement or offer remedial commitments to consumers that have been affected by that infringement.*

2. **█** Where appropriate *and without prejudice to the rules on confidentiality and on professional and commercial secrecy laid down in Article 33*, the competent authorities concerned by the coordinated action, may **█** publish the **█** commitments *proposed by the trader responsible for the widespread infringement or the widespread infringement with a Union dimension* on their websites or, if appropriate, **█** the Commission *may publish the commitments proposed by that trader on its website if so requested by the competent authorities concerned. Competent authorities and the Commission may seek the views of consumer organisations, trader associations and other parties concerned.*
3. *The competent authorities concerned by the coordinated action shall assess the proposed commitments and communicate the outcome of the assessment to the trader responsible for the widespread infringement or the widespread infringement with a Union dimension, and, where applicable, if remedial commitments have been offered by the trader, they shall inform consumers that claim that they have suffered harm as a consequence of that infringement. Where commitments are proportionate and are sufficient to bring about the cessation of the widespread infringement or the widespread infringement with a Union dimension, the competent authorities shall accept those commitments and set a time limit within which the commitments have to be implemented.*
4. The competent authorities *concerned by the coordinated action shall monitor the implementation of the commitments. They shall in particular ensure that the trader responsible for the widespread infringement or the widespread infringement with a Union dimension regularly reports to the coordinator about the progress of the implementation of the commitments. The competent authorities concerned by the coordinated action may, where appropriate, seek the views of consumer organisations and experts to verify whether the steps taken by the trader comply with the commitments.*

## Article 21

### *Enforcement measures in coordinated actions*

1. *The competent authorities concerned by the coordinated action shall take within their jurisdiction all necessary enforcement measures against the trader responsible for the widespread infringement or the widespread infringement with a Union dimension to bring about the cessation or prohibition of that infringement .*

*Where appropriate, they shall impose penalties, such as fines or periodic penalty payments, on the trader responsible for the widespread infringement or the widespread infringement with a Union dimension. The competent authorities may receive from the trader, on the trader's initiative, additional remedial commitments for the benefit of consumers that have been affected by the alleged widespread infringement or the alleged widespread infringement with a Union dimension, or, where appropriate, may seek to obtain commitments from the trader to offer adequate remedies to the consumers that have been affected by that infringement.*

*Enforcement measures are in particular appropriate where:*

- (a) an immediate enforcement action is necessary to bring about the swift and effective cessation or prohibition of the infringement;*
- (b) it is unlikely that the infringement will cease as a result of the commitments proposed by the trader responsible for the infringement;*
- (c) the trader responsible for the infringement has not proposed commitments before the expiry of a time limit set by the competent authorities concerned;*
- (d) the commitments that the trader responsible for the infringement proposed are insufficient to ensure the cessation of the infringement or, where appropriate, to provide a remedy to consumers harmed by the infringement; or*

*(e) the trader responsible for the infringement has failed to implement the commitments to cease the infringement or, where appropriate, to provide a remedy to consumers harmed by the infringement, within the time limit referred to in Article 20(3).*

*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 or the widespread infringement with a Union dimension. The competent authorities concerned by the coordinated action shall seek to take enforcement measures simultaneously in the Member States concerned by that infringement.*

## Article 22

### Closure of the coordinated actions

*1. The coordinated action shall be closed if the competent authorities concerned by the coordinated action conclude that the widespread infringement or widespread infringement with a Union dimension has ceased or has been prohibited in all Member States concerned, or that no such infringement was committed.*

*2. The coordinator shall notify the Commission and, where applicable, the competent authorities and the single liaison offices of the Member States concerned by the coordinated action of the closure of the coordinated action without delay.*

## Article 23

### Role of the coordinator

1. The coordinator appointed in accordance with Article **17** or **29** 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 investigation or of the enforcement action, as applicable, and informed of any anticipated next steps and the measures to be adopted;
  - (b) coordinate **and monitor the investigation** measures **taken** by the competent authorities concerned in accordance with this **Regulation**;
  - (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 **■** investigation or enforcement measures, as applicable, unless otherwise agreed by the competent authorities concerned and the **coordinator**;

- (e) where applicable, 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) where applicable, coordinate enforcement measures adopted by the competent authorities concerned ;
  - (g) coordinate requests for mutual assistance submitted 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 they make use of the powers set out in Article 9.
3. *Where the coordinated actions concern widespread infringements or widespread infringements with a Union dimension of the legal acts of the Union referred to in Article 2(10), the coordinator shall invite the European Banking Authority to act as an observer.*

#### Article 24

#### Language arrangements

1. The languages used by the competent authorities for notifications, as well as for all other communications covered by this Chapter which are linked to the coordinated actions *and sweeps* shall be agreed upon by the competent authorities concerned .

2. If no agreement can be reached *between the competent authorities concerned*, notifications and other communications shall be sent in the official language or one of the official languages of the Member State making the notification or other communication. In that case, *if necessary*, each competent authority concerned shall be responsible for translating the notifications, communications and other documents that it receives from other competent authorities.

#### Article 25

##### *Language arrangements for communication with traders*

*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 in which the trader is established or resides.*

#### CHAPTER V

##### *UNION-WIDE ACTIVITIES*

#### Article 26

##### *Alerts*

1. A competent authority shall without delay notify the Commission, other competent authorities and single liaison offices of any reasonable suspicion that an *infringement covered by this Regulation* that may affect consumers' interests in other Member States is taking place on its territory .

2. The Commission shall without delay notify the competent authorities and single liaison offices concerned of any reasonable suspicion that an infringement *covered by this Regulation* has occurred **■** .
3. When notifying, that is to say issuing an alert, under paragraphs 1 and 2 the competent authority or the Commission shall provide information about the suspected *infringement covered by this Regulation*, and in particular, and, where available, the following:
  - (a) a description of the act or omission that constitutes the infringement;
  - (b) details of the product or service concerned by the infringement;
  - (c) the names of the Member States concerned or possibly concerned by the infringement;
  - (d) the identity of the trader or traders 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 legal acts *listed* in the Annex **■** ;
  - (f) a *description* of any legal proceedings, enforcement measures or other measures taken concerning the infringement and their dates and duration, as well as the status thereof;  
**■**
  - (g) the identities of the competent *authorities* bringing the legal proceedings and taking other measures.  
**■**

4. When issuing an alert **■**, the competent authority may ask **■** competent authorities *and the relevant single liaison offices in other Member States* and the Commission, or the Commission may ask competent authorities and the relevant single liaison offices in other Member States, to verify whether, *based on information that is available or easily accessible to the relevant competent authorities or to the Commission, respectively*, similar suspected infringements *are* taking place in the territory of those other Member States or whether any enforcement measures have already been taken against such infringements in those Member States. *Those competent authorities of other Member States and the Commission shall reply to the request without delay.*

## Article 27

### *External alerts*

1. *Each Member State shall, unless to do so would not be justified, confer on* designated bodies, European Consumer Centres, consumer organisations and associations, *and, where appropriate*, trader associations, that have the *necessary* expertise, the power *to issue an alert to the competent authorities of the relevant Member States and the Commission of suspected infringements covered by this Regulation and to provide information available to them set out in Article 26(3) ('external alert')*. Each Member State shall without delay notify the Commission of *the list* of those entities *and of any changes to it*.
2. The Commission, *after consulting the Member States, shall confer on associations* representing consumer, and, *where appropriate*, traders, interests at a Union level the power *to issue an external alert* **■**.

3. The competent authorities shall not be bound to initiate a procedure or take any other action in response to *an external alert*. Entities issuing external alerts shall ensure that the information provided is correct, up to date and accurate, and shall correct the notified information without delay, or withdraw it as appropriate.

#### Article 28

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

*To the extent necessary to achieve the objective of this Regulation*, competent authorities shall, *via the electronic database referred to in Article 35*, notify the Commission and competent authorities of *Member States concerned without delay of* any measure that they have taken to address an infringement covered by this Regulation *within* their *jurisdiction* if they suspect that the infringement *in question* may affect consumers' interests in other Member States.

#### Article 29

##### Sweeps

1. *The competent authorities may decide to conduct sweeps to check compliance with, or to detect infringements of Union laws that protect consumers' interests. 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 use the investigation powers set out in Article 9(3) and any 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.*

Article 30

Coordination of other activities contributing to *investigation* and enforcement

1. *To the extent necessary to achieve the objective of this Regulation*, Member States shall inform each other and the Commission of their activities in the following areas:
- (a) the training of their officials involved in *the application of this Regulation*;
  - (b) the collection, classification and exchange of data on consumer complaints;
  - (c) the development of sector-specific networks of officials;
  - (d) the development of information and communication tools; and
  - (e) *where applicable*, the development of standards, methodologies and guidelines *concerning the application of this Regulation*.

■

2. *To the extent necessary to achieve the objective of this Regulation*, Member States *may* coordinate and jointly organise ■ activities *in the areas* referred to in paragraph 1.

■

## Article 31

### Exchange of officials between competent authorities

1. The competent authorities may participate in exchange schemes for officials from other Member States in order to improve cooperation. The competent authorities shall take the necessary measures to enable 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 official shall be treated in the same way as that of the officials of the host competent authority. The officials from other Member States shall comply with professional standards and **■** 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 on professional and commercial secrecy laid down in Article 33.

**■**

## Article 32

### 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 Union and the third countries concerned may conclude agreements setting out arrangements for cooperation, including the establishment of mutual assistance arrangements, the exchange of confidential information and exchange of staff programmes.
2. Agreements concluded between the Union and third countries concerning cooperation and mutual assistance to protect and enhance consumers' interests shall ***respect the relevant data protection rules applicable to the transfer of***   personal data ***to third countries***.
3. When a competent authority receives information ***that is potentially of relevance for the competent authorities of other Member States*** from an authority of a third country, ***it*** shall communicate the information to ***those*** competent authorities insofar as it is permitted to do so under any applicable bilateral assistance agreements with that third country and insofar as that information is in accordance with Union law 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 that third country, provided that the ***approval*** of the competent authority that originally communicated the information has been obtained, and provided that it is in accordance with Union law regarding the protection of individuals with regard to the processing of personal data.

CHAPTER VI  
**COMMON ARRANGEMENTS**

Article 33

Use and disclosure of information and professional and commercial secrecy

1. Information collected *by or* communicated to the competent authorities and the Commission *in the course of applying this Regulation* shall only be used for the purposes of ensuring compliance with *Union* laws that protect consumers' interests.
2. *The information referred to in paragraph 1* shall be *treated as confidential and shall only be used and disclosed with due regard to* the commercial interests of a natural person or legal person, including *trade secrets and* intellectual property **■** .
3. *Nevertheless*, the competent authorities may, *after consulting the competent authority which provided the information*, disclose such information that is necessary:
  - (a) to prove infringements covered by this Regulation; or
  - (b) to bring about the cessation or prohibition of infringements covered by this Regulation.

Article 34

Use of evidence and investigation findings

**■** Competent authorities may *use as evidence* any information, documents, findings, statements, certified true copies or intelligence communicated **■** , *on the same basis as similar documents obtained in their own Member State*, irrespective of *their* storage medium.

**■**

## Article 35

### *Electronic database*

1. The Commission shall establish and maintain an electronic database *for all communications between competent authorities, single liaison offices and the Commission under this Regulation. All information sent by the means of the electronic database shall be stored and processed in that electronic database. That database shall be directly accessible to the competent authorities, single liaison offices and the Commission.*
2. Information provided by *entities issuing an external alert pursuant to Article 27(1) or (2)* shall be stored and processed in the electronic database. However, those ■ entities ■ shall not have access to that database.
3. *Where a competent authority, a designated body or an entity issuing an external alert pursuant to Article 27(1) or (2) establishes that an alert concerning an infringement that it issued pursuant to Article 26 or 27 has subsequently been shown to be unfounded, it shall withdraw that alert. The Commission shall remove the relevant information from the database without delay, and shall inform the parties of the reasons for that removal.*

The data relating to an infringement shall be *stored in the electronic database for no longer than is necessary for the purposes for which they were collected and processed, but shall not be stored for longer than five years following the day on which:*

- (a) a requested authority notifies the Commission pursuant to Article 12(2) that an intra-Union infringement has ceased;
- (b) the *coordinator* notifies *the closure of the coordinated action* pursuant to Article 22(1); or

■

- (c) the information has been entered in the database in all other cases.

4. The Commission shall adopt implementing acts *laying down the practical and operational arrangements for the functioning of* the electronic database. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 38(2).

#### Article 36

##### Waiver of reimbursement of expenses

1. Member States shall waive all claims for the reimbursement of expenses incurred in applying this Regulation.
2. *Notwithstanding paragraph 1, as regards requests for enforcement measures under 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 that have been dismissed and held to be unfounded by a court, as far as the substance of the infringement in question is concerned.

Article 37

***Enforcement priorities***

1. ***By ... [two years after the date of entry into force of this Regulation] and every two years thereafter, [ ] Member States shall exchange information on their enforcement priorities for the application of this Regulation with one another and with the Commission.***

***Such information shall include:***

- (a) information concerning market trends that ***might*** affect consumers' interests in ***the*** Member State ***concerned and*** in other Member States;
- (b) ***an*** overview of actions ***carried out*** under this Regulation ***in the last two years, and in particular, investigation*** and enforcement ***measures related to the widespread infringements;***
- (c) ***statistics exchanged by means of alerts referred to in Article 26;***
- (d) the ***tentative*** priority areas, for the next two years, for the enforcement of the ***Union*** laws that protect consumers' interests in the Member State ***concerned; and***
- (e) the proposed priority areas, ***for the next two years, for the*** enforcement of the ***Union*** laws that protect consumers' interests at the Union level.

2. *Without prejudice to Article 33, every two years, the Commission shall produce an overview of the information referred to in points (a), (b) and (c) of paragraph 1 and shall make it publicly available. The Commission shall inform the European Parliament thereof.*
3. In *cases involving* a substantial change of circumstances or of market conditions during the two years after the last submission of information on *their* enforcement *priorities*, Member States *shall update their* enforcement *priorities and shall inform other Member States and the Commission accordingly.*
4. *The Commission shall summarise the enforcement priorities submitted by the Member States under paragraph 1 of this Article and shall report annually to the committee referred to in Article 38 (1) in order to facilitate the prioritisation of actions under this Regulation. The Commission shall exchange best practices and benchmarking with the Member States, in particular with a view of developing capacity building activities.*

CHAPTER VII  
FINAL PROVISIONS

Article 38  
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 39  
Notifications

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

Article 40  
*Reporting*

1. *By ... [five years after the date of entry into force of this Regulation]*, the Commission shall *submit* to the European Parliament and *to* the Council *a report* on the application of this Regulation.

2. *That* report shall contain an evaluation of the application of this Regulation, including an assessment of the effectiveness of enforcement of *Union* laws that protect consumers' interests under this Regulation, *in particular with regard to the powers of competent authorities set out in Article 9, along with, in particular,* an examination of how compliance by traders *with Union laws that protect consumers' interests* has evolved in key consumer markets concerned by cross-border trade.

*That report shall be accompanied, where necessary, by a legislative proposal.*

#### Article 41

##### Repeal

Regulation (EC) No 2006/2004 is repealed with effect from ... [24 months after the date of entry into force of this Regulation].

#### Article 42

##### Entry into force and application

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

It shall apply from ... [24 months after *the date* of entry into force of *this Regulation*].

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

Done at ...,

*For the European Parliament*

*The President*

*For the Council*

*The President*

## ANNEX

### Directives and Regulations referred to in point (1) 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 (OJ L 311, 28.11.2001, p. 67): Articles 86 to 100.
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) (OJ L 201, 31.7.2002, p. 37): Article 13.

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 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 and 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, point (c) of Article 2 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 concerning 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.
22. ***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, 18.6.2013, p. 1): Article 14.***

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 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.
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 (OJ L 257, 28.8.2014, p. 214): Articles 3 to 18 and Article 20(2).
25. 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).
26. ***Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market (OJ L 168, 30.6.2017, p. 1).***