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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Delegations will find attached document SWD(2016) 165 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

**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) 283 final }
{ SWD(2016) 164 final }

EXECUTIVE SUMMARY SHEET

Impact assessment on Proposal for a Regulation of the European Parliament and of the Council replacing 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- CPC Regulation)

A. Need for action

What is the problem and why is it a problem at the EU level?

The CPC Regulation has strengthened the enforcement of consumer laws across the EU. Its effect is however insufficient especially to sustain a dynamic Digital Single Market by offering a strong and equal enforcement of these laws across the EU. The current rate of business non-compliance with EU consumer *acquis* shows that enforcement is suboptimal. Based on conservative estimates, 37% of e-commerce or booking websites do not respect basic consumer laws. This generates a detriment estimated to be about EUR 770 million per year for consumers shopping online cross-border in travel, entertainment, clothing, electronic goods and financial services (a subset of cross-border trade specifically studied for the impact assessment purpose). The main problems linked to the CPC cooperation as an enforcement instrument for the EU consumer *acquis* cross-border are: the insufficient mutual assistance mechanisms, no efficient response to widespread infringements across the EU, especially those occurring in the digital environment, as well as difficult detection of infringements and lacking prioritisation of enforcement action.

What should be achieved?

A strengthened and more efficient enforcement cooperation framework which will increase compliance with consumer legislation across the EU, reduce the consumer detriment, increase legal certainty especially for traders and consumers active cross-border. Authorities should act faster and save costs especially to jointly stop widespread online infringements thanks to additional cooperation powers (e.g. interim measures to block infringing websites) and a single coordinated procedure where the Commission could play a strengthened assistance role.

What is the value added of action at the EU level (subsidiarity)?

To ensure an equal enforcement of consumer legislation across the EU, national authorities, otherwise constrained by their jurisdictional boundaries, need to cooperate to stop infringements that have a cross-border dimension.

B. Solutions

What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

Option 1: Status quo (no change to the existing CPC Regulation)
Option 2: Modernisation of implementing legislation, non-legislative measures and self-regulation
Option 3: Revision of the CPC Regulation to extend its scope and strengthen its efficiency
Option 4: Revision of the CPC Regulation: Option 3 + additional powers especially to catch rogue traders deliberately hiding themselves and an auditing system to ensure Member States allocate adequate resources to cross-border cooperation
Option 5: A new Regulation providing the European Commission with direct enforcement powers for widespread infringements with EU dimension and revision of the CPC Regulation combined either with option 3 or with option 4
The preferred policy option is Option 3 (PO 3)

What are different stakeholders' views? Who supports which option?

All categories of stakeholders (consumer and business representative associations as well as the EP and Member States) consider that the CPC Regulation is useful and needs strengthening so that the Single (Digital) Market can deliver its benefit for retail trade. This is demonstrated by a public consultation closed early 2014 and various meeting with stakeholders (such as country visits, the Consumer Summits of 2013-2015 and specific workshops of the CPC network).

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise of main ones)?

PO3 will achieve all the policy objectives at reasonable cost for national authorities and the Commission. It will improve the effectiveness of public action and the governance of EU retail cross-border markets which

<p>will become fairer and more transparent for traders and consumers. Costs for public action and transaction costs for economic actors will decrease. This will generally improve the competitiveness of the EU economy.</p> <p>Consumers will benefit from a higher protection when purchasing cross-border, especially online. It was estimated for the subset of five online markets studied that a decrease of 10 points in the non-compliance rate of 37% could reduce the detriment from an estimated EUR 770 million per year to about EUR 539 million, i.e. by 30%. Any new single CPC action against a widespread practice could also reduce significantly the consumer detriment across the EU (e.g. by an estimated EUR 68 million in the case of the coordinated action against the misleading marketing of in-app offers in online games).</p> <p>The Commission will optimally support the Member States in their enforcement efforts against infringements with an important EU-level dimension and useless parallel proceedings will be avoided. Costs for authorities will be saved thanks to the possibility to reuse evidence, avoid duplication and ensure maximum consistency of enforcement actions. Earlier detection of malpractices and an alignment of priorities will permit better targeted actions to address widespread infringements across the EU. This would result in a stronger deterrence of infringements.</p> <p>This option is strongly supported by stakeholders and is feasible.</p>
<p>What are the costs of the preferred option (if any, otherwise of main ones)?</p>
<p>PO3 will impose no legal obligations on the business sector and consumers, who will both benefit from better functioning markets with fewer disputes and their attached cost. Some Member States may need to slightly adapt their national laws so that authorities benefit from the mutual recognition of evidence/outcome of investigations and from the additional powers to cooperate in a cross-border context (mostly AT, BE, DE, EL, FR, HR, IE and LT). The main cost for Member States will cover familiarisation/training due to new powers and procedures (ca. EUR 3,000 per authority) and ca. EUR 174,000 for all Member States per one coordinated enforcement action per year initiated through mandatory coordination procedure. Overall in the medium term, savings are expected thanks to more coordinated EU-wide actions. The Commission's additional cost for its enhanced coordination role is expected to be below EUR 300,000 per year.</p>
<p>What are the impacts on SMEs and competitiveness?</p>
<p>Improvement of the regulatory environment for retail markets should permit enterprises, including SMEs, to avoid legal expertise costs when marketing cross-border and be more confident that the same EU consumer law is equally enforced in the other countries they want to target. More consistent cross-border enforcement would boost competitiveness of honest, law-abiding traders, boost competition and level playing field in the Internal Market.</p>
<p>Will there be significant impacts on national budgets and administrations?</p>
<p>The impact on national budgets, as explained in the cost section above, is rather moderate compared to the savings under PO3; in particular, pooling of resources to address widespread infringements would save resources as one coordinated action would replace 28 national actions, resulting in net savings varying from ca. EUR 180,000 (in case of successful coordinated action) to ca. EUR 815,000 (in case of failed action).</p>
<p>Will there be other significant impacts?</p>
<p>A better implementation of consumer rights, without adding additional burden to traders, will have a positive impact on fundamental rights relating to the fair and open access to products and services across the EU.</p>
<p>Proportionality</p>
<p>The preferred option will neither affect the Member States' competences in enforcement nor will it provide for a complete harmonisation of national enforcement systems. Only the elements needed to achieve the desired objective of ensuring better enforcement of infringements involving different Member States will be harmonised, such as the procedures applicable to intra-Community and widespread infringements, the minimum powers to be granted to the competent authorities for the application of these procedures, or the recognition of evidence in the context of these infringements. PO3 will improve enforcement cooperation without imposing a disproportionate or excessive burden on Member States' authorities. Benefits in terms of reduction of consumer harm and transaction costs for all operators, efficiency of public intervention, and ultimately expected economic growth thanks to increased consumer demand, considerably outweigh a limited increase in costs for public authorities and the Commission.</p>
<p>D. Follow up</p>
<p>When will the policy be reviewed?</p>
<p>The functioning of the revised Regulation will be evaluated seven years after its entry into application, to assess the effectiveness and efficiency of the policy measure, especially to estimate the improvement in compliance rates to consumer laws.</p>

