



Council of the  
European Union

Brussels, 30 November 2016  
(OR. en)

15042/16

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**Interinstitutional File:**  
2016/0148 (COD)

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CONSOM 295  
MI 763  
COMPET 628  
TELECOM 263  
JUSTCIV 314  
DIGIT 141  
IND 257  
CODEC 1775

**NOTE**

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From:	Presidency
To:	Delegations
No. prev. doc.:	13493/16 and 13961/16
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on cooperation between national authorities responsible for the enforcement of consumer protection laws (Text with EEA relevance) - Presidency compromise

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Please find in Annex a Presidency compromise on the Proposal based on the discussions in the Working Party as well as written comments by Member States.

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

# CHAPTER I

## INTRODUCTORY PROVISIONS

### *Article 1*

#### **Subject matter**

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

### *Article 2*

#### **Scope**

1. This Regulation applies to intra-Union infringements **and** widespread infringements defined in points (b) and (c) of Article 3 **respectively, even if those infringements have ceased before enforcement starts or is completed.**
- ~~2. This Regulation also applies to short-lived intra-Union infringements and widespread infringements, even if those infringements have ceased before enforcement started or could be completed.~~
3. This Regulation shall be without prejudice to the Union rules on private international law, in particular rules related to court jurisdiction and applicable laws.
4. This Regulation shall be without prejudice to the application in the Member States of measures relating to judicial cooperation in criminal and civil matters, in particular the operation of the European Judicial Networks.

5. This Regulation shall be without prejudice to the fulfilment by the Member States of any additional obligations in relation to mutual assistance for the protection of the collective economic interests of consumers, including criminal matters stemming from other legal acts, including bilateral or multilateral agreements.
6. This Regulation shall be without prejudice to the role, **obligations** and powers of competent authorities and European Banking Authority under Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts.
- ~~7. Chapter III of this Regulation shall not apply to intra-Union infringements of the following legislation:~~
- ~~(a) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property~~
- ~~(b) Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.~~
8. This Regulation shall be without prejudice to Directive 2009/22/EC of the European Parliament and of the Council<sup>1</sup>.
- 9. This Regulation shall be without prejudice to Regulation No 1 determining the languages to be used by the European Economic Community<sup>2</sup>.**

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<sup>1</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).

<sup>2</sup> **Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 401–402 )**

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

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

### *Article 3*

#### **Definitions**

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

- (a) '**Union** laws that protect consumers' interests' means the Directives as transposed into the internal legal order of the Member States and the Regulations listed in the Annex;
- (b) 'intra-Union infringement' means any ~~ongoing or ceased~~ act or omission contrary to the **Union** laws that protect consumers' interests that harmed, harms, or is likely to harm the collective interests of consumers residing in a Member State other than the Member State where the act or omission originated or took place, where the trader responsible for the act or omission is established or where evidence or assets of the trader pertaining to the act or omission are to be found;
- (c) 'widespread infringement' means:
  - (1) any act or omission contrary to the **Union** laws that protect consumers' interests that harmed, harms, or is likely to harm the collective interests of consumers residing in at least two Member States other than the Member State where the act or omission originated or took place, or where the trader responsible for the act or omission is established, or where evidence or assets pertaining to the act or omission are to be found; ~~irrespective of whether the act or omission is ongoing or has ceased; or~~

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

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

**(cb) ‘single liaison office’ means the competent authority designated as responsible for coordinating the application of this Regulation within a Member State;**

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

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

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

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

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

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

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

**(ia) 'online interface' means any software, including a website or part of a website and applications, operated by or on behalf of a trader, which serves to give consumers access to the trader's goods or services with a view to engaging in a commercial transaction with respect to those goods or services.**

#### *Article 4*

#### **Notification of limitation periods for infringements**

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

**The single liaison offices shall notify each other and the Commission the limitation periods in place in their jurisdiction applicable to taking enforcement measures pursuant to Article 8(3).**

## CHAPTER II

### COMPETENT AUTHORITIES AND THEIR POWERS

#### *Article 5*

##### **Competent authorities and single liaison offices**

1. Each Member State shall designate as the competent authorities ~~public authorities established either at national, regional or local level with specific responsibilities to enforce the laws that protect consumers' interests~~ **responsible for the application of this Regulation. One competent authority in each Member State shall be designated as single liaison office.**
2. Competent authorities shall fulfill their obligations under this Regulation as though acting on behalf of consumers in their own Member State and on their own account.
- ~~3. Each Member State shall designate one competent authority as single liaison office.~~
4. **Within each Member State** the single liaison office shall be responsible for coordinating investigation and enforcement activities related to intra-Union infringements and widespread infringements by the competent authorities, other public authorities as set out in Article 6, **and, if applicable,** designated bodies as set out in Article 13 **6a** ~~and entities participating in the alert mechanism as set out in Article 34.~~
5. Member States shall ensure that competent authorities and single liaison offices have the adequate resources necessary for the application of this Regulation ~~and for the effective use of their powers pursuant to Article 8,~~ including sufficient budgetary and other resources, expertise, procedures and other arrangements.
6. Where there is more than one competent authority on their territory, Member States shall ensure that their respective duties are clearly defined and that those authorities collaborate closely so that they can discharge their respective duties effectively.

## Article 6

### Cooperation with other public authorities and designated bodies

1. ~~Each Member State may impose an obligation on other public authorities to assist competent authorities in the fulfilment of their obligations.~~ **For the proper application of this Regulation Member States shall ensure effective cooperation between competent authorities, other public authorities and designated bodies.**
2. ~~A competent authority may request the~~ **Other** public authorities referred to in paragraph 1 ~~to~~ **shall** take, **upon request from a competent authority,** all necessary enforcement measures available to them under national law **in order to** bring about the cessation or prohibition of intra-Union infringements and widespread infringements.
3. The Member States shall ensure that the other public authorities have the means and powers necessary to cooperate effectively with the competent authorities in the application of this Regulation. Those other public authorities shall regularly inform the competent authority about the measures taken in the application of this Regulation.
4. ~~Each Member State may designate bodies having a legitimate interest in the cessation or prohibition of infringements ("designated bodies") to gather the necessary information and to take the necessary enforcement measures available to them under national law on behalf of a requested competent authority.~~
5. ~~Member States shall ensure cooperation between the competent authorities and designated bodies, in particular to ensure that infringements referred to in Article 2 are brought to the attention of competent authorities without delay.~~



## Article 6a

### Role of designated bodies

- 1. A competent authority ('instructing authority') may instruct a designated body to gather the necessary information regarding an intra-Union infringement or widespread infringement or to take the necessary enforcement measures to bring about the cessation or prohibition of that infringement, if, after consultation with the applicant authority or the other competent authorities concerned, both applicant and requested authority or all competent authorities concerned are in agreement that by these means it is likely that the necessary information will be obtained or the cessation or the prohibition of the infringement will be brought about in at least equally efficient and effective a way as action by the instructing authority.**
- 2. If the applicant authority or the other authorities concerned are of the opinion that the conditions set out under paragraph 1 are not fulfilled, they shall inform the instructing authority in writing, setting out the grounds for their opinion. In case of disagreement, the instructing authority may refer the matter to the Commission, which shall issue an opinion in accordance with the procedure referred to in Article 48(2).**
- 3. In the event of a failure by the designated body to obtain the necessary information or to bring about the cessation or prohibition of the infringement without delay or when the competent authorities concerned are not in agreement that the designated body may be instructed pursuant to paragraph 1, the obligations of the instructing authority to take the necessary investigation or enforcement measure shall remain.**
- 4. The instructing authority shall take all necessary measures to prevent the disclosure of information which is subject to the rules on confidentiality and professional and commercial secrecy set out in Article 41.**

## Article 7

### Information and lists

1. Each Member State shall communicate without delay to the Commission and the other Member States the identities of the competent authorities, of the single liaison office, of the designated bodies as set out in Article 13 **6a** and of the entities participating in the alert mechanism as set out in Article 34, as well as any changes thereto.
2. The Commission shall maintain and update a publicly available list of single liaison offices, competent authorities, designated bodies and entities **as set out in Article 35** on its website.

## Article 8

### Minimum Powers of competent authorities

1. ~~Each~~ Competent authorities shall have the investigation and enforcement powers **pursuant to paragraphs 2 and 3** necessary for the application of this Regulation and shall exercise them ~~in accordance with this Regulation and national law~~ **under the conditions set out in Article 9**.
2. ~~Each~~ Competent authorities shall have at least the following **investigation** powers ~~and exercise them under the conditions set out in Article 9, to:~~
  - (a) have access to any relevant document, data or information related to an **intra-Union infringement and widespread** infringement ~~under this Regulation~~, in any form or format and irrespective of the medium on which or the place where they are stored;

- (b) require the supply ~~by any natural or legal person, including banks, internet service providers, domain registries and registrars and hosting service providers~~ of any relevant information, data or document in any format or form and irrespective of the medium on which or the place where they are stored, **from any public authority, body or agency within the Member State of the competent authority and/or any natural or legal person, including payment service providers, internet service providers, telecommunication operators, domain registries and registrars and hosting service providers** for the purpose of ~~among others identifying and following~~ **establishing whether an intra-Union infringement or a widespread infringement occurs and establishing the particularities of such infringement, including the tracing** financial and data flows, or of ascertaining the identity of persons involved in financial and data flows, bank account information and ownership of websites;
- ~~(c) require any public authority, body or agency within the Member State of the competent authority to supply any relevant information, data or document in any format or form and irrespective of the medium on which or the place where they are stored, for the purpose among others, of identifying and following of financial and data flows, or of ascertaining the identity of persons involved in financial and data flows, bank account information and ownership of websites;~~
- (d) carry out the necessary on-site inspections **of business**, ~~including in particular the power to enter any premises, land or means of transport or to request other~~ authorities to do so in order to examine, seize, take or obtain copies of information, data or documents, irrespective of the medium on which they are stored; ~~to seal any premises or information, data or documents for a necessary period and to the extent necessary for the inspection;~~ to request any representative or member of the staff of the trader concerned to give explanations on facts, information or documents relating to the subject matter of the inspection and to record the answers;
- (e) purchase goods or services as test purchases **and, where necessary, act under a cover identity** in order to detect **intra-Union infringements and widespread** infringements ~~under this Regulation~~ and obtain evidence;

- ~~(f) — purchase goods or services under a cover identity in order to detect infringements and to obtain evidence;~~
- ~~(g) — adopt interim measures to prevent the risk of serious and irreparable harm to consumers, in particular the suspension of a website, domain or a similar digital site, service or account;~~
- ~~(h) — start investigations or procedures to bring about the cessation or prohibition of intra-Union infringements or widespread infringements of its own initiative and where appropriate to publish information about this;~~
- ~~(i) — obtain a commitment from the trader responsible for the intra-Union infringement or widespread infringement to cease the infringement and where appropriate to compensate consumers for the harm caused;~~
- ~~(j) — request in writing the cessation of the infringement by the trader;~~
- ~~(k) — bring about the cessation or the prohibition of the infringement;~~
- ~~(l) — close down a website, domain or similar digital site, service or account or a part of it, including by requesting a third party or other public authority to implement such measures;~~
- ~~(m) — impose penalties, including fines and penalty payments, for intra-Union infringements and widespread infringements and for the failure to comply with any decision, order, interim measure, commitment or other measure adopted pursuant to this Regulation;~~
- ~~(n) — order the trader responsible for the intra-Union infringement or widespread infringement to compensate consumers that have suffered harm as a consequence of the infringement including, among others, monetary compensation, offering consumers the option to terminate the contract or other measures ensuring redress to consumers who have been harmed as a result of the infringement;~~

- ~~o) — order the restitution of profits obtained as a result of infringements, including an order that those profits are paid to the public purse or to a beneficiary designated by the competent authority or under national legislation;~~
- ~~(p) — publish any final decisions, interim measures **trader's commitments** or orders, including the publication of the identity of the trader responsible for the intra-Union infringement or widespread infringement;~~
- ~~(q) — consult consumers, consumer organisations, designated bodies and other persons concerned about the effectiveness of the proposed commitments in ceasing the infringement and removing the harm caused by it~~

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

- (a) seal any premises or information, data or documents for a necessary period and to the extent necessary for the inspection pursuant to point (c) of paragraph 2;**
- (b) adopt interim measures to prevent the risk of serious and irreparable harm to collective interest of consumers, in particular the restriction or blocking of access to an online interface;**
- (c) seek to obtain or accept commitments regarding the intra-Union infringement or widespread infringement from the trader responsible for the infringement;**
- (d) request in writing the cessation of the Intra-Union infringements and widespread infringements by the trader;**
- (e) bring about the cessation or the prohibition of the Intra-Union infringements and widespread infringements;**
- (f) restrict or block the access to an online interface, including by requesting a third party or other public authority to implement such measures, or order the removal or modification of digital content;**

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

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

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

#### *Article 9*

#### **Exercise of minimum powers**

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

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

**(aa) with the assistance of other competent authorities or other public authorities;**

**(ab) by instructing designated bodies if applicable;** or

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

2. ~~Insofar as competent authorities exercise their powers by application to courts, those courts shall have the power to grant the necessary decisions and shall act within the framework of this Regulation.~~ **The exercise of powers set out in Article 8 in application of this Regulation shall be proportionate and in accordance with this Regulation, Union and national law, including applicable procedural safeguards and principles of the fundamental rights. Investigation and enforcement measure adopted in application of this Regulation shall be adequate to the nature and the overall actual or potential harm of the infringement.**
3. ~~The Member States shall ensure that the court fees and other costs linked to the adoption of the court decisions in the proceedings initiated in application of this Regulation are proportionate and do not hamper the application of this Regulation.~~

#### *Article 10*

#### **Implementing powers**

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

# CHAPTER III

## MUTUAL ASSISTANCE MECHANISM

### *Article 11*

#### **Requests for information**

1. A requested authority shall, on request from an applicant authority, supply **to the applicant authority in 14 days, if not agreed otherwise**, any relevant information required to establish whether an intra-Union infringement has occurred and to bring about the cessation of that infringement. ~~The requested authority shall notify the Commission without delay of the request for information and of its reply.~~
2. The requested authority shall undertake the appropriate **and necessary** investigations or take any other necessary or appropriate measures in order to gather the required information. If necessary, those investigations shall be carried out with the assistance of other public authorities or designated bodies.
3. On request from the applicant authority, the requested authority may allow competent officials of the applicant authority to accompany the officials of the requested authority in the course of their investigations.
4. ~~The requested authority shall reply to the request using the procedure for information requests and within the time limits set out by the Commission in the implementing act.~~
5. ~~The Commission shall adopt implementing acts setting out the time limits, standard forms and details of the procedures for requests for information. The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~



### Requests for enforcement measures

1. A requested authority shall on request from an applicant authority, take all necessary enforcement measures to bring about the cessation or prohibition of the intra-Union infringement, ~~including imposing penalties and ordering or facilitating the compensation of consumers for harm caused by the infringement~~ **by exercising the powers set out under Article 8 and any additional powers granted to it under national law. The requested authority shall determine the appropriate enforcement measures needed to bring about the cessation or prohibition of the intra-Union infringement and shall take them not later than 9 months after receiving the request, if not agreed otherwise. Where appropriate, the requested authority shall impose fines or penalty payments on the trader responsible for the intra-Union infringement.**
  
2. ~~In order to fulfil its obligations laid down in paragraph 1, the requested authority shall exercise the powers set out under Article 8 and any additional powers granted to it under national law. The requested authority shall determine the enforcement measures appropriate to bring about the cessation or prohibition of the intra-Union infringement in a proportionate, efficient and effective way. If necessary, those measures shall be determined and implemented with the assistance of other public authorities.~~
  
3. The requested authority shall regularly inform ~~and consult~~ the applicant authority about the steps and measures taken **and consult the applicant authority about the steps and measures it intends to take.** The requested authority shall notify through the database set out in Article 43 the applicant authority, the competent authorities of other Member States and the Commission of the measures taken and their effect on the intra-Union infringement without delay, including ~~the following~~:
  - (a) ~~whether interim measures have been imposed;~~
  - (b) ~~whether the infringement has ceased;~~

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

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

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

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

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

### *Article 13*

#### **Role of designated bodies**

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

2. ~~The requested authority shall ensure that the instruction of the designated body does not lead to the disclosure of information which is subject to the rules on confidentiality and professional and commercial secrecy set out in Article 41.~~

3. ~~Where the designated body fails to bring about the cessation or prohibition of the intra-Union infringement within the time limit set out pursuant to Article 11(4) and Article 12(4), the requested authority itself shall act upon the request pursuant to Articles 11 and 12.~~

- ~~4. Before instructing the designated body, the requested competent authority shall consult the applicant authority about its intention to instruct a designated body. Where the applicant authority does not agree with the instruction of a designated body, it shall inform the requested authority in writing without delay and give grounds for its objection. In that case, the requested authority shall not instruct the designated body and shall act itself on the request.~~
- ~~6. The Commission shall adopt implementing acts setting out the time limits, standard forms and details of the procedures involving designated bodies. The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

[See Article 6a]

#### *Article 14*

##### **Procedure for mutual assistance requests**

1. In requests for mutual assistance, the applicant authority shall provide sufficient information to enable a requested authority to fulfill the request, including any necessary evidence obtainable only in the Member State of the applicant authority.
2. Requests shall be sent by the applicant authority to the single liaison office of the Member State of the requested authority and to the single liaison office of the Member State of the applicant authority for information. The single liaison office of the Member State of the requested authority shall pass the requests on to the appropriate competent authority without delay.
3. Requests for mutual assistance and all communication linked to them shall be made in writing using standard forms and communicated electronically via the database established pursuant to Article 43.
4. The languages used for requests for mutual assistance and for all communication linked to them shall be agreed upon by the competent authorities concerned.

5. If no agreement about languages can be reached, requests shall be sent in the official language of the Member State of the applicant authority and replies in the official language of the Member State of the requested authority. In that case, each competent authority shall ensure the necessary translations of the requests, replies and other documents that it receives from another competent authority.
6. The requested authority shall reply directly to the applicant authority and to the single liaison offices of the Member States of the applicant and requested authorities.

### *Article 15*

#### **Refusal to comply with a request for mutual assistance**

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

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

- (a) criminal investigations or judicial proceedings have already been initiated or ~~final~~ **an administrative decision has already been adopted, or there is a final** judgment ~~has already been given~~ **or a court settlement** in respect of the same intra-Union infringement and against the same trader before the judicial authorities in the Member State of the requested or applicant authority;
- (b) in its opinion, following appropriate investigation ~~by the requested authority~~, no intra-Union infringement has occurred;
- (c) in its opinion, the applicant authority has not provided sufficient information in accordance with Article 12 ~~2~~ **4**(1),

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

- 3. The requested authority shall inform the applicant authority and the Commission of the refusal to comply with a request for mutual assistance and provide grounds for the refusal.
- 4. In the event of a disagreement between the applicant and the requested authority, the applicant authority or the requested authority ~~shall~~ **may** without delay refer the matter to the Commission which shall, **in accordance with the procedure referred to in Article 48(2)**, issue an opinion. Where the matter is not referred to it, the Commission may, **in accordance with the procedure referred to in Article 48(2)**, of its own motion issue an opinion.

5. The Commission shall monitor the functioning of the mutual assistance mechanism, the compliance of competent authorities with the procedures and the time limits for handling mutual assistance requests. The Commission shall have access to the mutual assistance requests and to the information and documents exchanged between the applicant and requested authority.
- ~~6. Where appropriate, the Commission may issue guidance and provide advice to the Member States to ensure the effective and efficient functioning of the mutual assistance mechanism.~~
- ~~7. The Commission may adopt implementing acts setting out the details of the procedures to address cases of disagreement between competent authorities under paragraphs 3 and 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

## CHAPTER IV

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

## SECTION I

### ~~WIDESPREAD INFRINGEMENTS~~

#### Article 15a

##### General principles of cooperation

1. Where there is a reasonable suspicion that a widespread infringement is taking place, competent authorities concerned and the Commission shall without delay, by sending alerts pursuant to Article 34, inform each other and the single liaison offices concerned.
2. The competent authorities concerned by the widespread infringement shall coordinate their investigation and enforcement measures to address infringements. They shall exchange all necessary information and provide each other and the Commission with any assistance needed without delay.
3. The competent authorities concerned shall ensure that necessary evidence and information are gathered and all necessary enforcement measures are taken to bring about the cessation or prohibition of the widespread infringement.

**4. Without prejudice to paragraph 2, conducting of national investigation and enforcement activities by competent authorities concerned shall not be affected by the application of this Regulation.**

**5. Where appropriate, the competent authorities may invite Commission officials and other accompanying persons authorised by the Commission to participate in the coordinated investigations, enforcement actions and other measures pursuant to this Chapter.**

**Option 1 (for Articles 16 and 16a):**

*Article 16*

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

- ~~1. Where a competent authority has a reasonable suspicion that a widespread infringement is taking place, it shall notify the competent authorities of the other Member States concerned by the widespread infringement and the Commission without delay.~~
- ~~2. Where the Commission has a reasonable suspicion that a widespread infringement is taking place, it shall notify the competent authorities concerned by the widespread infringement.~~
- ~~3. After receiving the notifications referred to in paragraphs 1 and 2, the competent authorities concerned by the widespread infringement shall, acting by consensus, designate the competent authority that shall coordinate the action.~~
- ~~4. The competent authorities concerned may invite the Commission to take up the coordination role. The Commission shall inform the competent authorities concerned without delay whether it accepts the coordination role.~~
- ~~5. When notifying the competent authority pursuant to paragraph 2, the Commission may propose to take up the coordination role. The competent authorities concerned shall inform the Commission without delay whether they accept that the Commission coordinates the action.~~



~~6. Where the Commission declines to take up the coordination role or where the competent authorities concerned do not accept that the Commission coordinates the action, the competent authorities concerned shall designate a competent authority that shall coordinate the action. Where no agreement among competent authorities is reached, the competent authority that first notified the suspected infringement to the other competent authorities shall coordinate the action.~~

- 1. In case of a widespread infringement the competent authorities concerned shall launch a coordinated action by an agreement between them. The launch of the coordinated action shall be notified to the single liaison offices concerned by the coordinated action and to the Commission.**
- 2. The competent authorities concerned by the widespread infringement shall designate one competent authority among themselves to take the role of the coordinator. If no agreement can be reached on the coordinator, the competent authorities may invite the Commission to take the role of coordinator. If the Commission declines to take the role of the coordinator, the coordinated action shall continue without a coordinator.**
- 3. If the Commission has the reasonable suspicion that a widespread infringement harmed, harms or is likely to harm consumers in at least three quarters of the Member States accounting together for at least three quarters of the population of the Union, it shall launch a coordinated action by a decision addressed to Member States concerned by the widespread infringement. The decision shall be notified to the single liaison offices of the Member States concerned by the coordinated action. The competent authorities concerned shall conduct appropriate investigation to establish whether the widespread infringement occurs.**
- 4. The coordinated action launched by the Commission's decision shall be coordinated by the Commission.**
- 5. A competent authority shall join the coordinated action, if during the coordinated action it becomes apparent that it is concerned by the widespread infringement.**

Article 16a

**Decline to take part in the coordinated action**

- 1. A competent authority may decline to take part in the coordinated action for one of the following reasons:**
  - (a) criminal investigation or judicial proceedings have already been initiated concerning the same infringement against the same trader in that Member State;**
  - (b) a final judgment has been given, an administrative decision has been adopted or a court settlement was reached in respect of the same infringement against the same trader in that Member State;**
  - (c) following appropriate investigation it is apparent that the actual or potential impact of the alleged infringement on consumers in its Member State is insignificant and no enforcement measures need to be adopted by the competent authority.**
  
- 2. Where a competent authority declines to take part in the coordinated action pursuant to paragraph 1, it shall without delay inform the Commission, single liaison offices concerned and the other competent authorities concerned about its decision, state the reasons for it and provide the necessary supporting documents.**

**Option 2 (for Articles 16 and 16a):**

*Article 16*

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

- 1. In case of a widespread infringement the competent authorities concerned shall launch a coordinated action by an agreement between them. The launch of the coordinated action shall be notified to the single liaison offices concerned by the coordinated action and to the Commission.**
- 2. The competent authorities concerned by the widespread infringement shall designate one competent authority among themselves to take the role of the coordinator. If no agreement can be reached on the coordinator, the competent authorities may invite the Commission to take the role of coordinator. If the Commission declines to take the role of the coordinator, the coordinated action shall continue without a coordinator.**
- 3. If the Commission has the reasonable suspicion that a widespread infringement harmed, harms or is likely to harm consumers in at least three quarters of the Member States accounting together for at least three quarters of the population of the Union, it shall recommend the competent authorities concerned by the alleged infringement to launch a coordinated action pursuant to paragraph 1. Those competent authorities shall conduct appropriate investigation to establish whether the infringement occurs. Competent authorities of Member States where impacts of the alleged infringement were established by the investigation shall launch a coordinated action pursuant to paragraph 1.**
- 4. The Commission shall state in the recommendation pursuant to paragraph 3 the grounds justifying a coordinated action. The recommendation shall be notified to the single liaison offices of the Member States concerned by the alleged infringement and the Commission may publish the recommendation.**

**5. Notwithstanding paragraph 2, the coordinated action launched upon the Commission's recommendation pursuant to paragraph 3 shall be coordinated by the Commission.**

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

### **Article 16a**

#### **Decline to take enforcement measures in the coordinated action**

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

**(a) criminal investigation or judicial proceedings have already been initiated concerning the same infringement against the same trader in that Member State;**

**(b) a final judgment has been given, an administrative decision has been adopted or a court settlement was reached in respect of the same infringement against the same trader in that Member State,**

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

Article 17

**Investigation measures in coordinated actions**

1. ~~The competent authorities concerned shall ensure that the necessary evidence, data and information are gathered effectively and efficiently.~~ The competent authorities concerned shall ensure that investigations and inspections are conducted **effectively, efficiently and in a coordinated manner, in particular they shall seek to conduct investigations and inspections** simultaneously and that interim measures are applied simultaneously.
2. ~~The competent authorities concerned may use the mutual assistance mechanism pursuant to Chapter III, in particular to gather evidence and information from Member States other than the Member States concerned by the coordinated action or to ensure that the trader concerned does not circumvent enforcement measures.~~
  - 2a. The mutual assistance mechanism pursuant to Chapter III may be used, if it is needed, in particular to gather evidence and information from Member States other than the Member States concerned by the coordinated action or to ensure that the trader concerned does not circumvent enforcement measures.**
3. **Where appropriate,** the competent authorities concerned may **shall** set out the outcome of the investigation and the assessment of the widespread infringement in a common position agreed upon among themselves.
  - 3a. The common position shall be communicated, in accordance with Article 29(1)(d), to the trader responsible for the infringement who shall be given the opportunity to be heard on the matters which are part of the common position.**
4. Where appropriate and without prejudice to the rules on professional and commercial secrecy set out in Article 41, the competent authorities concerned may ~~decide to~~ publish the common position or parts of it on their websites and on the Commission website **if the Commission agrees** and seek the view of other parties concerned.

**Enforcement measures in coordinated actions Commitments**

1. The competent authorities concerned may invite the trader responsible for the **widespread** infringement to propose **in a set time limit** commitments to cease the infringement ~~and where appropriate to compensate or take other measures facilitating compensation of consumers that have suffered harm~~. The trader may also, on its own initiative, propose commitments to cease the infringement and to compensate consumers.
  
2. ~~Where the trader proposes commitments, the competent authorities concerned, may, where appropriate, publish the proposed commitments on their websites or, as appropriate, on the Commission website~~
  
- 2a. Where appropriate and without prejudice to the rules on professional and commercial secrecy set out in Article 41, the competent authorities concerned, may publish the commitments proposed by the trader on their websites or, as appropriate, on the Commission website, if the Commission agrees; in particular** to seek the views of **consumer organisations**, other parties concerned **and experts** and to verify whether the commitments are **proportionate and** sufficient to cease the infringement ~~and to compensate consumers~~.
  
3. The competent authorities concerned ~~may designate one competent authority to take enforcement measures on behalf of the other competent authorities in order to bring about the cessation or to prohibit the widespread infringement, to ensure compensation of consumers or to impose penalties. When designating a competent authority to take enforcement measures the competent authorities shall take into consideration the location of the trader concerned. Once the competent authority has been designated to take enforcement measures by the other competent authorities concerned, it shall become competent to act on behalf of the consumers of each such Member State as if they were its own consumers.~~ **shall assess the proposed commitments and communicate the outcome of the assessment to the trader. Where commitments are sufficient to cease the infringement, the competent authorities shall accept them and set a time limit within which the commitments have to be implemented.**

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

### **Article 18a**

#### **Enforcement measures in coordinated actions**

- 1. The competent authorities concerned shall take within the territory of their Member State all necessary enforcement measures against the trader responsible for the widespread infringement to bring about the cessation or prohibition of the infringement. Where appropriate they shall impose fines or penalty payments on the trader responsible for the widespread infringement.**
- 2. Where appropriate, the competent authorities concerned may agree that a competent authority or competent authorities take the necessary enforcement measures against the trader responsible for the widespread infringement on behalf of other competent authorities.**

**3. Enforcement measures pursuant to paragraph 1 shall be taken in an effective, efficient and coordinated manner. The competent authorities concerned shall seek to take enforcement measures simultaneously in Member States concerned by the widespread infringement.**

#### *Article 19*

#### **Closure of the coordinated actions**

**-1. The coordinated action shall be closed if the competent authorities concerned conclude that the widespread infringement has ceased or has been prohibited in all Member States concerned or there was no widespread infringement committed.**

**1.** ~~The coordinating authority~~ **coordinator** shall ~~inform~~ **notify** the Commission, **single liaison offices concerned** and competent authorities of the Member State concerned without delay **the closure of the coordinated action** ~~when the widespread infringement has ceased or has been prohibited.~~

#### *Article 20*

#### **Implementing powers**

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

**Section II is deleted.**



## SECTION III

### GENERAL PROVISIONS APPLICABLE TO COORDINATED ACTIONS AND TO COMMON ACTIONS UNDER THIS CHAPTER

#### Article 28

##### Procedure for decisions amongst Member States

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

#### Article 29

##### Role of the coordinator

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

- (e) coordinate the assessment, the consultations and the monitoring by the competent authorities concerned as well as other steps necessary to process and implement commitments proposed by the traders concerned;
  - (f) coordinate ~~other~~ enforcement measures adopted by the competent authorities concerned, ~~including applications to the courts for the necessary orders and decisions, the imposition of penalties and the adoption of measures ensuring consumer compensation;~~
  - (g) coordinate mutual assistance requests lodged by the competent authorities concerned pursuant to Chapter III.
2. The coordinator shall not be held responsible for the actions or the omissions of the competent authorities concerned when making use of the powers set out in Article 8.
- 2a. Where the coordinated actions concern widespread infringements of the Union legislation pursuant to paragraph 6 of Article 2 the coordinator shall invite the European Banking Authority to take an observer role.**

### *Article 30*

#### **Duty of cooperation and Language arrangements**

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

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

## Article 31

### **Common position and hearing of Language arrangements for communication with traders**

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

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

## Article 32

### **Concerted investigations of consumer markets**

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

4. ~~The Commission may adopt implementing acts setting out the details of the procedures for sweeps. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

## CHAPTER V

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

#### *Article 33*

##### ~~Surveillance mechanism~~

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

#### *Article 34*

##### ~~Alerts mechanism~~

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

3. In an alert the competent authority or the Commission shall provide, where available, in particular the following information about the suspected infringement:
- (a) a description of the act or omission that constitutes the infringement;
  - (b) the product or service concerned by the infringement;
  - (c) the Member States concerned or possibly concerned by the infringement;
  - (d) the trader responsible or suspected of being responsible for the infringement;
  - (e) the legal basis for possible actions by reference to national law and the corresponding provisions of the Union acts in the Annex to this Regulation;
  - (f) the ~~nature~~ **description and status** of legal proceedings, enforcement measures or other measures taken concerning the infringement and their dates and duration;
  - ~~(g) the status of legal proceedings, enforcement measure or other measures taken concerning the infringement;~~
  - (h) the competent authorities **ies** conducting legal proceedings and other measures;
  - ~~(i) whether the alert is 'for information' or 'for action'.~~
4. In an alert ~~'for action'~~, the competent authority or the Commission may ask ~~other~~ competent authorities **concerned in other Member States** and the Commission to verify whether, **based on information available to the competent authorities concerned or the Commission or on the results of taking investigation measures**, similar suspected infringements ~~may be~~ **are** taking place in the territory of other Member States or whether any enforcement measures have already been taken against such infringements in other Member States. Those competent authorities and the Commission shall reply to the request without delay.
- ~~5. To address the suspected infringements effectively, the competent authorities concerned shall, depending on the replies to the alert, take the necessary measures set out in Chapters III and IV.~~

~~6. The Commission shall adopt implementing acts setting out the details of the functioning of the alert mechanism, including in particular standard forms for alerts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

### *Article 35*

#### **Participation of other entities in the alert mechanism External alerts**

1. **Member States may entitle** designated bodies, and European Consumer Centres, ~~shall participate in the alert mechanism set out in Article 34. Member States shall designate consumer organisations and associations, and other entities such as~~ **and** trader associations, with the appropriate expertise and legitimate interest in consumer protection that shall ~~participate in the alert mechanism~~ **to notify the competent authorities of the Member States concerned and the Commission of suspected intra-Union infringements or widespread infringements and to provide information available to them set out in paragraph 3 of Article 34 ('external alert')**. Member States shall notify the Commission **the list** of those entities **and any changes of it** without delay.
2. The Commission, **following a consultation with Member States,** may designate **entitle** ~~other entities~~ **associations** representing consumer and business interests at a Union level **to make an external alert** that shall ~~participate in the alert mechanism.~~
3. ~~The entities described in paragraphs 1 and 2 shall be entitled to notify the competent authorities of the Member States concerned and the Commission of suspected infringements and provide the information set out in Article 34(3), using the standard form for external notifications provided by the database referred to in Article 43 ('external alert').~~

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

### *Article 36*

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

1. ~~Via the database referred to in Article 43, the competent authorities shall without delay notify the Commission and other competent authorities of any measure that they have taken to address an infringement of the laws which protect consumers' interests on their territory if they suspect that the infringement may affect consumers' interests in other Member States, in particular:~~
- ~~(a) any notice, order, decision or similar measure of a competent authority or another authority relating to the opening of national proceedings concerning an infringement or suspected infringement;~~
  - ~~(b) any decision of a court or other judicial authority, judicial order, injunction or other similar measure that concerns an infringement or suspected infringement;~~
  - ~~(c) any other information, decision, order or act of other national authorities or designated bodies, as appropriate, that may concern an infringement or suspected infringement.~~
2. ~~The Commission may adopt implementing acts setting out the details of the exchange of other information relevant for the detection of infringements under this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~



Article 36a

**Concerted investigations of consumer markets**

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

## CHAPTER VI

### OTHER UNION-WIDE ACTIVITIES

#### Article 37

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

1. **To the extent necessary to achieve the objective of this Regulation,** Member States shall inform each other and the Commission of their activities in the following areas:
  - (a) the training of their officials involved in ~~enforcing consumer protection, including language training, and the organisation of training seminars~~ **the application of this Regulation;**
  - (b) the collection, classification and exchange of data on consumer complaints
  - (ba) the development of methodologies and guidelines concerning the application of this Regulation;**
  - (c) the development of sector-specific networks of competent officials;
  - (d) the development of information and communication tools;
  - ~~(e) the development of standards, methodologies and guidelines for officials involved in enforcing consumer protection;~~
  - ~~(f) the exchange of their officials, including the ability to carry out activities under Chapters III and IV.~~
2. **To the extent necessary to achieve the objective of this Regulation,** Member States shall coordinate and jointly organise ~~the~~ activities **in the areas** set out in paragraph 1.

3. ~~The Commission and the Member States shall regularly share information and data concerning consumer complaints. For that purpose, the Commission shall develop and maintain a harmonised methodology for classifying and reporting consumer complaints in cooperation with Member States.~~
4. ~~The Commission may adopt implementing acts necessary to develop the framework for cooperation under paragraphs 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

### *Article 38*

#### **Exchange of officials between competent authorities**

1. The competent authorities may participate in exchange schemes of competent officials from other Member States in order to improve cooperation. The competent authorities shall take the necessary measures to enable competent officials from other Member States to play an effective role in the activities of the competent authority. To that end, those officials shall be authorised to carry out the duties entrusted to them by the host competent authority in accordance with the laws of its Member State.
2. During the exchange, the civil and criminal liability of the competent official shall be treated in the same way as that of the officials of the host competent authority. The competent officials from other Member States shall observe professional standards and ~~shall be subject to~~ the appropriate internal rules of conduct of the host competent authority. Those rules of conduct shall ensure in particular the protection of individuals with regard to the processing of personal data, procedural fairness and the proper observance of the rules on confidentiality and professional and commercial secrecy pursuant to Article 41.

**Exchange of consumer policy information**

1. ~~Member States shall inform each other and the Commission of their activities in protecting consumers' interests such as:~~
  - (a) ~~consumer information and advice;~~
  - (b) ~~support for the activities of consumer representatives;~~
  - (c) ~~support for the activities of bodies responsible for the extra-judicial settlement of consumer disputes;~~
  - (d) ~~support for consumers' access to justice;~~
  - (e) ~~the collection of statistics, the results of research or other information relating to consumer behaviour and attitudes.~~
2. ~~Member States may, in cooperation with the Commission, carry out common activities in the areas set out in paragraph 1. The Member States shall, in cooperation with the Commission, develop a common framework for the activities set out to in point (e) of paragraph 1.~~
3. ~~The Commission may adopt implementing acts necessary to develop the framework for exchange of information referred to paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).~~

### International cooperation

1. **To the extent necessary to achieve the objective of this Regulation,** the Union shall cooperate with third countries and with the competent international organisations in the areas covered by this Regulation in order to protect consumers' interests. The arrangements for cooperation, including the establishment of mutual assistance arrangements, the exchange of confidential information and exchange of staff programmes, may be subject to agreements between the Union and the third countries concerned.
2. Agreements concluded between the Union and third countries concerning cooperation and mutual assistance to protect and enhance consumers' interests shall ~~be subject to the protection of confidential information and personal data equivalent to the rules set out in Article 41~~ **provide for appropriate safeguards for the protection of personal data within the meaning of Article 46 of Regulation (EU) 2016/679.**
3. When a competent authority receives information from an authority of a third country **relevant to competent authorities of other Member States,** ~~that competent authority~~ **it** shall communicate the information to ~~the~~ **those** relevant competent authorities ~~of other Member States~~ insofar as it is permitted to do so by bilateral assistance agreements with the third country and in accordance with Union legislation regarding the protection of individuals with regard to the processing of personal data.
4. Information communicated under this Regulation may also be communicated to an authority of a third country by a competent authority under a bilateral assistance agreement with the third country, provided that the ~~consent~~ **approval** of the competent authority that originally communicated the information has been obtained and in accordance with Union legislation regarding the protection of individuals with regard to the processing of personal data.

## CHAPTER VII

### ~~PROFESSIONAL SECRECY AND OTHER~~ COMMON ARRANGEMENTS

#### *Article 41*

##### **Use of information and professional and commercial secrecy**

1. Information collected ~~pursuant to Article 8~~ which is **by or** communicated to the competent authorities and the Commission **by applying this Regulation** shall only be used for the purposes of ensuring compliance with the **Union** laws that protect consumers' interests.
2. Information **collected or** communicated **pursuant to paragraph 1 shall be confidential, used and disclosed in accordance with Union legislation and with due regards to** ~~in~~ any form to persons working for competent authorities, courts, other public authorities and the, including information notified to the Commission and stored on the database referred to in Article 43, shall be confidential and shall be covered by the obligations of professional secrecy where its disclosure would undermine:
  - (a) ~~the protection of the privacy and the integrity of the individual, in particular in accordance with Union legislation regarding the protection of personal data;~~
  - (b) the commercial interests of a natural or legal person, including **trade secrets and** intellectual property;
  - (c) ~~court proceedings and legal advice, or~~
  - (d) ~~the purpose of inspections or investigations.~~

3. ~~Notwithstanding~~ **Without prejudice to** paragraph ~~21~~, the competent authorities **after consulting the concerned competent authorities** may ~~use and~~ disclose the information necessary:
- (a) to prove intra-Union infringements or widespread infringements;
  - (b) to bring about the cessation or prohibition of intra-Union infringements or widespread infringements.

#### *Article 42*

#### **Use of evidence and investigation findings**

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

Article 43

**Electronic database and system for exchange of information on infringements**

1. The Commission shall establish and maintain the necessary electronic database **for all communication between competent authorities, single liaison offices and the Commission under this Regulation** in which it shall store and process the information received to support mutual assistance requests pursuant to Chapter III, measures pursuant to Chapter IV and the surveillance mechanism pursuant to Chapter V. The database shall be made available for consultation to the competent authorities and the Commission. **Every information sent by the means of the electronic database** shall **be stored** and processed **in the electronic database** the information received to support mutual assistance requests pursuant to Chapter III, measures pursuant to Chapter IV and the surveillance mechanism pursuant to Chapter V. The database shall be made available for consultation to the competent authorities and the Commission.
2. Information provided by ~~other authorities, entities~~ **entitled to make an external alert pursuant to paragraph 1 and 2 of Article 35** and ~~designated bodies~~ shall be stored and processed in the electronic database but those ~~authorities, entities and designated bodies~~ shall not have access to this database.



3. The stored data relating to an infringement shall be ~~deleted five years after the infringement has ceased~~ **stored in the database for no longer than it is necessary for the purposes for which it was collected and processed but for no longer than five years following the day**. The period of five years shall start from the date on which:
- (a) ~~a requested authority notifies the Commission pursuant to Article 12(3) that an intra-Union infringement has ceased;~~
  - (b) the coordinating authority **coordinator** notifies the Commission pursuant to Article 19(1) **the closure of the coordinated action** that the widespread infringement has ceased or has been prohibited;
  - (c) ~~the Commission decides pursuant to Article 26 that the common action concerning a widespread infringement with a Union dimension is closed but traders' commitments shall be stored for 10 years to ensure compliance with the laws that protect consumers' interests;~~
  - (d) the information has been entered in the database in all other cases.
4. The Commission shall adopt implementing acts necessary to implement the database, in particular, the steps in the workflows necessary to implement the various procedures covered by this Regulation and the standard forms to be used. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).

*Article 44*

**Waiver of reimbursement of expenses**

- 1.** Member States shall waive all claims for the reimbursement of expenses incurred in applying this Regulation.
- 2.** ~~However~~ **Notwithstanding paragraph 1, in case of acting upon request pursuant to Article 12,** the Member State of the applicant authority shall remain liable to the Member State of the requested authority for any costs and any losses incurred as a result of measures dismissed and held to be unfounded by a court as far as the substance of the infringement in question is concerned.
- 3.** **Notwithstanding paragraph 1, in case of acting on behalf of other competent authorities in the framework of a coordinated action pursuant to Chapter IV, Member States of other competent authorities concerned remain jointly liable to the Member State of the competent authority which has taken the enforcement measure for any costs and any losses incurred as a result of measures dismissed and held to be unfounded by a court as far as the substance of the infringement in question is concerned.]**

Article 45

**National Enforcement plans and prioritisation**

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

- (f) ~~an overview of resources available and committed for enforcement of the **Union** laws that protect consumers' interests in the Member State for the two years;~~
- (g) ~~a statement of resources committed to the implementation of this Regulation for the next two years.~~

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

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

#### *Article 46*

##### **Monitoring and implementation of national enforcement plans**

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

*Article 47*

**Principles for imposing penalties for intra-Union and widespread infringements**

1. ~~When imposing penalties in the context of intra-Union infringements and widespread infringements, the competent authorities shall take into account among others:~~
  - (a) ~~the territorial scope of the infringement;~~
  - (b) ~~the overall harm or likely harm caused to consumers in other Member States;~~
  - (c) ~~the repetition of the infringement in the same Member State or in the Union.~~
2. ~~The Commission may issue recommendations on penalties for intra-Union infringements and widespread infringements and their coordination pursuant to Chapter IV.~~

## CHAPTER VIII

### FINAL PROVISIONS

*Article 48*

**Committee**

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

*Article 49*

**Notifications**

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

*Article 50*

**Evaluation**

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

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

*Article 51*

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

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

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

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

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

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

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

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

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

*Article 52*

**Repeal**

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

*Article 53*

**Entry into force and application**

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

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

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

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

...

In the Annex, a new point 21a is inserted as follows:

**21a. Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR) (OJ L 165, 18.3.2013, p. 1) : Article 14 of ODR no 524/2013.**