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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the application of Regulation (EU) 2017/2394 of the European Parliament and of the
Council on cooperation between national authorities responsible for the enforcement of
consumer protection laws**

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Part I: The context

1. Introduction

Regulation (EU) 2017/2394¹ on cooperation between national authorities responsible for the enforcement of consumer protection laws (“CPC Regulation” or “Regulation”) lays down the conditions under which Member States’ competent authorities cooperate and coordinate actions with each other and with the Commission, in order to enforce compliance with EU consumer laws to ensure the smooth functioning of the internal market and in order to enhance the protection of consumers’ economic interests. The CPC Regulation was adopted in December 2017 and became applicable on 17 January 2020. It repealed Regulation 2006/2004² and updated the CPC regime by clarifying and extending its scope and procedures as well as by further harmonising CPC authorities’ minimum powers.

Article 40 of the CPC Regulation provides that the Commission has to submit a report to the European Parliament and the Council on the application of the CPC Regulation. This report shall contain an evaluation of the application of the CPC Regulation and assess the effectiveness of enforcement of EU’s consumer protection laws under the Regulation, in particular regarding the powers of the competent authorities. It should also examine how compliance by traders has evolved in key consumer markets impacted by cross-border trade. If necessary, the report should be accompanied by a legislative proposal.

In order to prepare the report, the Commission launched an external study³ (‘the study’) which included: a) desk research, b) interviews with national Single Liaison Offices (SLOs) and CPC authorities from 30 EU/EEA countries, c) online surveys replied by SLOs, CPC authorities, entities eligible to issue alerts and traders that have been subject to CPC coordinated actions and d) interviews with a wider range of stakeholders in the framework of case studies⁴. The findings of this report are based on data collected within the study.

¹ Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).

² Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (OJ L 364, 9.12.2004, p. 1).

³ “Information gathering for assisting the European Commission in complying with its obligations under Article 40 (“reporting”) of Regulation (EU) 2017/2394 on Consumer Protection Cooperation” - <https://op.europa.eu/en/publication-detail/-/publication/f3eb3b4c-e819-11ee-9ea8-01aa75ed71a1/language-en>

⁴https://commission.europa.eu/publications/information-gathering-assisting-european-commission-complying-its-obligations-under-article-40_en

2. The CPC Regulation in short

2.1. Scope and objectives

The CPC Regulation provides (Articles 1 to 3) a framework that allows national consumer protection (CPC) authorities to cooperate and coordinate their work to enforce Union consumer law in a strong and consistent manner in the Single Market. Article 2 explains that the Regulation aims to tackle practices which are not compliant with Union legislation, and which have a cross-border dimension. The Regulation provides different cooperation procedures for the following categories of infringements: intra-Union infringements, widespread infringements and widespread infringements with a Union dimension.⁵ Union legislation that can be subject to such infringements is set out in the Annex to the CPC Regulation.

The main objectives of the CPC Regulation are to: 1) facilitate the effective and efficient detection of cross-border infringements; 2) facilitate the effective and efficient actions by CPC authorities to address those infringements; 3) support consistency in the approach to address the same practices in all Member States; 4) provide a single coordinated process to address widespread infringements and widespread infringements with a Union dimension⁶ and contribute to a level-playing-field for all businesses operating in the Single Market.

2.2. Activities

The CPC Regulation provides several mechanisms for CPC authorities and the Commission to exchange information and coordinate their investigative and enforcement measures within the CPC Network, consisting of national authorities responsible for enforcing EU consumer protection laws.

2.2.1. Mutual assistance requests

Mutual assistance requests (Articles 11 to 14) are: i) requests for information from the CPC authorities of one Member State to those of another Member State in order to establish whether a

⁵ Article 3(2): ‘Intra-Union infringement’ means any act or omission contrary to Union laws that protect consumers’ interests that has done, does or is likely to do harm to the collective interests of consumers residing in a Member State other than the Member State in which: (a) the act or omission originated or took place; (b) the trader responsible for the act or omission is established; or (c) evidence or assets of the trader pertaining to the act or omission are to be found.

Article 3(3): ‘Widespread infringement’ means: (a) any act or omission contrary to Union laws that protect consumers’ interests that has done, does or is likely to do harm to the collective interests of consumers residing in at least two Member States other than the Member State in which: (i) the act or omission originated or took place; (ii) the trader responsible for the act or omission is established; or (iii) evidence or assets of the trader pertaining to the act or omission are to be found; or (b) any acts or omissions contrary to Union laws that protect consumers’ interests that have done, do or are likely to do harm to the collective interests of consumers and that have common features, including the same unlawful practice, the same interest being infringed and that are occurring concurrently, committed by the same trader, in at least three Member States.

Article 3(4): ‘Widespread infringement with a Union dimension’ means a widespread infringement that has done, does or is likely to do harm to the collective interests of consumers in at least two-thirds of the Member States, accounting, together, for at least two-thirds of the population of the Union.

⁶ Articles 15-25.

cross-border infringement is occurring or has occurred in its territory (“requests for information”) or ii) requests to the CPC authorities of the Member State from which the infringement originated or where the trader is established or has assets to take all the necessary and proportionate enforcement measures to stop the infringement (“requests for enforcement measures”).

2.2.2. Alerts and external alerts

CPC authorities, the Commission and authorised entities, such as European Consumer Centres (ECCs) or consumer and trader organisations that are outside of the CPC Network but that have been empowered for this purpose by the Member States or the Commission, can exchange information on potential infringements by using alerts (Articles 17, 26, 27 and 28). There are different types of alerts depending on the need: alerts for information or alerts for action.⁷ The alerts are exchanged via the CPC-IMI system (an Internal Market Information (IMI) system managed by the Commission specifically to exchange various types of information among national authorities).

2.2.3. Coordinated actions

CPC authorities with the support of the Commission coordinate their investigation and enforcement actions (Articles 15 to 25) to tackle infringements of EU consumer laws that concern more than two (i.e., “widespread infringement”) or most of the Member States⁸ (i.e., “widespread infringement with a Union dimension”). In the case of reasonable suspicion of a widespread infringement with a Union dimension, the Commission can alert the CPC Network. National authorities have one month to examine available evidence and to decide whether to launch a coordinated action. Such actions are coordinated by the Commission.

Following the launch of a coordinated action, the authorities concerned discuss and agree on an investigation plan, work together on a common position containing their legal assessment of the practices that they consider are infringing the relevant substantive laws listed in the Annex to the CPC Regulation. The common position is subsequently transmitted to the trader concerned with a request to address the issues by committing to change their practices in order to bring them into conformity with law. Depending on the case, a dialogue generally takes place between the trader and the CPC Network during which clarifications can be provided and commitments discussed until CPC authorities are satisfied with the proposed commitments.

Where the trader responsible for the infringement does not commit to change its practices or where its commitments are insufficient or where it subsequently fails to respect them, CPC

⁷ Different types of alerts are: i) alert for information (Articles 26(1) and (2) and Article 28) can be used by Member States’ competent authorities if they suspect that an infringement in their territory may affect consumers in other Member States; ii) alert requiring verification (Article 26(4)) to ask competent authorities and the Commission to verify whether similar suspected infringements are taking place in other Member States, and/or whether any enforcement measures have already been taken and iii) alert linked to potential coordinated actions (Article 17 and Article 26) by which Member States’ competent authorities notify the Commission and other competent authorities if they suspect that an infringement with a potential Union dimension in their territory may affect consumers in other Member States.

⁸ Likely to harm consumers residing in at least two thirds of Member States, representing at least two thirds of the EU population.

authorities can take formal enforcement measures, including penalties, at the respective national level in a coordinated manner.

2.2.4. Sweeps

‘Sweeps’ (Article 29) constitute concerted investigations of consumer markets through simultaneous coordinated control actions in order to detect possible infringements. Until now, sweeps have taken the form of screening of websites which CPC authorities carry out simultaneously to verify the websites’ compliance with consumer law or to detect infringements. Unless agreed otherwise by the competent authorities, sweeps are coordinated by the Commission. While the participation in a sweep is not mandatory, almost all CPC authorities usually participates. Following the screening, CPC authorities take appropriate follow-up actions, where necessary in a coordinated manner, to obtain additional evidence and ask traders to correct the situation and ensure compliance.

2.2.5. Other activities

Pursuant to Article 30 of the CPC Regulation, Member States are encouraged to inform one another and the Commission to coordinate and jointly organise other activities such as training of officials involved in the application of the CPC Regulation, the collection, classification and exchange of data on consumer complaints, the development of sector-specific networks of officials and development of information and communication tools.

3. Key market developments since the adoption of the CPC Regulation

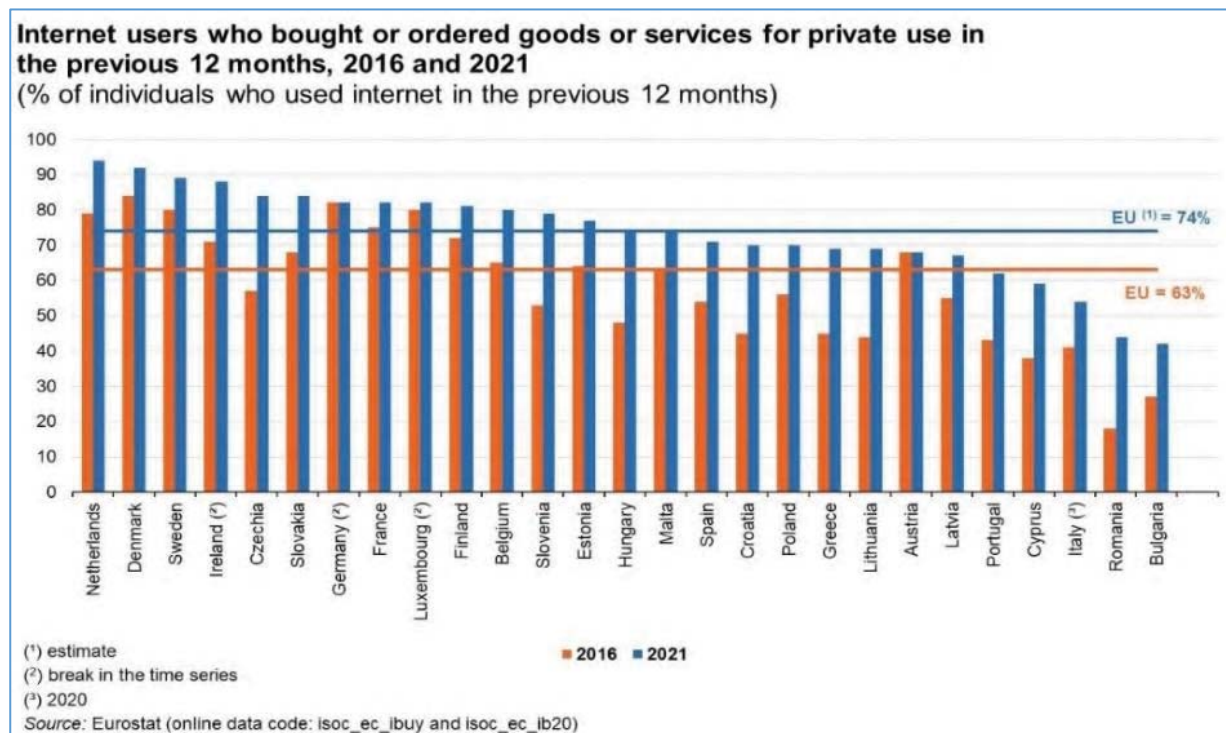
Within the broader world level trends of increased globalisation, digitalisation and the green transition, EU consumer markets have considerably evolved, and the behaviour of consumers has changed significantly since the adoption of the CPC Regulation in 2017.

These new trends have resulted in a greater likelihood of consumers to be exposed also to illegal practices and have thus increased the need for cooperation among CPC authorities. A major issue for enforcers is the increase in the level of non-compliance with EU consumer law and in particular: i) a higher proportion of infringements relating to purchases made online ii) a significant number of consumers being affected by illegal practices originating from traders who target the EU market without having an establishment or assets in the Union iii) various issues stemming from newly emerging online business models that are becoming more and more complex, in particular by blending various technologies such as the collection, processing and analysis of personal data, the use of AI, Internet-of-Things (IoT).

3.1. Quick growth of e-commerce, online advertising and market concentration

The expansion of e-commerce has accelerated during the COVID-19 pandemic. The Global e-commerce, which amounted to USD 4.25 trillion in 2014, is expected to reach USD 7.39 trillion in 2025⁹ (i.e., more than the values of the combined GDP of France and Germany), representing an increase of 74%. Over the same period, world retail trade is predicted to increase by only 34%¹⁰, as a result, the market share of e-commerce is increasing every year by 1 percentage point on average.

In 2021, the average percentage of internet users in the EU who purchased goods or services online at least once was 74%, up from 63% recorded in 2016. As illustrated by the below figure, over the period 2016-2021, national disparities in e-shopping have been levelled out, largely due to the rapid acceleration of e-commerce growth fuelled by the pandemic.



The share of the enterprises' turnover from e-commerce in the EU rose from 16% in 2016 to 20% in 2021; for large enterprises alone, it grew from 22% in 2016 to 27% in 2021.¹¹

⁹ eMarketer. "Retail e-commerce sales worldwide from 2014 to 2026 (in billion U.S. dollars)." Chart. July 29, 2022. Statista. Accessed January 10, 2023. <https://www.statista.com/statistics/379046/worldwide-retail-e-commerce-sales/>.

¹⁰ Estimate based on eMarketer. "Total retail sales worldwide from 2020 to f2025 (in trillion U.S. dollars)." Chart. February 3, 2022. Statista. Accessed January 11, 2023. <https://www.statista.com/statistics/443522/global-retail-sales/>.

¹¹ Eurostat, Share of enterprises' turnover on e-commerce - %, <https://ec.europa.eu/eurostat/databrowser/view/tin00110/default/table?lang=en>. Online data code: TIN00110.

The contribution of e-commerce sales to the EU's GDP (i.e. e-GDP), rose from 2.5% in 2017 to 4% in 2021.¹²

E-commerce is further characterised by a growing concentration of online retail and marketplace business. In 2021, the most visited online trader worldwide – Amazon – recorded 5.2 billion visits (taking into account all regional versions of the website), while the second most visited trader – eBay – had 1.7 billion visits. In comparison, the 10th ranked trader, China's Pinduoduo, had only 242 million visits and the 80th ranked trader, Denmark's dba, recorded 13.5 million visits.¹³

Marketing of goods and services sold both online and in brick-and-mortar shops is also increasingly carried out via digital channels. In 2021, the expenditure in digital advertising worldwide accounted for 65% of the total advertising revenue, and estimates indicate a continued growth trend, reaching 70% by 2025. Like the trends of e-commerce, the advertisement market is also highly concentrated: in 2022, Google and Meta alone accounted for about 53% of the global spending on advertising, an increase from 46% recorded in 2016.¹⁴ Amazon and TikTok have also seen a rapid rise in their global advertising share, while the share of traditional media advertising continues to experience a constant decline.¹⁵

3.2. Increased cross-border shopping, including from non-EU traders

In 2021, 18% of EU citizens engaged in transactions with traders based in another Member State, while this rate rose to 32% among regular e-commerce participants – i.e., those who purchased goods or services online in the preceding three months. Corresponding figures for 2020 were 16.5% and 31%. The increased rate of cross-border shopping also encompasses transactions between consumers residing in the EU and traders established outside of the EU, with 12% of consumers and one in five regular e-shoppers making purchases from non-EU traders both in 2020 and 2021.¹⁶

¹² 2021 European E-Commerce Report, [2021-European-E-commerce-Report-LIGHT-VERSION.pdf](https://ecommerce-europe.eu/2021-European-E-commerce-Report-LIGHT-VERSION.pdf) (ecommerce-europe.eu).

¹³ WebRetailer, <https://www.webretailer.com/b/online-marketplaces/>.

¹⁴ eMarketer, <https://www.emarketer.com/content/duopoly-still-rules-global-digital-ad-market-alibaba-amazon-on-prowl>.

¹⁵ For further information see here: [Google and Meta's Advertising Dominance Fades as TikTok, Streamers Emerge - WSJ](#)

¹⁶ Eurostat, Internet purchases - origin of sellers (2020 onwards), https://ec.europa.eu/eurostat/databrowser/view/ISOC_EC_IBOS_custom_3007818/default/table?lang=en. Online data code: ISOC_EC_IBOS.

3.3. Emerging digital business models

In the past decade, digital business models have undergone significant changes, primarily due to the dominance of “free of monetary payment” online services that monetize personal data. Most recently, also due to the rapid advancements in services powered by Artificial Intelligence. While these developments enable traders to offer unique shopping experiences with personalised offers, they may exploit consumers' limited digital literacy, leading to manipulation and misuse of their personal data. Especially young consumers, given the significant amount of time they spend online and the vast amount of commercial content they encounter, are susceptible to fall victim to manipulative practices online, as entertainment and advertisements become completely intertwined in digital spaces.

Furthermore, social media platforms are increasingly used to market goods and services notably via influencers.¹⁷

Examples of marketing practices on social media platforms

In 2021, Shopify and TikTok joined forces to create TikTok Shopping, a ready-to-use web shop for TikTok content providers and especially influencers. TikTok users can buy products without having to leave the platform and are able to make quick purchases following recommendations made in video posts. This business model is called ‘livestream shopping’.¹⁸ Shortly after, Twitter and Meta (Facebook and Instagram) followed suit. In 2022, Twitter launched ‘Twitter Shops’, which works similarly to TikTok Shopping,¹⁹ while Meta allows now for Facebook and Instagram user accounts to be linked to Shopify accounts and act as shopping channels.²⁰ These emerging business models must abide by applicable legislation, such as among others on consumer protection. However, questions arise on whether public authorities are equipped and well-prepared to monitor such markets.

3.4. Misleading sustainability claims

Consumers are nowadays increasingly interested in the impacts the goods and services they buy have on the environment. In response to this trend, most traders seek to improve the sustainability of their products. However, this trend has also led to the rapid development of various “greenwashing techniques”, which involve providing false or misleading information to make their products appear more environmentally friendly than they are.

¹⁷ Statista, 2021, Influencer marketing market size from 2016 to 2021. Available at: <https://www.statista.com/statistics/1092819/global-influencer-market-size/>.

¹⁸ Simpson E. (2021). TikTok jumps on online shopping bandwagon, BBC, available at: <https://www.bbc.com/news/business-59563238>.

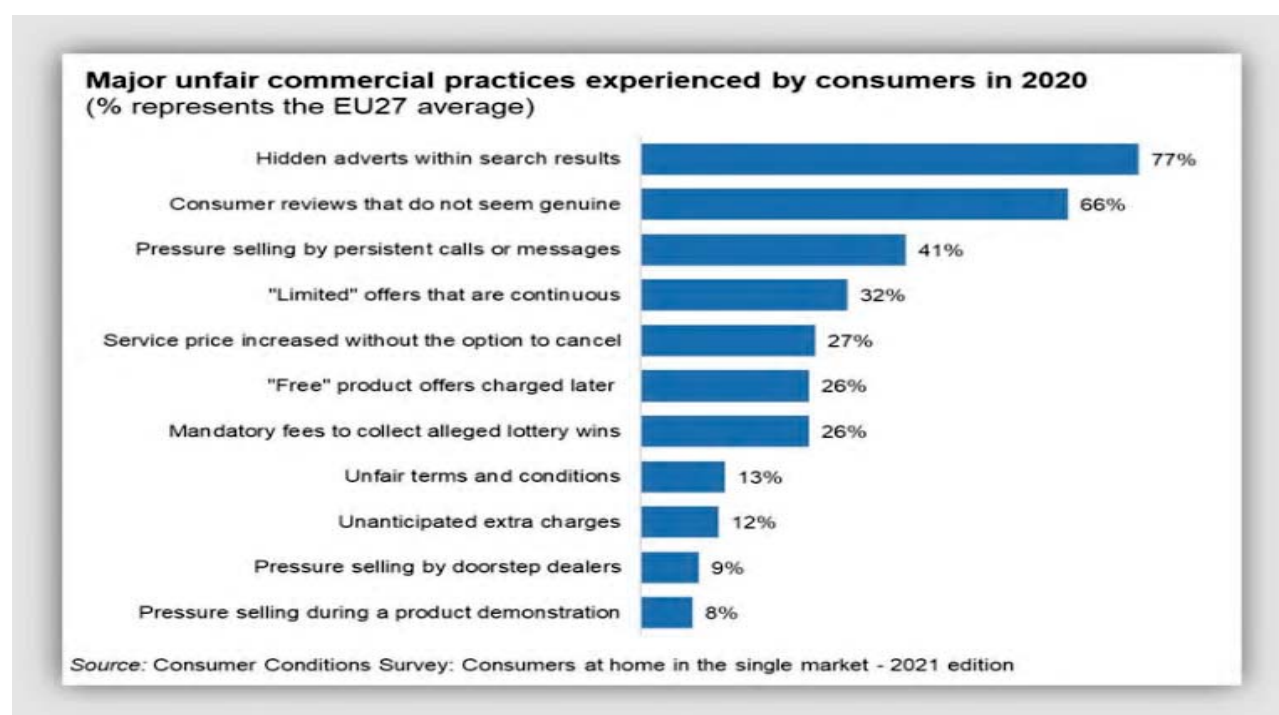
¹⁹ Ibidem.

²⁰ Shopify. Grow your business with Facebook and Instagram — from one place, available at: <https://www.shopify.com/facebook-instagram>.

Consequently, consumers' confidence in green claims is eroding. While the majority of consumers feel confident with respect to claims made about the environmental credentials of the products they buy (56% of consumers agree/strongly agree that these claims are reliable), 39% of consumers, according to the 2023 Consumer scoreboard, disagree/strongly disagree that environmental claims are reliable.²¹ The results represent a weakening in confidence levels compared to similar data collected in 2020, with the share believing in the reliability of environmental claims dropping almost by five percentage points.

3.5. High rate of non-compliance with EU consumer law and rapid proliferation of infringements across market sectors

In 2021, 37% of EU e-shoppers reported experiencing a recent problem with their online shopping other than late delivery.²² At least two out of three consumers encountered unfair commercial practices such as hidden advertisements or consumer reviews that did not appear genuine, when searching for or buying products online.²³



²¹ https://commission.europa.eu/document/89ea35fe-728f-4749-b95d-88544687583c_en, page 18.

²² E-commerce statistics for individuals, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=E-commerce_statistics_for_individuals#Purchasing_online_and_problems_encountered.

²³ See Consumer Condition Survey: Consumers at home in the single market – 2021 edition, available here: https://commission.europa.eu/system/files/2021-03/ccs_ppt_120321_final.pdf

The Commission's behavioural study on dark patterns²⁴ revealed that 97% of the 75 most popular websites and apps used by EU consumers employed at least one dark pattern, i.e. a practice in digital interfaces that potentially deceives, manipulates or otherwise materially distorts or impairs the ability of recipients of their service to make free and informed decisions.²⁵ A sweep carried out in 2022 by the CPC Network, under the coordination of the Commission, on a broader sample (399 websites) found that 37% of those websites were using dark patterns.²⁶

Moreover, as shown in the table below, a large proportion of web shops screened by CPC authorities in the context of recent sweeps show a high proliferation of non-compliant practices.

Results of sweeps

Online markets swept after the application of the CPC Regulation 2017/2394 (January 2020)	Number of websites investigated	Non-compliance rate
Sweeps on consumer scams related to the COVID-19 pandemic 2020	<i>High-level screenings</i> 73	31.5%
	126	30.2%
	<i>In-depth sweep</i> 268	76.9%
Sweep on misleading sustainability claims (2020)	344	Nearly 50%
Mini sweep on consumer credit (2021)	118	36%
Sweep on online consumer reviews (2021)	223	55%

²⁴ Behavioural study on unfair commercial practices in the digital environment: Dark patterns and manipulative personalization, European Commission, written by a consortium led by Open Evidence (2022), <https://op.europa.eu/en/publication-detail/-/publication/606365bc-d58b-11ec-a95f-01aa75ed71a1/language-en/format-PDF/source-257599418>.

²⁵ Among the most prevalent types of dark patterns found in the research were (1) hidden information/false hierarchy, (2) preselection, (3) nagging (e.g. pop-ups to invite other people or to deposit more money into a website), (4) difficult cancellations, and (5) forced registration.

²⁶ Press corner available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_418.

Part II: Results of the evaluation regarding the application of the CPC Regulation

The following sections summarise the results of the external evaluation requested by the Commission in 2022 and examine the points mentioned in Article 40(2) of the CPC Regulation. As explained in section 1, the external study²⁷ ('the study') gathered the evidence through: a) desk research, b) interviews with national Single Liaison Offices (SLOs) and CPC authorities from 30 EU/EEA countries, c) online surveys replied by SLOs, CPC authorities, entities eligible to issue alerts and traders that have been subject to CPC coordinated actions and d) interviews with a wider range of stakeholders in the framework of case studies²⁸.

4. Main objectives of the CPC Regulation

4.1. Detection of infringements

The study shows that the CPC Regulation facilitates the detection of cross-border, widespread and EU-wide infringements. Single Liaison Offices (SLOs) and CPC authorities recognise in online surveys and interviews that the network set up by the Regulation is more effective than bilateral cooperation agreements between individual Member States.

Sweeps are considered an effective tool for detecting infringements, as they provide for the possibility to discover infringements that CPC authorities would not have identified otherwise. They require a relatively small amount of time from CPC authorities, are easily performed and bring positive results, thus resources are used efficiently in the framework of sweeps. The benefits of coordination and exchange of experience among authorities within the sweep process was also highlighted as providing the authorities with better understanding of the implementation of the relevant legislation in other Member States. Some authorities however have suggested that the follow-up on sweeps should be carried out by the CPC network in a more systematic manner, including, where necessary, by launching coordinated enforcement actions.

Alerts have increased the effectiveness of the detection of cross-border infringements. Most CPC authorities consider that alerts create awareness of cross-border issues and facilitate the launch of effective enforcement actions. Several CPC authorities also highlight the added value of alerts in identifying trends in cross-border infringements which help them to anticipate potential future infringements. Furthermore, the CPC authorities find the information from alerts useful in setting their future priorities and strategies. The use of external alerts, i.e., alerts submitted to the CPC

²⁷ "Information gathering for assisting the European Commission in complying with its obligations under Article 40 ("reporting") of Regulation (EU) 2017/2394 on Consumer Protection Cooperation" - <https://op.europa.eu/en/publication-detail/-/publication/f3eb3b4c-e819-11ee-9ea8-01aa75ed71a1/language-en>

²⁸https://commission.europa.eu/publications/information-gathering-assisting-european-commission-complying-its-obligations-under-article-40_en

network by entities outside of the CPC network, e.g., European Consumer Centres (ECCs) or consumer and trader organisations, that have been empowered for this purpose by Member States or the Commission, remained somewhat limited.²⁹ Most organisations that have issued external alerts and CPC authorities that have received external alerts, however, consider them to have improved the detection of and subsequent enforcement by the CPC network against cross-border infringements.

4.2. More consistent enforcement of consumer law

The overwhelming majority of SLOs and CPC authorities indicated that the Regulation enhances and increases the consistency of enforcement of consumer protection law through coordinated actions. This, in turn, contributes to a level-playing-field for traders and the smooth functioning of the EU's single market. At the same time, it should be noted that not all SLOs and CPC authorities actively participate in coordinated actions, mainly because of limited resources or the lack of relevance of the case in the particular country.

SLOs and CPC authorities recognise the positive impact of coordinated actions especially for tackling infringements involving multinational companies. The power of having CPC authorities from several countries working together translates into higher pressure on traders to change their practices compared to the pressure exerted by a single country's consumer protection authority. Especially smaller countries consider this effect important.

The evidence from the six case studies being an integral part of the external evaluation confirms the positive impact of coordinated actions on the cross-border enforcement of consumer law. For example, in the coordinated action against 16 airlines³⁰, which was the first very large, coordinated action, all but one trader committed to implement all the measures requested by the CPC Network. Stakeholders interviewed in the context of the study³¹ consider that this action resulted in a concrete and effective solution for the consumers concerned.

²⁹Only around half of the entities entitled to submit external alerts make use of the mechanism. The main reasons seem to be: i) some organisations prefer to alert the authorities directly rather than through the system ii) some organisations did not face relevant infringements to report iii) lack of information on the trader to be able to issue an alert or the perception that the procedure is complicated.

³⁰https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/air-travel_en

³¹ Authorities, traders and consumer organisations.

Airlines' cancellation practices in the context of the COVID-19 pandemic

The COVID-19 pandemic took a heavy toll on the air travel sector in the EU. As a result of the restrictions on international travel introduced by governments worldwide, the overwhelming majority of European airlines' fleets were forcibly grounded almost overnight. In April 2020, there were 88% fewer flights in the EU than the equivalent month a year earlier. Monthly passenger numbers in the Union fell from 70 million in January and February 2020 to only 1 million in April, 99% fewer than in April 2019. Furthermore, it is estimated that around 50 million tickets were cancelled between March and May 2020.³² Given this exceptional situation many passengers found themselves ill-informed by airlines about their rights and many were not properly offered the choice to opt for a refund or re-booking in case of flight cancellations. As a result of the CPC coordinated action, 16 major airlines operating in the EU offered reimbursement in cash of all unused vouchers that were imposed on consumers.

The CPC coordinated action against AliExpress,³³ was successful and the company made EU-wide commitments to ensure that its practices and practices of sellers active on the platform respect EU consumer law. Also, in the coordinated action against five leading European car rental companies³⁴, all traders implemented the measures agreed with the CPC network. In addition, this action increased compliance across the entire sector.

4.3. Addressing the same malpractices spreading across the EU

The CPC Regulation ensures consistency in the approach to address the same widespread and EU-wide infringements concerning different Member States. SLOs and CPC authorities reported that the Regulation, notably through coordinated actions, helps consolidating diverging interpretations of the legislation in different Member States. The application of the CPC Regulation provides for higher chances of success and has a greater deterrent effect.

Regarding companies active in the same economic sector and engaging in the same or similar illegal conduct across the Single Market, SLOs and CPC authorities underlined a number of challenges, which the CPC Regulation can assist addressing efficiently, and which include the multiplicity of actors involved, repeated and systematic infringements, inconsistency of the approaches by different Member States in imposing penalties etc. Most SLOs and CPC authorities expressed positive views³⁵ about the effectiveness of the Regulation in addressing such infringements. Some SLOs and CPC authorities even consider that coordinated actions are

³²ECA Special Report 15/2021, page 13: [Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: \(europa.eu\)](#).

³³https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/market-places-and-digital-services_en#aliexpress-and-wish

³⁴https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/other-travel-services_en

³⁵ See page 72-73 of the study.

the only solution to address them. Some also highlighted that the results of CPC cross-border investigations set a precedent for similar lower size cases that should be addressed at the national level.

5. Effectiveness of the CPC Regulation in view of the recent evolution of consumer markets in the EU

As described in section 3, several consumer market trends have influenced and will continue to influence the landscape in which the CPC Regulation operates. The question which arises in this context is whether the CPC Regulation can effectively address the new challenges arising from these market changes.

In this respect SLOs and CPC authorities consider that the Regulation is sufficiently flexible and has the potential to deal with emerging business models and marketing practices, including in the digital sphere. SLOs and CPC authorities sharing this view consider that the minimum powers (see Article 9 of the CPC Regulation) make it possible to respond to emerging needs in an effective manner. The CPC network also provides a platform for information sharing allowing spreading of awareness about new market developments among Member States. However, a general issue of concern is the workload and time necessary to follow many coordinated actions in parallel, which could result from the rapid development of online activities by consumers.

SLOs and CPC authorities are also generally positive about how the CPC Regulation dealt with issues linked to the Covid-19 crisis. Most of them consider that the CPC Regulation is a flexible tool that could be used effectively to deal with crisis situations, such as Covid-19 crisis.

6. Shortcomings of the CPC cooperation framework under Regulation (EU) 2017/2394

Notwithstanding the positive contributions of the CPC Regulation to the fulfilment of its objectives, some shortcomings and areas for improved cooperation have been identified and transpired from the feedback collected from the authorities and various stakeholders.

6.1. Differing enforcement capacities at national level

The way resources are invested in cross-border enforcement at national level differs across the Member States and this means that not all countries are able to apply the CPC Regulation to the same degree. It also appears that SLOs and CPC authorities consider differences in resources as one of the main impediments to more effective enforcement cooperation. Countries where authorities have fewer resources process cases slower making the information provided less relevant and/or delayed. Some SLOs and CPC authorities indicated that the lack of resources prevents them from actively participating in CPC coordinated actions or sweeps.

6.2. Differences in the application of the CPC Regulation

It is for the CPC authorities of the Member States to enforce the laws protecting consumers stemming from EU Directives and Regulations. The differences in legal traditions of enforcing consumer law at the national level and different interpretations of certain provisions of the 2006 CPC Regulation, led to the fragmentation of enforcement. That was one of the main reasons for the adoption of the 2017 CPC Regulation. However, it stems from the interviews with Member States' authorities³⁶ that certain inconsistencies in enforcement across Member States still persist.

There are also many differences among Member States' authorities in the level of the discretion they enjoy in the investigation of complaints and in the approach towards traders suspected of infringement. Consumer organisations also pointed out³⁷ to the differences in approaches among authorities recognising at the same time the added value of the work of the network and the Commission to keep a certain level of harmonisation in the approaches.

6.3. Uneven use of alerts

While alerts among SLOs, CPC authorities, and the Commission are effective, there are certain areas for improvement. In some cases, SLOs and CPC authorities find the quality of information contained in alerts to be insufficient (e.g., missing crucial information, such as the name of the trader, the type of practice, etc.). Some SLOs and CPC authorities reported that they are overloaded by a high volume of alerts. Lack of consistency and harmonisation in handling alerts was also reported as a weak point, i.e., some CPC authorities investigate a case before sending an alert, while others never send an alert despite the case possibly having a cross-border dimension.

6.4. Difficulty to address infringements committed by traders established outside the Union

Most CPC authorities reported that they face challenges in resolving infringement cases when the trader is established outside the Union but targets consumers in the Union. Stakeholders consulted within a case study on e-commerce pointed out that some CPC authorities seem reluctant to go after companies that have no establishment in the Union.

The application of the CPC Regulation and the common minimum powers to traders not established in the Union raises questions on how to reach these traders and how to ensure their compliance when they do not respond to requests by the CPC network. The general perception is that the Regulation needs to be strengthened regarding such traders.

³⁶ See page 70 of the study.

³⁷ Ibidem.

6.5. Lack of deterrence of the CPC framework in the absence of straightforward fines

The deterrent effect of the Regulation was reported by CPC authorities in the interviews³⁸ to be reduced by the lack of stronger enforcement measures, as penalties have so far not been applied in CPC coordinated actions. Instead, CPC authorities gave preference to “negotiated outcomes” with traders accepting commitments to cease the infringement, even if this has often proven to be a rather lengthy process.

Despite the rules on fines for certain cases that are subject to CPC coordinated actions introduced in the context of the Better Enforcement and Modernisation Directive (EU) 2019/2161,³⁹ several SLOs and CPC authorities⁴⁰ suggested that further strengthening of penalties should be considered to improve the deterrent effect of the CPC system. Moreover, more communication around CPC coordinated actions could also increase the deterrent effect on other traders that apply the same or similar illegal practices.

6.6. Lack of capacities at the national level to detect emerging infringements

SLOs and CPC authorities pointed out that the CPC network does not necessarily have the right level of capacities and skills to identify and detect new types of infringements in the digital environment (e.g., IT and AI experts). Some SLOs and CPC authorities explicitly welcomed the EU e-Lab project⁴¹ and e-enforcement academy⁴² as steps into the right direction to improve the detection and enforcement of consumer protection in the digital environment. However, there was a consensus that more effort is required, as the use of specialised data technologies and analytic systems is becoming key for consumer enforcement.

³⁸ See page 81-82 of the study.

³⁹ Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules (OJ L 328, 18.12.2019, p. 7).

⁴⁰ Recommendations made during interviews with CPC authorities in five Member States.

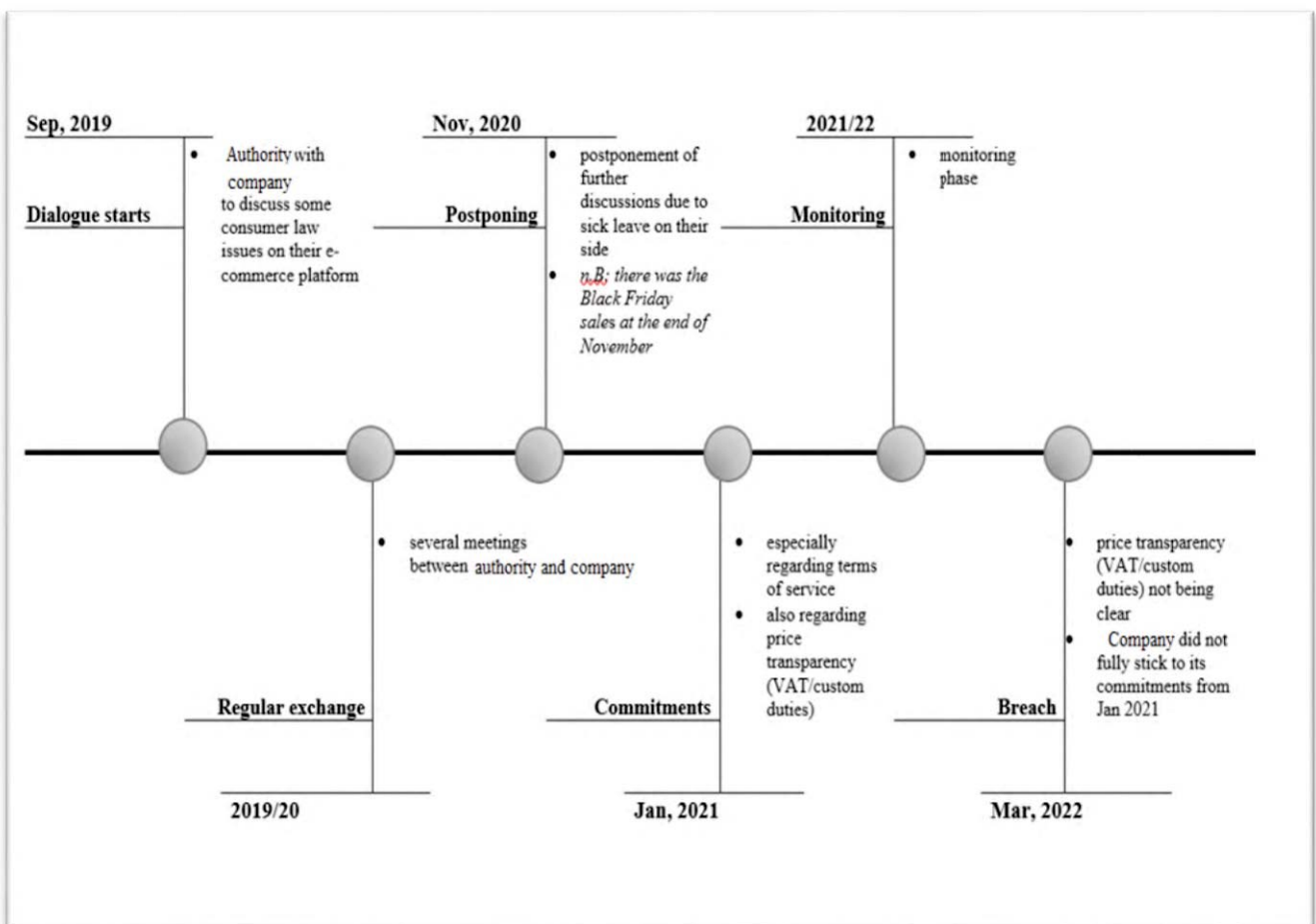
⁴¹ To support the authorities under the CPC Regulation, the Commission funded a project to set up an ‘EU e-Lab’ “as a platform that will provide a common toolbox that authorities can use to carry out online investigations and monitor dangerous products sold online”. This toolbox would include the deployment of “advanced IT solutions, using AI, data mining techniques and web crawlers”. See Communication from The Commission to the European Parliament and the Council on the New Consumer Agenda Strengthening consumer resilience for sustainable recovery Brussels, 13.11.2020 COM (2020) 696 final. It is financed by [Digital Europe Programme - Performance - European Commission \(europa.eu\)](#).

⁴² The e-enforcement academy provides state of the art training on online investigations to support the work of the Consumer Protection Cooperation (CPC) and Consumer Product Safety (CSN) networks. It is financed by the [Single Market Programme](#) based on Regulation (EU) 2021/690 of the European Parliament and of the Council of 28 April 2021 establishing a programme for the internal market, competitiveness of enterprises, including small and medium-sized enterprises, the area of plants, animals, good and feed, and the European statistics.

6.7. Lengthy CPC procedures

For the effectiveness of enforcement, it is important that it is timely. Some CPC authorities and other stakeholders, in particular consumer organisations, criticised the procedures and processes around coordinated actions as being too lengthy. Several months or years may elapse from the moment an action is launched to the moment the CPC network verifies the implementation of the commitments proposed by a trader. During this period consumers however continue to suffer from the consequences of the infringement.

The following chart includes an example of the timeline of an action (anonymised) from the beginning of the dialogues between the CPC Network and the trader concerned until the identification of additional breaches in the context of monitoring the correct implementation of the commitments.



CPC procedures were also criticised as not being flexible enough, in particular in cases when a fast reaction is necessary, i.e. for specific types of infringements which are widespread but short-lived as often is the case in digital markets, in relation to advertising campaigns or which are related to a crisis (see above box on airlines cancellation practices in the early stages of the COVID 19 crisis). In this respect, feedback from SLOs and CPC authorities and consumer organisations suggests that the CPC framework could be improved to allow for tailor-made fast track responses in specific cases (e.g., procedures for clear cut cases, infringements in the digital sphere like establishment of fraudulent s-shops, etc.).

7. Effectiveness of the minimum powers of the competent authorities set out in Article 9

Effective cross-border cooperation among competent authorities requires them to have at their disposal common set of minimum powers to collect the relevant information and to take the necessary enforcement measures. The CPC Regulation obliges therefore each Member State to ensure that their competent authorities can use the same toolbox of investigation and enforcement powers. It remains, however, a decision of each Member State to determine how the authorities can exercise their powers. The minimum powers are provided in Article 9 of the CPC Regulation and are divided into ‘investigation powers’ (Article 9(3)) and ‘enforcement powers’ (Article 9(4)).

While the Member States have ensured that the competent authorities have the minimum investigative and enforcement powers provided for in the CPC Regulation, some Member States’ authorities have reported⁴³ difficulties to apply them in practice or have reported to have never applied some powers. There is limited evidence on how CPC authorities have used the enforcement and investigation powers in practice. The feedback received from SLOs and CPC authorities suggests that, although CPC authorities are confident with exercising the powers, their use is hampered, in practice, by limited financial and human resources. SLOs and CPC authorities further underlined that the implementation of certain powers, such as the powers to carry out on-site inspections, mystery shopping, test purchases, or the power to take down websites are difficult to implement as they require extensive procedural steps, compliance with the GDPR, or they correspond to a role that cannot be practically fulfilled by consumer protection authorities on their own but would require the assistance of other authorities, e.g., the police for on-site inspections.

Some CPC authorities reported having issues with taking down websites of traders infringing consumer law, especially where those traders are established in third countries.

⁴³ See page 115, 116, 123, 129 and 130 of the study.

A more general point to consider is that the use of powers by the CPC authorities is also impacted by the differences in the legal traditions of enforcing consumer protection at the national level and the interpretations of substantive consumer rules or of the CPC Regulation itself (see section 6.2. above). To achieve a more consistent approach to the implementation of investigation and enforcement powers in practice, the Commission is providing continuous support and training, in particular via the e-enforcement academy and the e-Lab digital toolbox. SLOs and CPC authorities reported that they consider this support very useful.

8. Compliance by traders in key consumer markets concerned by cross-border trade

The objective of the CPC Regulation is to enhance consumer protection by improving traders' compliance with consumer laws and to ensure smooth functioning of the internal market.

Overall, SLOs and CPC authorities agree that the CPC Regulation facilitates consistent enforcement of EU consumer law across the EU. Especially coordinated actions have proven to be an effective tool for tackling systematic infringements and infringements involving multinational companies – working together as a network of several authorities from different countries increases pressure on traders concerned, as compared to authorities from one country acting alone.

SLOs and CPC authorities in half of the Member States interviewed for the purpose of the study⁴⁴ considered the CPC system to have a deterrent effect on traders. Other SLOs and CPC authorities were not sure about the deterrent effect or believed that it was limited.

CPC authorities, who agreed that the CPC Regulation has a deterrent effect, consider the increased cooperation and coordination by CPC authorities within the CPC network and with the Commission to make traders operating in several Member States more likely to abide by the rules due to the threat of being subject to a CPC action.

Several SLOs and CPC authorities however doubted that the CPC is well known to traders. They were also not sure whether traders were sufficiently dissuaded as until now there has been no coordination with respect to the imposition of penalties and fines under the CPC Regulation⁴⁵.

The case studies provided additional in-depth data on the question of traders' compliance focusing on specific consumer markets: air travel, vehicle rental, accommodation booking platforms, e-commerce websites and in-app purchases.

The CPC coordinated action against airlines resulted in fifteen of the sixteen traders agreeing to several commitments related to the way they deal with cancellations. The overall feedback from stakeholders (CPC authorities, airlines, consumer organisations) was that the action was effective. Airlines reported that they had changed their practices since the early stages of the

⁴⁴ CPC authorities interviewed in 11 Member States out of the 20 who provided an answer to the question.

⁴⁵ Page 82 and 115 of the study.

COVID19 pandemic but faced substantial reimbursement backlogs. The CPC action concerning many major airlines was an incentive to address these backlogs more expeditiously. Some airlines even went beyond their commitments and further improved their practices in informing consumers about cancellations and how they deal with reimbursement requests, thus improving their resilience to crises. The CPC airlines action was also instrumental in starting the process of discussing issues related to booking through intermediaries and led to a follow-up CPC action targeting major European airline intermediaries.⁴⁶

The CPC network has completed coordinated actions against three major online accommodation booking platforms and obtained commitments among others on the improved presentation of offers, discounts and prices to consumers, differentiation between private and professional hosts (with some differences of commitments depending on the platform).⁴⁷ All stakeholders considered this as a collaborative process which worked generally well. Traders consider that having one contact point instead of having to deal with all the Member States concerned was of great value added. In their view, the commitments ensured an EU-level agreement on expected commercial practices that online booking platforms could rely on and that could even be expanded across the industry. However, they consider the length of the procedure a weaker point, while, at the same time, also recognising the complexity of their internal processes, i.e., obtaining internal approval of commitments by various departments. The traders interviewed within Booking case study⁴⁸ considered that the main challenge for the CPC network is the need to find a common denominator in the commitments that was acceptable to all CPC authorities concerned by the coordinated action.

The CPC coordinated action in the car rental sector⁴⁹ led to an increase of compliance by traders involved in the action as well as other traders not targeted by the action that aligned their practices with the outcome of the coordinated action. However, the CPC action did not seem to have had the same spill-over impact on smaller traders and intermediaries operating exclusively at the national level. It therefore appears that the deterrent effect of the coordinated action is stronger vis-à-vis large well established international and national traders but has a more limited effect on smaller traders often operating in touristic areas.

The CPC network played an important role to ensure that traders developing the applications ('app') comply with consumer law. The 2014 common position on the transparency of in-app purchases⁵⁰ in online games was widely supported and resulted in important changes in the app

⁴⁶https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/air-travel_en#airline-intermediaries

⁴⁷https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/accommodation-booking_en

⁴⁸https://commission.europa.eu/publications/information-gathering-assisting-european-commission-complying-its-obligations-under-article-40_en

⁴⁹https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/other-travel-services_en

⁵⁰https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/market-places-and-digital-services_en#in-app-purchases

business models. In essence, app developers and app-stores increased transparency with regards to the existence, conditions and value of items that can be purchased in-app after downloading an app from the app-store. Industry representatives welcomed the centralised nature of the CPC common position considering that this approach contributes to a better level-playing-field for compliant traders. Since the app business has a cross-border dimension, fragmented decisions and individual actions by single CPC authorities would not have been able to produce the same positive effects. Strong cooperation between consumer authorities in the different Member States helps to ensure that a consistent approach is taken across the EU and often makes it easier for companies to comply with consumer protection rules.

Regarding the enforcement of consumer laws in the sector of e-commerce, almost all interviewed stakeholders (industry, NGOs, SLOs and different CPC authorities) consider CPC coordinated actions and sweeps to have only a limited positive impact. Most SLOs and CPC authorities observe that only companies that have directly been subject of CPC coordinated actions implemented changes to their practices, despite the fact that the commitments were publicly available to the entire sector. One of the main reasons for this, according to industry representatives, is the lack of information and communication about CPC activities, i.e., coordinated actions or sweeps. Most traders that have not been directly targeted by the CPC network, are most probably unaware of CPC actions or sweeps and how they could learn from them and improve their practices.

In the CPC coordinated action against Google⁵¹, CPC authorities asked the company to address issues related to their practices infringing the Geo-blocking Regulation (GBR).⁵² The importance of enforcement of the GBR by the CPC Network was stressed by the European Parliament in its resolution⁵³ calling on Member States to fully apply and enforce the Regulation, to act decisively against entities infringing it and, on the Commission, to strengthen its enforcement.

But even the compliance of companies directly concerned by a CPC coordinated action is not always satisfactory. While some companies offer and implement commitments to cease the infringement very fast, others employ various delaying tactics and/or address the concerns of the authorities only partially.

Moreover, as also explained above in section 6.4, reaching companies without any establishment in the EU is often difficult. Nonetheless, the perspective of facing numerous national enforcement actions pushes traders to enter into a dialogue with the CPC network. At the same time, some industry stakeholders pointed out that since voluntary participation in the CPC dialogue and commitments does not prevent national authorities from still taking enforcement actions within their jurisdiction, this may have a discouraging effect on traders and undermine

⁵¹https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/social-media-and-search-engines_en#google

⁵² Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 60I, 2.3.2018, p. 1).

⁵³ https://www.europarl.europa.eu/doceo/document/TA-9-2023-0473_EN.html

their trust in the CPC system. Consumer protection organisations on the other side noted that, while CPC coordinated actions address systemic issues, these actions are limited to only one or a few selected traders. To resolve this problem, the CPC network should consider taking, a horizontal, industry-wide approach that could cover several traders engaging in the same or similar illegal practices at the same time.

To conclude, the authorities considered the overall effect of the CPC Regulation as positive on traders' compliance. However, they also regret that, so far, no penalties have been imposed in a coordinated manner under Article 21(1) of the CPC Regulation. This clearly limits the CPC network's deterrence effect on traders. Furthermore, the deterrent effect tends to be stronger on large multinational traders, but less so on traders from third countries. CPC actions are often too slow and thus not effective enough to rapidly restore fair competition among all the traders selling in the EU.

Part III: Conclusions and the way forward

Stakeholders consider the CPC Regulation to have generally fulfilled its objectives to effectively enforce compliance with the EU laws set out in the Annex to that Regulation and to ensure the smooth functioning of the single market, to improve the detection of consumer law infringements by traders, the consistency of the enforcement of Union consumer law and to permit to address the same infringements committed by businesses in several Member States.

The cooperation under the Regulation provided added value to national consumer authorities, which acting together improved their efficiency and managed to deal with many EU level infringements committed by large businesses. By providing a set of harmonised procedures to address infringements affecting several or most Member States, the CPC Regulation also significantly increases the efficiency of consumer law enforcement. Without the CPC system, the consumer protection authorities of each Member State would be required to engage in parallel proceedings against the same trader at their respective national level, which would certainly result in higher costs and most likely, due to different national enforcement traditions could potentially lead to diverging interpretations of the harmonised rules protecting consumers.

Traders that were targeted by a CPC action appreciated to be involved in a common and centralised dialogue rather than having to deal with potentially 27 different consumer authorities in the EU Member States.

Consumer representatives, however, consider that the CPC Regulation is insufficient to significantly decrease the harm suffered by consumers in the medium term. In particular, they consider that, since the adoption of the CPC Regulation (EU) 2017/2394, the fast evolution of consumer markets, together with the fast-progressing green- and digital transition, have led more and more consumers being exposed to new threats, both online and in relation to “green washing”. As a result of these recent market developments, a high level of prevalence of illegal practices characterises EU consumer markets while CPC authorities face new enforcement challenges that reduce their capacity to effectively coordinate their enforcement actions under the framework provided by the CPC Regulation (EU).

These enforcement challenges include:

- The procedures governing coordinated enforcement actions are long and cumbersome, thus not optimal for digitalised markets which evolve very fast.
- Digitalisation and evolving business models allow illegal practices to spread more easily and much faster across borders.
- Large, multinational traders have a strong impact on the overall level of compliance of entire economic sectors, such as online travel services, e-commerce or entertainment.
- New business models are fuelled by emerging technologies, such as virtual worlds and AI, and require enforcement authorities to develop specialised expertise at national level.
- The application of the CPC Regulation to traders without establishment or assets in the EU/EEA who target consumers residing in the EU should be more straightforward.

- The effectiveness of the CPC Regulation is hampered by differences in the capacity of national authorities to deal with CPC cases, due to limited resources, diverging interpretations of the rules of the Regulation and of EU consumer rules, and differences in the implementation of minimum investigation and enforcement powers.
- Due to difficulties experienced by CPC authorities to effectively coordinate the imposition of fines in the context of coordinated actions, the deterrent effect of the CPC Regulation remains limited.

It is likely that these observed market trends will continue in the future posing similar challenges to enforcement authorities across the Union. It is therefore essential to start a reflection on how to strengthen further the CPC Regulation, in particular by considering the following questions:

- How the application of the Regulation to third-country traders targeting consumers from outside the EU could be clarified.
- Whether there is a need to adapt CPC procedures so that they function effectively also to investigate and address infringements that have particularly high impacts on the EU's Single Market or that affect entire business sectors.
- Whether any additional measures are required to ensure more consistent enforcement of consumer law and more effective deterrence of the CPC Regulation, including an enhanced role for the Commission, thereby improving consumers' collective interests in the Single Market.
- How to increase the availability of e-enforcement tools actionable at the EU level and at national levels by the Commission and CPC authorities.

To determine the best possible way to use the CPC framework for the benefit of a smooth functioning of retail markets in the EU, the Commission is currently carrying out impact assessment studies. These examine the full range of options available for addressing the enforcement challenges of the future described in this report in order to decide whether to maintain the current framework or to introduce new legislation. This should lay the ground for the Commission to decide on the most effective policy response.