

CPN Newsletter

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[first from the left]

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Dear colleagues,

We are pleased to send you the first issue of the CPN-CPC Newsletter. This newsletter has been elaborated in the framework of the Franco-Portuguese joint action dedicated to the "Visibility of the CPC network", with the very active participation of our colleagues from Latvia who have defined the design of this document.

This Newsletter follow different goals : to improve the knowledge of the CPC network activities amongst its members, to share experiences of our offices on enforcement and on consumers' information or education, to create links between the CPN and the CPC network.

In this first issue, we present you different columns (Case courts, Presentation of an authority, Consumers' education campaign, Experiences of enforcement...) that you will find regularly in the Newsletter and that allows a diversity of articles. You will learn notably of a case of false promotion tours in Austria, a case of denied boarding pending before the Finnish Supreme Court, an educational campaign addressed to consumers in Malta, the organization and action of the Italian Competition authority, an experience of "Price watches" in Cyprus.

We hope that you will enjoy to read this newsletter which will be improved in its content and its presentation as it comes out. We will pay attention to your comments or suggestions on this point. Don't hesitate to share with us your point of view.

We wish you a pleasant and beneficial reading!

Merry Christmas !

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High-Level Meeting

"Enforcement of the Economic Rights of Consumers in the Internal Market"

(Brussels, 22 September 2010)



"Participants agreed that cross-border enforcement cooperation needs to be improved according to the agreements made."

The Belgian Presidency of the European Union has, with the support of the Commission, organized a high-level meeting on the enforcement of consumers' economic rights in the internal market. The purpose of the conference was to address the issue of equal enforcement of consumers' economic rights in the internal market by rounding up the current state of play and launching a discussion and reflection about mid-term expectations and corresponding strategies to be adopted.

The High-Level Meeting showed that cross-border enforcement of consumers' economic rights should be placed high on the agenda, as it touches on consumer confidence in the internal market and therefore the success of the internal market. On the issue of **"fragmentation in**

legislation", legal experts shared the view that a directive-based consumer *acquis*, with different transpositions in Member States, has drawbacks if we wish to have uniform enforcement in the internal market. It could be examined whether a regulation-based approach would be more beneficial. In any case more attention should go to conceiving enforceable rules, both equal on the national and the European level. The importance of having good and thus coordinated legislation, conceived to be enforceable, was underlined. The principle of taking consumer protection into account throughout all policy fields should be taken more at heart, both by the Member States and by the European Commission in their respective internal coordination mechanisms.

Regarding the issue of **"coordination"**, participants admitted that the sector-based approach for consumer policy initiatives does not facilitate coherent enforcement. It has been put forward that a greater role for the Commission in coordinat-

ing the enforcement of pan-European practices would be necessary as this problem is currently insufficiently addressed. It could imply that the Commission obtains broader powers to set up coordinated enforcement actions at European level. Legal experts maintained that the principle of subsidiarity would not necessarily constitute an impediment to this. Enforcement experts do see the benefit of such an approach.

It was discussed and confirmed that priority setting is essential to effective enforcement. The mechanisms to do this are currently not at all coordinated. The occurring priority conflicts in cross-border enforcement weaken the capability of CPC to develop fast and effective striking power against occurring malpractices.

Participants agreed that cross-border enforcement cooperation needs to be improved according to the agreements made. More clarity about procedures and hindering issues such as the determination of applicable law has to be addressed.

The Supreme Court of Finland to give a ruling on denied boarding

The Finnish Consumer Ombudsman took Finnair to court over the interpretation of article 4 on denied boarding of Regulation 261 on air passenger rights. Finnair had denied boarding to a passenger bound from Barcelona to Helsinki, having given priority to passengers who had been stranded in Barcelona earlier due to flight cancellations flowing from a local strike. Finnair refused to pay compensation to the passenger whose boarding it had denied, arguing that it had been justified in doing what it did and that article 4 on denied boarding only covered overbooking situations, where boarding had been denied for

commercial reasons. It further argued that its rearrangement of passenger list of the flight in question amounted to cancellation in force majeure circumstances rather than denied boarding, despite the flight in question leaving with the same flight number as planned.

The District Court of Helsinki found in favour of Finnair in December 2008. The Appeal Court of Helsinki overturned this ruling 31 August 2009, accepting the arguments of the Finnish Consumer Ombudsman that a rearrangement by an airline of the list of passengers admitted aboard the

aircraft to the benefit of stranded passengers, but resulting in denied boarding of other passengers, who had fulfilled all the conditions laid down in article 3(2), constituted denied boarding for purposes of article 4 of Regulation 261.

The Supreme Court of Finland has admitted the case for hearing, as it will have precedential value. The case is currently pending and it remains to be seen whether the Court will deem it necessary to make a referral to the European Court of Justice for a preliminary ruling on the interpretation of denied boarding.

Unsolicited mails with vitamin products



Ministry of Economy and Construction of the Slovak republic received lately higher number of complaints from consumers about aggressive marketing practices, concerning unsolicited letters offering vitamins - Omega 3 for free. If consumers did not cancelled the future automatic order, they had to pay for the next package, including sanctions in case they did not pay on time.

The company is not registered in Slovak republic and contact information on the web are not working (telephone is busy and mail

sent by consumers with demand of cancellation was not accepted). Some consumers received letters from execution companies in case that they did not accepted the order and because even when they already cancelled the future orders, the company continued to send them the vitamins.

Slovak consumers are protected:

- According to Act 147/2001 Coll. on Advertising and change and amendment of some laws,
- § 3m, advertising must not infringe the rights of consumers without their consent
- According to Act 108/2000 Coll. on Consumer protection in respect of doorstep selling and distance selling §11, it is forbidden to sell the goods or services by seller, without ordering them by consumer.

Even if company initiate this marketing practice, consumer is not obliged to accept and pay those products or services.

Ministry of Economy and Construction of the SR launched a marketing and information campaign on TV, radio, media and also created an information page on the website of Ministry, with advise consumers on how to react on that specific type of advertising. Enforcement request was sent to the Czech Republic through CPC system (Czech Republic country where is company based).

Czech Republic starts the investigation in that case and we also received alert notification from other countries of EU, which have the same problem with the same company.

A Cyprus success story on Price Watches

Since the end of 2007, the Competition and Consumer Protection Service of the Ministry of Commerce, Industry and Tourism of Cyprus carries out investigations in the form of Price Watches presented in a table form showing, in a comparative and transparent manner, the retail prices of various consumer goods on a weekly basis. These tables are made known to the public by being publicized both in the daily press and the website of the Ministry. Such Price Watches are differentiated according to the type of retail stores from where prices are collected i.e. hypermarkets, supermarkets, vegetable and fruit stores, bakeries, butcheries and petrol stations. Furthermore, it has been deemed

useful to develop specialized Price Watches concerning either specific products such as gas or seasonal particularities such as Christmas and Easter meat and confectionary products.

The implementation of Price Watches has been proved beneficial for both consumers and retailers. On the demand side, the wide dissemination of the cheapest categories of products, together with individual products, provides consumers with a useful tool. Consequently, consumers are able to make rational choices in terms of the cheapest categories of products. On the supply side, the comparative and transparent dissemination of consumer prices increases competition among retailers, thereby keeping prices at

low levels for the benefit of consumers and the economy as a whole. It is evident that since the initiation of Price Watches, there has been a reduction in the price differentials between the cheapest and the most expensive shop by 12 percentage points, from 22% to 10%.

The Ministry nowadays considers new and innovative ways of expanding and further developing Price Watches. Hence, the Ministry is planning to develop an IT-tool which will enable consumers, via the Ministry's website, to compare and contrast prices among different sellers on a daily basis, thereby enabling them to choose the cheapest basket of consumer goods.

Questions to the readers of the Newsletter:

Is this phenomenon also known in other MS?

Which strategies exist in other MS against such practices?

Is there a need for action on EU level?

Strategy of promotional tour operators around the European Union

Have you already received a nice invitation to participate on a free day trip with an acclimatized bus to an attractive place of excursion with a lot of free of charge offers (including a gratis lunch with a filled hamper or even a promise that you have won a prize – often money in cash)?

At least in Austria, Germany, Hungary and Switzerland such dubious promotion tours combined with sales events take place every day. They have even become a prosperous branch of the black economy.

How do such problematic promotion tours work?

The consumers register via reply card on written invitations on such an event and on the day of the presentation they are picked up by bus and are

brought usually in a restaurant or hotel abroad in which they are offered a meal during which they are persuaded by false promises to buy extremely overprized products and services. Very often travel packages are sold without a confirmation of protection against insolvency. Rights of withdrawal are often ignored and companies cannot be reached because they communicate only a P.O. Box. It is therefore very difficult for consumers to assert their legal claims against such companies. Geographical diversion is also problematical. Presenters are extremely well trained in various psychological techniques and put a great pressure on consumers to buy their products or sign a contract.

IN SPOTLIGHT



The Autorità Garante della Concorrenza e del Mercato (Italian Competition Authority, hereinafter also referred to as “AGCM”) is the Italian competition and consumer-protection authority.

As regards, more specifically, the area of consumer protection, the AGCM is competent for the enforcement of the EU UCP Directive No 29/2005, transposed in Italy by Legislative Decree No 146/2007; the AGCM may therefore investigate

unfair commercial practices, acting ex officio as well as upon request by any concerned individual or organisation. The AGCM can prohibit the current or future dissemination of commercial practices which have been found to be unfair and can impose fines ranging from 5,000.00 Euros to 500,000.00 Euros, depending on the seriousness and duration of the infringement. The AGCM is also the competent Authority, under Regulation 2006/2004, for providing cooperation in the enforcement of the UCP Directive against intra-community infringements. The UCP Directorate of the AGCM counts 67 employees.

Consumers, as well as their associations, can submit complaints by mail, fax or by contacting the Contact Centre Directorate on a toll-free number. Since the implementation of the UCP Directive (September 2007), the AGCM received more than 22.000 complaints and carried out about 500 proceedings, as a result of which approxi-

mately 408 infringements were established and nearly 80 million Euros of fines were imposed.

The AGCM has taken part in the four past sweeps launched by the Commission; in particular, in relation to the 2008 sweep concerning multimedia contents for mobile phones, the AGCM carried out four formal investigations ascertaining an infringement and imposed fines for some 2 million Euros. This sweep activity prompted the AGCM to request an enforcement measure through the CPC system to Germany and in parallel two requests were received by German and Hungarian counterparts.

For further information please visit the AGCM's website www.agcm.it, or contact Ms Melpignano marlene.melpignano@agcm.it tel. 0039 0685821262.

CONSUMER AFFAIRS DIRECTORATE (MALTA)

WORLD CONSUMER RIGHTS DAY -SUMMARY OF ORGANISATIONAL SETUP

The objective of this activity is to create awareness amongst consumers about their eight basic consumer rights. The general public is thus made aware of the rights and responsibilities according to consumer protection legislation emanating from these rights. It is within this perspective that the Consumer Affairs Directorate within the Consumer and Competition Department celebrates the World Consumer Rights Day every 15th March. The organization of the World Consumer Rights Day is held in prime sites where information stands manned by the Directorate's staff are set up.

A different theme based on Consumer International's chosen slogan for that given year is adopted. In 2010, the theme was 'Our Money, Our Rights' focusing on financial and banking services offered to consumers and the implications vis-à-vis consumer protection.

For this event, the Directorate produces TV and radio programmes aimed at all age groups on both the WCRD and the days preceding it. Newspaper flyers, write-ups and magazines are also used as a vehicle for the dissemination of information. Moreover, information leaflets on subjects ranging from issues such as the sale of goods, price indication, unfair contract terms and unfair commercial practices are also published. A questionnaire aimed at gauging the public's awareness of consumer rights is also submitted to consumers.

The Directorate invites the participation of national entities depending on the theme adopted. In 2010 the Malta Financial Services Authority (MFSA) actively participated through the production of media programmes and the launching of a DVD entitled 'mymoneybox'. The DVD provides general information on financial services as well as on

the rights and obligations of consumers using these services. Additional extensive and up-to date information is available on a dedicated MFSA website:

<http://mymoneybox.mfsa.com.mt>

Prizes are also distributed to school children participating in school magazine competitions related to consumer education. The aim of involving school children is to prepare citizens to be more knowledgeable as consumers at an early stage. This falls within the Resolution of the Council and the Ministers for Education meeting within the Council of 9th June 1986 on consumer education in primary and secondary schools.

As in previous years, a similar activity is envisaged for 2011 where meetings will be held in earnest with a view of finding out and implementing innovative ideas aimed at exploiting the WCRD to the best possible advantage.

BRIEF PRESENTATION OF THE CPC TEAM OF THE EUROPEAN COMMISSION

The CPC Team, responsible for the management of the CPC Committee and coordination of the CPC Network activities, forms part of Unit B5 of DG Health and Consumers in the European Commission. We are a team of 10 persons; however some of us, apart from the CPC, are also involved in the projects of the ECC Network which is another area of the Unit's work.

The management responsibilities of the Head (Tamas Molnar) and Deputy Head of Unit (Anna Passera) encompass both the CPC and ECC Networks. They oversee and are

involved in all the projects and files of the Unit.

The core tasks of the CPC Team are the management of the CPC Committee meetings (Yasmina Bourouis), preparing of the annual Enforcement Action Plan and drafting of the biennial report on the application of the CPC Regulation (Maria Luisa Janschek). We also work on the CPC System development and monitor the requests in this IT tool (Maria Luisa Janschek, Paolo Catalani). We coordinate Internet Sweeps and common activities (Maciej Berestecki, Anna

Passera); we are involved in data protection issues as well as in international negotiations with our partners on behalf of the EU (Yasmina Bourouis, Anna Passera). In addition, we make sure that notifications of competent authorities are always in order (Corinne Gorgemans, Zsuzsanna Csirmaz) and in all our tasks and projects we rely on the legal advice and assistance of our lawyer (Gianpaolo Scacco) who joined the Unit very recently. Finally, we can always count on the professional help of our assistant (Corinne Gorgemans) and of our secretariat (Gerda Duran, Valerie Debod).



Merry Christmas and a Happy New Year

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