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International Cooperation in Consumer Protection

Abstract

The advent of the digital economy combined with the challenges imposed by COVID19 pandemic resulted in several international cooperation efforts among consumer protection agencies and experts.

The existing regional and international networks like COMESA, ASEAN, the European Union, MERCOSUR, ICPEN and the OECD prove to be relevant efforts for exchanging experiences and best practices. However, this research shows that there is a large room for development and improvement in the field of international cooperation in consumer protection.

UNCTAD is playing a pivotal role following the formal mandate on consumer protection law and policy received by the General Assembly in 2015 and is expected to contribute to the improvement of international cooperation in consumer protection issues through its three pillars of work: consensus-building, research and analysis and technical assistance and capacity building.

This paper aims to contribute to the implementation of coordinated actions to better protect consumers, serving as cornerstone for efforts on consumer protection at the international level.

Key words: consumer protection, international cooperation, enforcement, product safety, e-commerce



UNITED NATIONS

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Abbreviations

ACCP	ASEAN Committee on Consumer Protection
ASEAN	Association of Southeast Asian Nations
CCP	OECD Committee on Consumer Policy
CEMAC	Economic and Monetary Community of Central Africa
COMESA	Common Market for Eastern and Southern Africa
CONCADECO	Central American Council for Consumer Protection
CPC	European Consumer Protection Cooperation Network
CSHN	Consumer Safety and Health Network of the Organization of American States
EAEU	Eurasian Economic Union
EEC	Eurasian Economic Commission
ECC	European Consumer Centres
FIAGC	Iberoamerican Forum of Government Agencies for Consumer Protection
ICPEN	International Consumer Protection Enforcement Network
IGE	UNCTAD Intergovernmental Group of Experts on Consumer Protection Law and Policy
ISO	International Organization for Standardization
MERCOSUR	The Southern Common Market
OAS	Organization of American States
OECD	Organization for Economic Cooperation and Development
SICA	Central American Integration System
UNCTAD	United Nations Conference on Trade and Development
WPCPS	OECD Working Party on Consumer Product Safety

1. Introduction

In its resolution on Consumer Protection of 2015,¹ the General Assembly acknowledged that although significant progress has been achieved with respect to the protection of consumers at the normative level since the adoption of the United Nations Guidelines in 1985, such progress has not been consistently translated into more effective and better-coordinated protection efforts in all countries and across all areas of commerce.

It went on to state its belief that a robust legal and regulatory framework for consumer protection, including effective dispute resolution and redress mechanisms and the ability of consumer protection enforcement authorities to cooperate in obtaining redress, where available, across borders for consumers harmed by fraudulent and deceptive commercial practices, serves an important public interest, contributing to economic dynamism and consumer welfare. Finally, it recognized the value of coordination and partnership with established multilateral organizations that focus on consumer protection in order to maximize the benefits to consumers and avoid duplicating efforts.

This resolution on consumer protection finds renewed meaning in the context of the COVID-19-induced economic crisis, which opened the floodgates of unfair, misleading, and abusive business practices, hitting consumers hard and leaving the most vulnerable even more disadvantaged. The pandemic also accelerated the shift towards a digital world, as people have turned to online platforms to shop, telework, and connect with families and friends. A recent UNCTAD survey² found that online purchases increased by 6 to 10 percentage points across most product categories.³ Between 1 January and 17 November 2020, the international initiative to collect consumer complaints, [e-consumer.gov](https://www.e-consumer.gov), received 4,862 consumer complaints in connection to COVID-19 mostly related to fraud in online shopping (3,289 complaints) and travel or vacations (825 complaints), totaling a fraud loss of US\$ 19.98 million.

Since February 2020, Governments around the world were forced to face price gouging and hoarding of essential hygiene consumer products such as masks, hand sanitizer and basic household products have surged, forcing governments to insert price caps in France, Greece, India, Italy, Kenya and Nigeria. Misleading advertisements with false claims are also flourishing, ranging from products claiming to prevent COVID-19 infection to fake test kits. Financial fraud schemes soliciting false donations and using phishing techniques are also on the prowl. At the same time, Governments also have had to shift their priorities to accommodate for increased online consumption and to strengthen the online means to reach consumers and enforce the laws. This brought a new sense of urgency to long-standing issues such as digital illiteracy, consumer product safety, the responsibility of online platforms, financial services and fintech, tourism and travel.⁴

In order to better address the challenges stemming from the COVID-19 pandemic in consumer protection, Governments stepped up their international cooperation efforts. Informal cooperation networks and international organizations [compiled and disseminated information regarding COVID-19 measures and consumer warning messages](#), and increased the frequency of knowledge sharing through webinars and online workshops. They focused their enforcement and awareness raising initiatives on COVID-19 related frauds.⁵

¹ A/RES/70/186

² UNCTAD (2020), Covid19 and e-commerce, findings from a survey of online consumers in 9 countries. Available at https://unctad.org/system/files/official-document/dtlstictinf2020d1_en.pdf

³ UNCTAD, COVID-19 has changed online shopping forever, survey shows, see <https://unctad.org/news/covid-19-has-changed-online-shopping-forever-survey-shows> (accessed 2 December 2020)

⁴ OECD Policy Responses to Coronavirus (COVID19): Rebuilding tourism for the future: COVID-19 policy responses and recovery. Available at: <http://www.oecd.org/coronavirus/policy-responses/rebuilding-tourism-for-the-future-covid-19-policy-responses-and-recovery-bced9859/> (accessed 10 December 2020).

And WORLD TRADE ORGANIZATION WTO report looks at impact of COVID-19 pandemic on services trade available at https://www.wto.org/english/news_e/news20_e/serv_29may20_e.htm. (accessed 2 December 2020).

⁵ The ICPEN's Fraud Prevention Month 2020 Campaign was devoted to #COVID-19Emergency #PreventingScams.

Some issued common declarations⁶ and conducted coordinated action before key businesses.⁷ UNCTAD issued nine recommendations⁸ for Governments to ensure better protect consumers during the current health and economic crisis. One addressed cooperation between consumer protection agencies by exchanging information on coronavirus-related national policies and measures in the field of consumer protection.

The United Nations Guidelines for Consumer Protection call on UNCTAD to “*consider relevant studies, documentation and reports from relevant organizations of the United Nations system and other international organizations and networks, to exchange information on work programmes and topics for consultations and to identify work-sharing projects and cooperation in the provision of technical assistance.*”⁹ This research paper aims to contribute in the implementation of this recommendation and to serve as cornerstone for better coordination efforts on consumer protection at international level.

The research paper analyzes the current international framework, namely the United Nations Guidelines for Consumer Protection (chapter 2). It then presents the current state in bilateral and cross-border cooperation among governmental consumer protection authorities, based on the data displayed in UNCTAD’s World Consumer Protection Map (chapter 3). The paper then presents the inputs received from regional and multilateral initiatives and organizations that channel international cooperation among government consumer protection agencies (chapters 4 and 5). Following these descriptive parts, the paper presents the preliminary trends and challenges identified, which will benefit from further discussion among relevant stakeholders (chapter 6). A brief conclusion follows.

⁶The Iberoamerican Forum of Consumer Protection Agencies issued a Declaration on COVID-19, stating their commitment to combatting unfair business practices and calling upon consumers to avoid hoarding and to prefer online shopping and to follow sanitary authorities’ recommendations.

⁷On 23 March 2020, the Consumer protection authorities of all European Union member States (Consumer Protection Cooperation network), issued a common position on the most reported scams and unfair practices in the COVID-19 context. The objective is to ask and assist online platform operators to better identify such illegal practices, take them down and prevent similar ones to reappear.

⁸UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD). COVID-19 : Firmer action needed to better protect consumers. Accessible at: <https://unctad.org/news/covid-19-firmer-action-needed-better-protect-consumers> (accessed 2 December 2020).

⁹UNGCP 97(f)

2. The United Nations Guidelines for Consumer Protection

The United Nations Guidelines for Consumer Protection (United Nations Guidelines or the Guidelines) are a valuable set of principles for setting out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems and for assisting interested member States in formulating and enforcing domestic and regional laws, rules and regulations that are suitable to their own economic and social and environmental circumstances, as well as promoting international enforcement cooperation among member States and encouraging the sharing of experiences in consumer protection.¹⁰

The General Assembly first adopted the Guidelines in 1985, after which they were expanded in 1999 to incorporate sustainable consumption and revised in-depth in 2015. Since their initial adoption, the Guidelines have remained the only internationally agreed global-level instrument on consumer protection. They have been widely implemented by UNCTAD member States.¹¹ UNCTAD's World Consumer Protection Map¹² provides useful insights on the current state of inter-agency cooperation.

The United Nations Guidelines aim to assist States in achieving or maintaining adequate protection for their populations as consumers. They recognize that consumers often face imbalances in economic terms, education levels and bargaining power and recognize the right of consumers to access non-hazardous products. The Guidelines also promote just, equitable and sustainable economic and social development and environmental protection. The Guidelines allow States to set their own priorities for the protection of consumers in accordance with national economic, social, and environmental circumstances and the needs of the population.

Section VI of the Guidelines is devoted to international cooperation (Guidelines 79 to 94) and section VII to the international institutional machinery (Guidelines 95 to 99). Section VI originally contained provisions on policy coordination, capacity building, information exchange, including in procurement, product recalls and international product safety standards and the general principle that consumer policies do not become barriers to international trade and are consistent with trade obligations. The 1999 expansion brought recommendations on technology development and transfer, capacity building, cooperation with civil society, and consumer education and information (Guidelines 91 to 93). The 2015 revision incorporated the breath of recommendations on cross-border enforcement cooperation inspired by the *Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders* of the Organization for Economic Cooperation and Development (OECD), in Guidelines 82 to 90, and established the international institutional machinery (Guidelines 95-99). The next sections below elaborate on the content of the Guidelines regarding international cooperation, while cross-border cooperation is further analyzed in chapter 3.

A. International cooperation

Section VI on international cooperation begins with broad recommendations to member States, which in some cases are wider than the mandate of national consumer protection governmental agencies. The Guidelines ask member States to “*develop, review, maintain or strengthen, as appropriate, mechanisms for the exchange of information on national policies and measures in the field of consumer protection.*” Such exchanges usually take place in the context of international conferences and particularly within international networks and organizations. The present paper presents the activities of such organizations in its parts 2 and 3.

The Guidelines ask member States to cooperate or encourage cooperation in the implementation of consumer protection policies to achieve greater results within existing resources. The Guidelines provide some examples

¹⁰ A/RES/70/186

¹¹ TD/B/C.I/CLP/23

¹² UNCTAD World Consumer Protection Map. See <https://unctadwcpm.org/> (accessed 2 December 2020)

for this, which are: collaboration in the setting up or joint use of testing facilities, common testing procedures, exchange of consumer information and education programmes, joint training programmes and joint elaboration of regulations. The implementation of this recommendation is not homogeneous. While the elaboration of regulations does happen within regional groups, there is, for instance, a lack of specialized testing labs, such as car crash facilities, in developing countries. The exchange of consumer information education programmes does happen regularly in several fora, including in the International Consumer Protection and Enforcement Network (ICPEN) and in UNCTAD's technical cooperation programmes, as detailed below in chapter 4.

The Guidelines encourage member States to cooperate to improve the conditions under which essential goods are offered to consumers, giving due regard to both price and quality. Such cooperation could include joint procurement of essential goods, exchange of information on different procurement possibilities and agreements on regional product specification. These recommendations seem to gain renewed relevance in the context of the COVID-19 pandemic.

An example of cooperation enhanced during the international health crisis caused by COVID-19 can be found in the ambit of the International Organization for Standardization (ISO), in the exchange of information related to health products standards¹³ and related efforts to support members. The ISO Transaction assurance in E-commerce Committee¹⁴ (ISO/ TC 321) is dedicated to the research and improvement of transactions in e-commerce related processes, including “*Assurance of transaction process in e-commerce (including easier access to e-platforms and stores); protection of online consumer rights including both prevention of online disputes and resolution process; interoperability and admissibility of inspection result data on commodity quality in cross-border e-commerce; and assurance of e-commerce delivery to the final consumer.*”

The Guidelines call on member States to work to ensure that the quality of products and the information relating to such products does not vary from country to country in a way that would have detrimental effects on consumers and to work to ensure that the quality of products and the information relating to such products does not vary from country to country in a way that would have detrimental effects on consumers. These recommendations must be read in connection with guideline 94, which requests that policies and measures for consumer protection are implemented with due regard to their not becoming barriers to international trade and that they are consistent with international trade obligations. Although much progress has been achieved at regional level¹⁵ due to the regular exchange of information on product recalls at national, regional and international levels, for example through the European Union Rapid Alert System (RAPEX), the Organization of American States Consumer Safety and Health Network, and the Organization for Economic Cooperation and Development (Global Recalls), there is still room for traders to better guarantee that exported goods are safe.

The Eighth United Nations Conference on Competition and Consumer Protection adopted the *Recommendation on Preventing Cross-Border Distribution of Known Unsafe Consumer Products*,¹⁶ aiming at strengthening consumer product safety frameworks at the national, regional and international levels to protect consumers from hazards to their health, by raising awareness among businesses and consumers, and also by counting on cooperation among consumer authorities by regularly exchanging information on measures and policies, with the support of UNCTAD, which serves as the international institutional machinery for the Guidelines.

¹³ ISO national resources to support the fight against COVID-19.

See <https://www.iso.org/covid19-members> (accessed 2 December 2020).

¹⁴ ISO/TC 321 Transaction assurance in e-commerce.

See [ISO - ISO/TC 321 - Transaction assurance in E-commerce](#) (accessed 2 December 2020)

¹⁵ Preventing Cross-Border Distribution of Known Unsafe Consumer Products; Introductory note by the UNCTAD secretariat.

Available at: https://unctad.org/system/files/information-document/tdrbpconf9_d01_consumer-products_en.pdf

¹⁶ Report of the Ad Hoc Expert Group Meeting on Consumer Protection / Product Safety.

Available at: https://unctad.org/system/files/official-document/ccpb_cons_ProgAdHoc_ProdSafe.II.pdf

B. International institutional machinery

In its resolution on Consumer Protection,¹⁷ the General Assembly also decided to establish an Intergovernmental Group of Experts on consumer protection law and policy within the framework of an existing commission of the Trade and Development Board of UNCTAD. The Intergovernmental Group of Experts:

- Provides the institutional machinery and an annual forum for multilateral consultations, discussions and exchanges of views between member States on matters related to the Guidelines;
- Undertakes studies and research;
- Conducts voluntary peer reviews of the national consumer protection policies of member States;
- Collects and disseminates information on matters related to the overall achievement of the goals of the Guidelines;
- Provides capacity-building and technical assistance to developing countries and countries with economies in transition in formulating and enforcing consumer protection laws and policies;
- Considers relevant studies, documentation and reports from relevant organizations; makes appropriate reports and recommendations on the consumer protection policies of member States;
- Operates between and reports to the United Nations Conference to Review All Aspects of the Set (Conference on Competition and Consumer Protection); and
- Conducts a periodic review of the Guidelines when mandated to do so by the Conference.

The Eighth United Nations Conference on Competition and Consumer Protection was held in October 2020 and considered the work of this Intergovernmental Group of Experts for the first time. The work of UNCTAD is further described in chapter 4 below.

¹⁷ Op. cit 1

3. Bilateral/cross-border cooperation

The Guidelines provide a framework for cross-border cooperation among consumer protection enforcement agencies (Guidelines 82 to 90), which are explicitly inspired in the OECD recommendation on this same issue.¹⁸ The Guidelines ask member States to improve their ability to cooperate in combating fraudulent and deceptive cross-border commercial practices, as that serves an important public interest. They also recognize that cooperation on investigations or cases remains within the discretion of the consumer protection enforcement agency that is asked to cooperate. Government consumer protection agencies are asked to coordinate investigations and enforcement activities to avoid interference with the investigations and enforcement activities of consumer protection enforcement agencies taking place in other jurisdictions. Good offices are recommended to address disagreements which may arise between enforcement agencies.

In order to facilitate cooperation, as recommended in Guidelines 87 to 90,¹⁹ member States are invited to: i) designate contact points to the United Nations Secretary General; and ii) endow powers of investigation and enforcement to consumer authorities. Such powers should extend to cooperation with foreign consumer agencies and allow agencies to take part in bilateral and multilateral efforts, taking into account international standards and legislation.

Cross-border enforcement cooperation is thus voluntary unless a binding agreement is concluded among States. Although the participation in existing networks and agreements for enforcement purposes are only encouraged, it has the virtue of not only improving national enforcement, but also delivering a strong message to multinational business about the possibilities of coordinated enforcement across borders.

The UNCTAD's World Consumer Protection Map²⁰ offers a good source of data to analyze the current state of cross-border inter-agency cooperation. The Map presents the legal and institutional framework on consumer protection in UNCTAD member States.²¹ It provides an updated and comprehensive review of consumer protection worldwide and contributes to identifying trends and benchmarks as well as challenges and informs discussions on future work.

At present, the World Consumer Protection Map displays contributions of 87 member States, who provided information on all issues addressed in the United Nations Guidelines, from consumer information to international cooperation. Of these 87 countries, the Map shows that only 40% have cross-border alternative consumer dispute resolution initiatives and cross-border cooperation on enforcement.

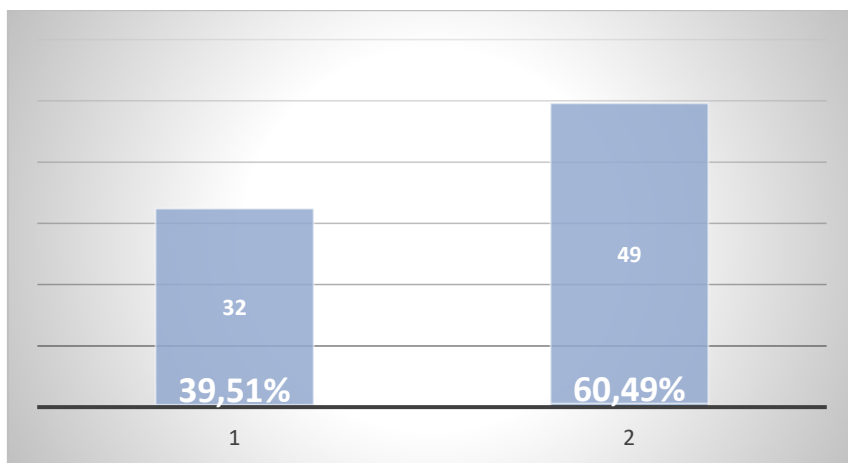
18 OECD, Revised Recommendation on Consumer Protection in E-commerce.

19 United Nations Guidelines for Consumer Protection General Assembly Resolution II A/70/470/Add. 1, distributed 15 December 2015, adopted 22 December 2015, reissued as: A/RES/70/186 https://unctad.org/system/files/official-document/ditccplmisc2016d1_en.pdf

20 UNCTAD World Consumer Protection Map. See <https://unctadwcpm.org/> (accessed 2 December 2020).

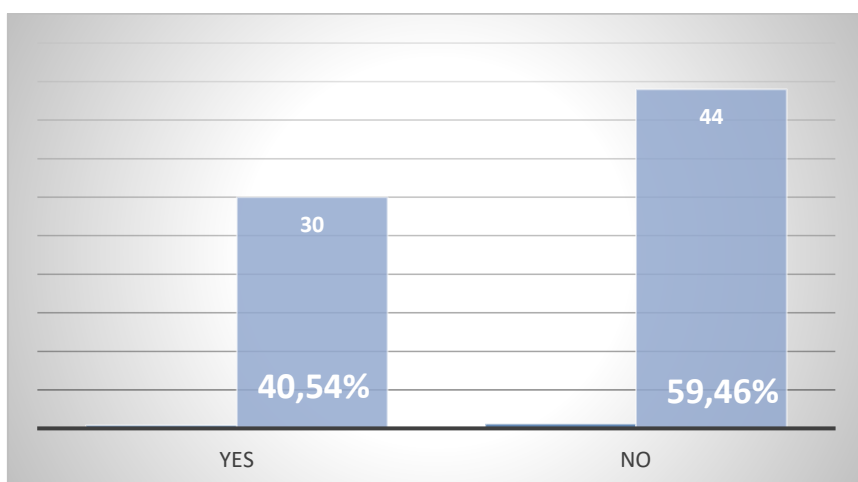
21 TD/B/C.I/CPLP/4

Table 1: Are there any cross-border / out-of-court/alternative consumer dispute resolution initiatives? (1: yes; 2: no)



Source: UNCTAD

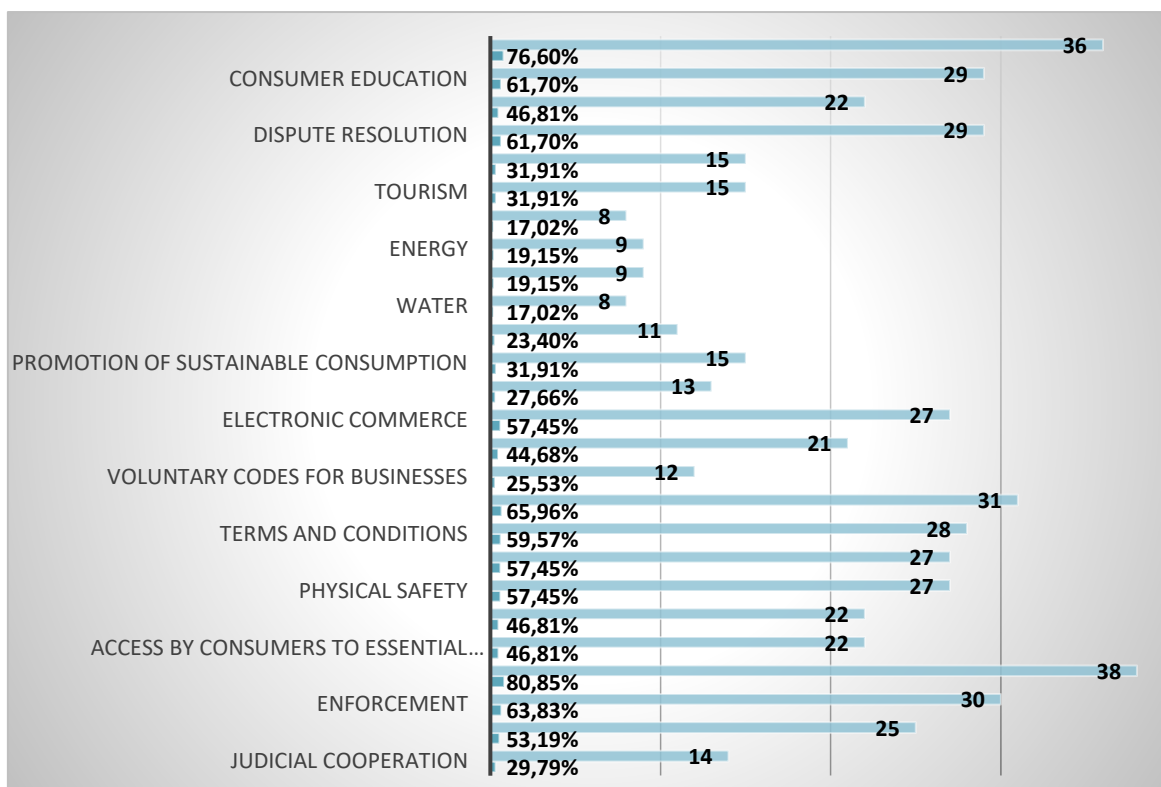
Table 2: Do you have any experience in cross-border cooperation on enforcement?



Source: UNCTAD

Table 1 and 2 show that there is room for improvement. Most of the reported cooperation agreements refer to general issues (80%) such as consumer information and basic rights. Emerging issues for international cooperation such as consumer product safety and dispute resolution are the object of less than 60% of consumer international agreements.

Table 3: Do cooperation agreements on consumer protection cover any of the following fields?



Source: UNCTAD

The OECD recently published its report on: *Consumer protection enforcement in a global digital marketplace*,²² which is based on a review of the 2003 OECD *Recommendation of the Council concerning Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders*. The report finds that consumer protection enforcement authorities of OECD member and non-member countries, still face several challenges due to the lack of formal and continuous cooperation to tackle fraudulent and deceptive international commercial practices. As for the factors undermining international cooperation, privacy, information confidentiality and language barriers are identified as main factors, alongside the lack of legal power to restrict effective cross-border enforcement. The OECD finds that applicable law and jurisdiction need to be addressed in a more efficient way, enabling enforcement actions through international cooperation and consultation.

In this sense, the UNGCP provide the starting point for member States to engage in actions and agreements that foster the development, review, and improvement of mechanisms to better protect consumers in increasingly transnational markets. The following two chapters present the contributions received from regional and multilateral institutions and networks which channel the current efforts in international cooperation in consumer protection.

²² OECD *Consumer protection enforcement in a global digital marketplace*.

See https://read.oecd-ilibrary.org/science-and-technology/consumer-protection-enforcement-in-a-global-digital-marketplace_f041e4ad-en#page1 (accessed 2 December 2020).

4. Regional cooperation

Regional international cooperation in consumer protection has traditionally be anchored in regional trade agreements and institutions or in informal ties among close countries. This chapter presents the contributions received from regional initiatives in Africa, the Americas, Asia, and Europe and Central Asia.

A. Africa

The African continent currently counts with three intergovernmental initiatives in consumer protection. The African Dialogue is an informal network of consumer protection agencies, while the Economic and Monetary Community of Central Africa and the Common Market for Eastern and Southern Africa are regional organizations hosting intergovernmental initiatives on consumer protection.

i. African Consumer Dialogue

The African Consumer Protection Dialogue (African Dialogue) is an initiative to encourage regional cooperation and the sharing of best practices among consumer protection agencies in Africa, the United States, and the world. It was launched in 2009 by the United States Federal Trade Commission and counterpart African agencies at a meeting in South Africa. The African Dialogue has since drawn participants from more than 30 African countries,²³ as well as various international and African regional organizations.²⁴

The African Dialogue provides both for policy discussion and for concrete steps to better protect consumers. Participants have thus far held eleven annual meetings—in the north, south, east, and west of the continent - -with programs over several days addressing innovative consumer protection challenges, agency enforcement practices and initiatives, and consumer and business education campaigns.²⁵ Participants have supplemented these annual meetings with occasional ad hoc meetings elsewhere.²⁶ Through monthly teleconferences and videoconferences, participants also share experiences on a broad range of topics. Examples include: capacity building and institutional structure; protecting consumers in financial transactions; online and mobile commerce issues; spam and data security; and credit reporting. Complementing these topics, numerous sessions have addressed an array of deceptive and misleading practices, such as false advertising; payday lending; pyramid and Ponzi schemes; travel scams; miracle cures; and negative option and recurring billing schemes.

Participants have also organized and participated in various consumer education initiatives over the years, on such topics as children's online safety, mobile purchases and payments, advertising and marketing disclosures, and the online complaint portal econsumer.gov.

The African Dialogue has also confronted the fact that scammers and deceptive marketers target consumers throughout Africa with similar – and sometimes the same – cross-border schemes, underscoring the need for

²³ Participants, in addition to those from the United States Federal Trade Commission, have come from government ministries, consumer agencies, and NGOs throughout Africa, including Angola, Benin, Botswana, Cameroon, Central African Republic, Cote d'Ivoire, Congo, Democratic Republic of the Congo, Egypt, Eswatini, Ethiopia, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, South Africa, United Republic of Tanzania, Tunisia, Uganda, Zambia, and Zimbabwe.

²⁴ International and regional organizations participating in a meeting or meetings have included the United Nations Conference on Trade and Development (UNCTAD); the World Bank; Interpol; the Common Market for Eastern and Southern Africa (COMESA) Competition Commission; the Southern African Development Community (SADC); the East African Community (EAC); and the Economic Community of West African States (ECOWAS).

²⁵ Conference hosts have included South Africa (twice), Tanzania, Nigeria, Morocco, Zambia (twice), Malawi, Egypt, the Gambia, and the COMESA Competition Commission.

²⁶ See, for example, the [side event](#) during the July 2019 meetings of UNCTAD's Intergovernmental group of experts on consumer protection law and policy.

regional and cross-border information exchanges and law enforcement cooperation. Thus in September 2013 the agencies of twenty African countries issued the African Dialogue [Principles on Cooperation in Consumer Protection Enforcement](#),²⁷ also known as the “Livingstone Principles.” These principles recognized the harm caused by “[m]isleading advertising, fraud, illegal spam, and other unfair and deceptive commercial practices.” They also recognized that the associated enforcement challenges “go beyond national frontiers,” and set common expectations for agency authority, international cooperation, and enforcement priorities. African Dialogue participants have used these principles to improve cooperation,²⁸ and reaffirmed these principles in 2019.

The African Dialogue has continued even in the face of the COVID-19 pandemic. Indeed, the theme of the [October 2020 meeting](#), held virtually over two days and hosted by the COMESA Competition Commission and the United States Federal Trade Commission, was “Protecting Consumers During the Pandemic and Beyond.” The program focused on enforcement cooperation; consumer injury remedies; consumer complaint trends; consumer education and business guidance; the role of consumer agencies in protecting consumer privacy; and product safety. African Dialogue colleagues also contributed to a virtual consumer education and business guidance exhibit on topics connected to the pandemic.

ii. Economic and Monetary Community of Central Africa

The founding treaty for the Economic and Monetary Community of Central Africa (CEMAC) was adopted on 16 March 1994 and revised on 30 January 2009. The Commission was created in April 2007 as the executive body of the Economic and Monetary community.²⁹ It brings cases to the higher authorities of the community. It is in charge of the organization of the Councils of Ministers of Economic Union of Central Africa and of the Conferences of Heads of State of CEMAC. The CEMAC Commission is headed by a government composed of six Commissioners each appointed by Conference of Head of State, including a President and a Vice-President.³⁰

With the technical support of UNCTAD and the funding of by the European Union, the project to strengthen competition and consumer protection in central Africa comprised the six member States of CEMAC, the Democratic Republic of the Congo and Sao Tome and Principe. As means of following the implementation of the project, a steering committee was created on 27 October 2017. The steering committee had both proposal and guidance functions, and the mission to verify the proper execution of the project, guide the work and validate the main results.

An evaluation of norms and regulations on competition and consumer protection in beneficiary countries showed that two of the six CEMAC member States of had a consumer act (Cameroon and Chad), The other four CEMAC member States did not have specific laws on consumer protection. Some provisions on consumer protection were present in different regulations of three CEMAC member States (Congo, Equatorial Guinea and Gabon). The Central African Republic included consumer protection rules in its trade code.

It is worth mentioning that all member States have begun processing acts relating to consumer protection in the service sectors, such as e-commerce. They also expressed important challenges in implementing their laws, in particular requiring capacity-building for all stakeholders in charge of enforcing laws. Since the creation of CEMAC, the enactment of a consumer act at the Community level was a priority.

²⁷ COMESA Competition Commission. See <https://www.comesacompetition.org/> (accessed 2 December 2020).

²⁸ See comments of Chilufya Sampa, Zambia Competition and Consumer Protection Commission, at [FTC international hearing, transcript](#) at pp. 69-71; presentation of Amadou Ceesay, Gambia Competition Commission, at UNCTAD [webinar](#) “Key Competition and Consumer Protection Priorities for Regional Integration in Africa”; Nigerian Federal Competition and Consumer Protection Commission webpage on [alliances](#) (accessed 3 December 2020).

²⁹ Cameroon, Central African Republic, Chad, Congo, Gabon, Equatorial Guinea.

³⁰ The CEMAC Commission also includes executives with an international regime (Advisers, Directors, Assistant Directors, Heads of Service and Experts) and local agents recruited locally where the headquarters are located

As a result of this Project of strengthening Competition and Consumer Protection, three legal acts³¹ were drafted and adopted in 2019: two acts on competition rules and one Directive on consumer protection (n° 02/19-UEAC-639-CM-33 of 8 April 2019), harmonizing consumer protection within CEMAC. This Directive is the main reference on the implementation of international cooperation in the field of consumer protection in the Central African Region.

The Directive on Consumer Protection was inspired by the United Nations Guidelines for Consumer Protection. It provides a comprehensive guide covering all basic consumer protection rights which shall be implemented with the aim of harmonizing the Consumer law and policy among CEMAC member States and modernize the governance of consumer protection in Central Africa. In particular, the CEMAC Directive defined in article 13 the fundamental principles of consumer protection, which reflect the United Nations Guidelines. The Directive also includes provisions on education and information programmes for consumers, particularly those of rural areas. The role of consumer groups has been enhanced as per articles 129 and 130. member States are required to establish a National Consumer Council, which serves for consultations and concertation (article 131). They must also create a system for legal aid to consumers (articles 163 and 166).

The Directive is called to be the source of inspiration for CEMAC member States to improve their consumer protection national frameworks. All regulations on consumer protection are called to take its principles in consideration, at both national and community levels. The content of this Directive is in the process of being uniformly integrated throughout the Community, leaving each member State room for reaching such outcome within the timeframe established in the Directive.³²

In relation to COVID-19, the implementation of the Directive by member States contributes to addressing the rights of consumers to health, and to strengthen consumer rights of patients. Although closing borders to contain the spread of the virus did have an impact, closer cooperation in fighting illegal transport activities would have been made more efficient through greater international cooperation.

The action plan 2020 of the CEMAC Commission for the implementation of Directive also foresaw the organization of workshops at national and regional levels to sensitize the main stakeholders. Due to COVID-19, these activities were postponed to 2021. These strengthening capacities, awareness raising and training activities will facilitate the transposition of the Directive into national law of CEMAC member States, especially in technical support for the development of application norms, the creation of agencies, organisms or technical committees for its implementation in countries lacking administrative bodies of this kind and the train national experts involved consumer protection. All these activities could be carried with the technical and financial support of different partners, including UNCTAD, in the framework of a capacity building and technical assistance project.

iii. Competition Commission of the Common Market for Eastern and Southern Africa

The Competition Commission of the Common Market for Eastern and Southern Africa³³ (the Commission) is an international body corporate established under Article 6 of the COMESA Competition Regulations (“the Regulations”). The Regulations are promulgated pursuant to Article 55 of the Common Market for Eastern and Southern African (COMESA) Treaty.

The Commission is responsible for enforcing the Regulations whose purpose is promoting and encouraging competition by preventing restrictive business practices and other restrictions that deter the efficient operation

³¹ 14th Conference of Heads of State of the Economic and Monetary Community of Central Africa (CEMAC).

See <https://unctad.org/meeting/14th-conference-heads-state-economic-and-monetary-community-central-africa-cemac> (accessed 2 December 2020).

³² See Regulation No. 01/20 / CEMAC / UMAC / COBAC of July 13, 2020 on the protection of consumers of banking products and services.

Available at <http://www.cemac.int/sites/default/files/inline-files/1567354908288833.pdf>

³³ Competition Commission of the Common Market for Eastern and Southern, COMESA.

See <https://www.comesacompetition.org/> (accessed 2 December 2020).

of markets, thereby enhancing the welfare of consumers in the Common Market, and to protect consumers against offensive conduct by market actors.

Pursuant to Article 10(2) of the Treaty, the Regulations are binding on all the member States. Additionally, in terms of Article 5(2)(b) of the Treaty and Article 5 of the Regulations, member States³⁴ are to ensure fulfilment of the obligations arising out of the Regulations or resulting from action taken by the Commission under the Regulations.

As part of its functions, the Commission cooperates and assists member States in the implementation of its decisions and provides support in promoting and protecting consumer welfare. The Commission therefore relies on cooperation with the member States in the enforcement of the consumer protection provisions under the Regulations.

In what refers to cooperation in the field of consumer protection, the Commission has the mandate to investigate consumer cases that have an effect in at least two COMESA member States, facilitating the exchange of relevant information and expertise, developing and disseminating information about competition and consumer protection policy in the Common Market as well as providing technical assistance to member States in the enforcement of the Regulations.

The partnership and collaboration between the Commission and member States, including the collection and dissemination of information among members fosters international cooperation and facilitates the implementation of remedies by consumer agencies.³⁵ Under this cooperation, member States also inform the Commission about cases having a regional dimension.

The Commission has recently conducted an audit on the state of consumer protection in the Common Market, what shall contribute to the improvement of the engagement and collaboration with member States. Apart from that, it is relevant to mention the process of operationalizing the COMESA Consumer Protection Committee ('the Committee'), which comprises consumer agencies from all the member States as well as consumer associations. The key focus and deliverables of the Committee is sharing information and experiences on consumer issues including those relating to product safety and information standards in the Common Market. Still considering the room for cooperation in the field of consumer product safety, the Committee is studying the possibility of setting up a regional warning system and recall network for unsafe goods.

It is interesting to notice the cooperation of COMESA with countries outside the Common Market on issues of consumer protection. Specifically, the Commission is part of the *African Consumer Protection Dialogue*, which is established based on the principles of cooperation in the enforcement of consumer protection laws across borders. As such the Commission participates in the implementation of the *Livingstone Principles on Cross Border Cooperation*, mentioned above. In view of the Commission, the key areas of cooperation highlighted in the Livingstone Principles include: a) investigations of domestic practices targeting foreign consumers and foreign practices targeting domestic consumers; b) information sharing based on the reciprocal exchange of information and expertise among the Member Agencies; c) capacity building through staff exchanges and d) building capacity among the member Agencies in the investigations and enforcement of consumer protection provisions.

Since 2019, the Commission is an observer of the International Consumer Protection and Enforcement Network (ICPEN), taking part in joint ICPEN activities including the dissemination of information as well as sharing experiences in the webinars and conferences.

³⁴ Burundi, Comoros, Djibouti, Democratic Republic of the Congo, Eritrea, Egypt, Ethiopia, Eswatini, Kenya, Libya, Madagascar, Mauritius, Malawi, Rwanda, Sudan, Somalia, Seychelles, Tunisia, Uganda, Zambia and Zimbabwe.

³⁵ COMESA Competition Commission.

See https://www.comesacompetition.org/?page_id=294 (accessed 2 December 2020).

Box 1. COMESA Good practices on International Cooperation

The COMESA Commission recognizes that some member States have consumer protection laws and institutions enforcing the laws. However, the Commission's scope of application relates to those consumer issues that affect at least two member States and have an appreciable effect within the Common Market. Cooperation between the Commission and the member States includes:

- Sharing complaints that have a cross border effect within the Common Market
- The Commission or the Consumer Agencies in the member States requesting for information relevant to investigations on consumer matters that have a cross border effect
- Consumer Agencies referring consumer cases that are within the jurisdiction of the Commission or the Commission referring consumer cases to the National authorities
- Coordination in the implementation of the decisions resulting from investigations of cases
- Building capacity among the Members of staff of National Consumer Agencies to facilitate the enforcement of consumer laws

Source: COMESA Commission

B. The Americas

i. Central American Council for Consumer Protection

The Central American Council for Consumer Protection (CONCADECO)³⁶ is an organization that belongs to the Central American Integration System (SICA),³⁷ which brings together government consumer protection agencies from each of the countries in the region.³⁸

CONCADECO has the mandate to protect the rights of consumers, seeking to harmonize public policies and efforts of the Central American governments in the area of consumer protection. In order to achieve that, CONCADECO works on joint plans, policies, programs, and projects for the benefit of consumers. Apart from that, international cooperation is fostered between Central American government consumer protection agencies, universities, consumer associations, and regulatory bodies in the different sectors.

The Central American Council for Consumer Protection manages technical and financial resources for international cooperation to develop regional projects and establish relationships with the rest of the institutions of SICA.

As a strong example of cooperation among member countries, it is worth mentioning the actions taken during the COVID-19 crisis reinforcing efforts with the aim of protecting the rights and interests of consumers such as: inspection operations, surveillance and monitoring for the cases of price speculation, hoarding of masks, gloves, hand sanitizers and thermometers, creation of measures to guarantee compensation due to cancellations; the creation of special channels for consumer complaints and information.

As for future work following the pandemic, CONCADECO will resume its periodic meetings and establish the following priorities: 1. Consumer Protection of Financial Services; 2. Tourism: events and airlines; 3. Study on Consumer Law; and 4. Electronic Commerce Platforms. According to CONCADECO, the work on its incorporation to SICA³⁹ should continue in 2021, being an example of fruitful cooperation work in the region.

³⁶ CONCADECO, Consejo Centroamericano de protección al consumidor.

See https://www.sica.int/concadeco/concadeco_breve.aspx (accessed 2 December 2020).

³⁷ It was created on May 18, 2007, through a Constitutive Agreement signed by the representatives of the government agencies in charge of protecting the rights of consumers.

³⁸ Argentina, (Plurinational State of) Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Peru, Spain, Uruguay.

³⁹ Sistema de la integración Centroamericana. See <https://www.sica.int/> (accessed 2 December 2020).

ii. Iberoamerican Forum of Government Agencies for Consumer Protection

The Latin American Forum of Government Agencies for Consumer Protection came into being in 2001 within the framework of the Euro-Latin American Dialogue of Consumers for Development and Democracy. Later in 2006 with the accession of Spain and Portugal, it was agreed to change the name to the Iberoamerican Forum of Government Agencies for Consumer Protection (FIAGC),⁴⁰ as a multilateral space specialized in the analysis and discussion of public consumer protection policy in Iberoamerican countries.⁴¹

The work of FIAGC in the field of consumer protection has become a reference of building a single voice of consumer authorities. The actions as a single group has seen its worth in the support of several international projects and topics, such as the one of the review of the United Nations Guidelines on Consumer Protection (2015); the proposal of a Convention on Access to Justice in the field of Consumer Protection in the ambit of the Hague Conference on Private International Law (2012)⁴² and recently, on the combat of frauds during the COVID-19 pandemic.

The joint declaration⁴³ of its members in relation to the pandemic not only referred to issues directly affected by COVID-19, but also consumers rights to health and safety, access to justice, and called for cooperation with the private sector in view of limiting the negative economic impact of measures such as lockdowns on consumers.

Common projects are being developed, such as: i) the recent information campaign aimed at all consumers in the Iberoamerican space, providing advice when shopping online; and ii) the development of a Guide on truthfulness of advertising directed at the “influencers” of social networks.

A working group has also been created involving all members of the FIAGC focused on the issue of “vulnerable consumers”, namely in the context of essential public services and financial vulnerability and whose conclusions will be addressed, in particular, to UNCTAD.

The example of FIAGC shows how concertation at regional level, even if informally, can have a profound impact in national markets. Nevertheless, enforcement still remains as a barrier which should receive special attention considering the boost of online transactions also caused by the measures to combat COVID-19.

iii. The Organization of American States

The Consumer Safety and Health Network (CSHN) is based on the Charter of the Organization of American States (OAS), the declarations of the Heads of State and Government, and the successive OAS General Assembly resolutions since 2009. The CSHN was to strengthen national capacities and regional cooperation with the aim of enabling early detection of unsafe consumer products and the adoption of coordinated actions among the competent agencies, thereby preventing risky and dangerous products from impacting consumers in the Americas.

The CHSN is the inter-American interdisciplinary mechanism, specialized in promoting - at a national and hemispheric level- consumer health and safety policies and programs, and the impact they can have on consumers' health and wellbeing. In order to achieve such promotion, the CHSN works on: 1. the provision of

⁴⁰ Foro Iberoamericano de las Agencias Gubernamentales de Protección del Consumidor. See <http://201.144.226.20/index.php> (accessed 2 December 2020).

⁴¹ Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Spain, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Portugal, Puerto Rico, Dominican Republic, Uruguay.

⁴² *Tourists and Visitors (ODR) Project*, Hague Conference on Private international Law. Available at <https://www.hcch.net/en/projects/legislative-projects/protection-of-tourists> (accessed 2 December 2020).

⁴³ Foro Iberoamericano de las Agencias Gubernamentales de Protección del Consumidor. See <http://201.144.226.20/boletin.php?variable1=83> (accessed 2 December 2020).

a space for technical cooperation to prevent the circulation of unsafe products; 2. the promotion and support of the creation and strengthening of consumer product safety national market surveillance systems; 3. training to specialists, officials and members of civil society to prevent and/or stop, the circulation of unsafe products in the markets of member States; and 4. fostering the exchange information on consumer product safety alerts in a secure and collaborative environment through the Inter-American Rapid Alerts System (SIAR, for its Spanish acronym) – the only existing regional safety alert portal in the Americas.

The aim of the CSHN is to continue to expand its field of membership, especially its Caribbean membership.⁴⁴

iv. The Southern Common Market

In the context of the Southern Common Market (MERCOSUR),⁴⁵ regional cooperation between consumer protection agencies is coordinated by Working Group 7.⁴⁶ The successful efforts and cooperation have been documented and have become a case study to the proposal that was presented at the Hague Conference of Private International Law.⁴⁷ Actions taken during international events, such as the 2014 FIFA World Cup in Brazil, became examples of national and international cooperation between different actors (consumer protection authorities, businesses and consumer associations) in the interest of consumers thus deepening trust in markets.

In 2017, the “*MERCOSUR Agreement on applicable law to international consumer contracts*”⁴⁸ was adopted by the Southern Market Council (CMC), the highest authority of this regional market. It constitutes a valuable case in the field of international consumer protection:

Article 4, 1 - International contracts concluded when the consumer is in the State Party of his domicile, in particular in the case of a distance contract, are governed by the law chosen by the parties, who may choose the law of the consumer's domicile, of the place of celebration or the execution of the contract or the seat of the supplier of the products or services. The chosen law will be applicable whenever it is more advantageous for the consumer.

Article 5 - Contracts concluded by the consumer outside the State party of his/her domicile

1 - International contracts concluded when the consumer is in the State Party of his domicile, in particular in the case of a distance contract, are governed by the law chosen by the parties, who may choose the law of the consumer's domicile, of the place of celebration or the execution of the contract or the seat of the supplier of the products or services. The chosen law will be applicable whenever it is more advantageous for the consumer.

Even though such agreement is now pending internalization procedures by MERCOSUR member States, it represents a strong message to national markets, recognizing a critical right to consumers international protection.

⁴⁴ Current members: Antigua and Barbuda, Argentina, the Plurinational State of Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Jamaica, Mexico, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, United States of America, Uruguay.

⁴⁵ Argentina, Brazil, Paraguay, Uruguay, and the Bolivarian Republic of Venezuela (Associated States: the Plurinational State of Bolivia, Chile, Colombia, Ecuador, Guyana, Peru, Suriname.

⁴⁶ About the Comité Técnico N°7 de Defensa del Consumidor del Mercosur, See <https://www.argentina.gob.ar/produccion/consumidor/ct7> (accessed 2 December 2020).

⁴⁷ See *Tourists and Visitors (ODR) Project* at the Hague Conference on Private international Law <https://www.hcch.net/en/projects/legislative-projects/protection-of-tourists> (accessed 2 December 2020).

⁴⁸ MERCOSUR/CMC/DEC. N° 36/17,

[Acuerdo MERCOSUR sobre Derecho Aplicable en Materia de Contratos Internacionales de Consumo](#)

Mercosur assumed the compromise of implementing the United Nations Guidelines on Consumer Protection among its member States legislation. To do so, in the past few years, it has incorporated to its annual work plan different issues, such as:

- Mercosur's Digital Agenda: the group is working on a joint online dispute resolution platform
- Consumer protection against over-indebtedness in the preventive stage
- Transversal public policies to protect hyper-vulnerable consumers
- Mercosur's Academia and Consumer Protection NGOs Network
- Good practices manuals aligned to UNGCP regarding business, sustainable consumption, and e-commerce
- Consumer Protection Regulation, with the aim of creating a regional instrument that compiles all regional legislation on the subject
- Class actions recent developments
- Recalls and consumer product safety

In terms of positive legislation, together with the *"MERCOSUR Agreement on applicable law to international consumer contracts"*, the working group produced a number of resolutions that allowed to update procedures and legal definitions in different subjects, namely:

- Procedure on Alert and Withdrawal of Products and Services Considered Potentially Harmful or Dangerous in Mercosur⁴⁹
- Fundamental Principles of Consumer Protection⁵⁰
- Consumer Protection in e-commerce⁵¹

C. Asia

The Association of Southeast Asian Nations (ASEAN) Committee on Consumer Protection (ACCP)⁵² was established in 2007 by the ASEAN Economic Ministers in 2007. Its members are representatives of consumer protection agencies of ASEAN member States. The ACCP serves as the focal point to implement and monitor regional arrangements and mechanisms to foster consumer protection in the ASEAN Economic Community since 2007, with the focus on harmonizing consumer protection legislation in all members, improving consumer access to information and mechanisms for redress and recall of unsafe products.

Some of the major accomplishments of ACCP are: a) nine of its members have consumer protection laws, with Cambodia aiming to enact its consumer protection law in the very near future; b) the launch of the website⁵³ in 2012; and c) the notification and information exchange mechanism developed for official and voluntary recalled/ banned products where member States are able to upload its recalled/ banned products in real time through the ACCP website.

Considering its work in the field of harmonization and integration, [the ASEAN Consumer website](#), launched in 2012, serves as the main reference point for matters pertaining to consumer protection issues including the provision of information on (i) AMS focal points for handling cross-border complaints; (ii) notifications on

⁴⁹ MERCOSUR/GMC/RES. N° 04/17, [Procedimiento sobre Alerta y Retiro de Productos y Servicios Considerados Potencialmente Nocivos o Peligrosos en el Mercosur](#) (accessed 4 December 2020).

⁵⁰ MERCOSUR/GMC/RES. N° 36/19, [Defensa del Consumidor - Principios Fundamentales](#) (accessed 4 December 2020).

⁵¹ MERCOSUR/GMC/RES. N° 37/19, [Defensa del Consumidor - Protección al Consumidor en el Comercio Electrónico](#) (accessed 4 December 2020).

⁵² ASEAN Committee on Consumer Protection (ACCP). See <https://asean.org/archive/the-asean-committee-on-consumer-protection-accp/> (accessed 2 December 2020).

⁵³ Consumer Protection in ASEAN. See <https://aseanconsumer.org/> (accessed 2 December 2020).

recalled/banned products; (iii) consumer protection legislation of AMS; and (iv) other information such as publications and workshop materials.

The ACCP has also overseen the implementation of initiatives and commitments under the [AEC Blueprint 2015](#),⁵⁴ including the development of a (i) notification and information exchange mechanism on official/voluntary recalled products; (ii) research and dialogue on consumer protection (a set of 24 policy digests); (iii) technical competency for consumer protection in ASEAN (a set of six training modules); and (iv) a set of public awareness models and guidelines.

Consumer protection represents a fundamental pillar towards the integration of the ASEAN Economic Community under the ASEAN Economic Community Blueprint (AEC Blueprint) 2025. According to the Competition, Consumer Protection & IPR Division (CCPID) of the ASEAN Secretariat, there are about 600 million ASEAN consumers with rising purchasing power and a young demographic profile, representing powerful drivers for innovation and productivity in their respective countries and thereby able to effectively contribute to the economic development and inclusive integration of the AEC. The ASEAN Strategic Action Plan for Consumer Protection (ASAPCP) 2025⁵⁵ was therefore developed⁵⁶ to guide ASEAN in the implementation of strategic goals identified for consumer Protection.

The four strategic goals of the ASAPCP 2025 flow under the AEC Blueprint 2025: four goals are:

1. *A common ASEAN consumer protection framework* – this included the development of high-level principles of consumer protection,⁵⁷ which formed the basis for modernizing consumer protection laws in AMS. Additionally, enforcement and monitoring of consumer protection legislation is also being made effective through the development of capacity building tools⁵⁸ and an ASEAN Knowledge Management System as well as through a peer review process. The use and adoption of alternative dispute resolution mechanisms (ADR) for consumer redress are also part of the initiative under this goal for an effective consumer protection regime.
2. *A high common level of consumer empowerment and protection* – this is accomplished by ensuring that the markets provide the consumers with choices, accurate information, and transparency. Emphasis is to ensure the active participation of regional consumer forums and associations, strengthening engagement with these associations and developing online consumer knowledge⁵⁹ and advocacy tools towards higher consumer empowerment.
3. *High consumer confidence in the AEC and cross border transactions* – this would require the development of appropriate regulatory framework and enforcement measures. Emphasis will be put on product safety issues and establishing an ASEAN Regional Online Dispute Resolution (ODR) Network. For cross-border transactions, this will also be addressed under the ASEAN E-Commerce Work Programme.

⁵⁴ ASEAN Economic Community. See <https://asean.org/asean-economic-community/> (accessed 2 December 2020).

⁵⁵ [ASEAN Strategic Action Plan for Consumer Protection 2016-2025 \(ASAPCP 2025\)](#)

⁵⁶ The ASAPCP 2025 was endorsed at the 48th ASEAN Economic Ministers' Meeting on 3 August 2016 in Vientiane, Lao People's Democratic Republic

⁵⁷ See [ASEAN High Level Principles for Consumer Protection](#) (2017) (accessed 2 December 2020).

⁵⁸ See

[Roadmapping Capacity Building Needs in Consumer Protection in ASEAN: Regional Report\(Final\) and Policy Brief - ASEAN Capacity Building Roadmap for Consumer Protection 2025](#) (accessed 2 December 2020).

⁵⁹ See [Handbook on ASEAN Consumer Protection Laws and Regulations](#) (accessed 2 December 2020).

4. *Streamlining consumer concerns in ASEAN policies* – this is essential over the next decade to ensure that they are mutually supportive and deliver results which are beneficial to citizens and other stakeholders. It seeks to ensure overall consistency and complementarity between the ASAPCP 2025 and other relevant ASEAN policies, instruments, and actions. An impact assessment of consumer policies, development of the ASEAN Consumer Empowerment Index and exploring the interface between consumer protection and competition are part of the initiatives.

In addition to these four goals, *supportive measures* were incorporated to reflect additional efforts that focuses on new and emerging consumer issues (such as competition, e-commerce, financial services and air transport), developing long term capacity building program to assist ASEAN member States to implement its consumer protection legislations and strengthening the ASEAN Committee on Consumer Protection (ACCP),⁶⁰ which was established in 2007 having the mandate to implement the ASAPCP 2025.

Further, the *ASEAN Digital Integration Framework Action Plan (2019-2025)* (DIFAP) has 6 priority areas which includes broadening digital talent base for education, and technology competency and *consumer protection*. Some of these consumer protection deliverables to be emphasized for the purpose of the digital economy include:

- (i) The development of an ASEAN Framework of Cross Border Cooperation;
- (ii) The ASEAN Capacity Building Roadmap for Consumer Protection 2019 – 2025⁶¹;
- (iii) ASEAN Consumer Empowerment Index;
- (iv) Participation at UNCTAD Intergovernmental Group of Experts on consumer law and policy (IGE Consumer Protection);
- (v) Regional information campaigns⁶²;
- (vi) Feasibility study for an ASEAN ODR Network;
- (vii) ASEAN Guidelines on Cross Border B2C Complaints; and
- (viii) Modernizing the legal framework including voluntary internal and peer reviews.

The implementation of these outcomes are supported by *dialogue partners* and *intra ASEAN collaboration* in which specific AMS and/or ASEAN Secretariat will spearhead these projects under the guidance of the ACCP and with the assistance of international or ASEAN experts and consultants in the relevant fields where applicable.

Since its establishment in 2007, the focus of the ACCP has been to ensure that consumer protection legislation is in place in all its member States, consumer access to information is enhanced, mechanisms for consumer redress and recalls are in place, and institutional capacity are strengthened.

⁶⁰ See ASEAN Committee on Consumer Protection <http://asean.org/archive/the-asean-committee-on-consumer-protection-accp/> (accessed 2 December 2020).

⁶¹ ASEAN *Regional Capacity Building Brief*.

Available at <https://aseanconsumer.org/read-publication-regional-capacity-building-brief>

ASEAN Capacity Building Roadmap for Consumer Protection 2025.

Available at <https://aseanconsumer.org/read-publication-asean-capacity-building-roadmap-for-consumer-protection-2025>

ASEAN Capacity Building Roadmap for Consumer Protection 2020-2025, Policy Brief.

Available at <https://aseanconsumer.org/read-publication-policy-brief-asean-capacity-building-roadmap-for-consumer-protection-2020-2025> (accessed 2 December 2020).

⁶² ASEAN Regional information campaign on online shopping.

See <https://aseanconsumer.org/video-asean-regional-information-campaign-on-online-shopping> (accessed 2 December 2020).

The ASEAN Consumer website,⁶³ launched in 2012, thus serves as the main reference point for matters pertaining to consumer protection issues including the provision of information on

- (i) AMS focal points for handling cross-border complaints;
- (ii) Notifications on recalled/banned products;
- (iii) Consumer protection legislation of AMS; and
- (iv) Other information such as publications and workshop materials.

The ACCP has also overseen the implementation of initiatives and commitments under the AEC Blueprint 2015, including the development of:

- (i) Notification and information exchange mechanism on official/voluntary recalled products;
- (ii) Research and dialogue on consumer protection (a set of 24 policy digests);
- (iii) Technical competency for consumer protection in ASEAN (a set of six training modules); and
- (iv) A set of public awareness models and guidelines.

The outcomes and supportive measures in the ASACP 2025 plus the deliverables under the DIFAP 2019 – 2025 are implemented on an on-going basis throughout the effective period of the work plans.

The work of ACCP remains not only as a reference in international cooperation, but true integration in the field of consumer protection by harmonizing consumer law in its member States as well as implementing policies and actions in the field of cross-border cooperation. Apart from that the ASEAN Economic Community Blue Print and its objectives in the field of consumer law and policy are as well reflected in the recently signed *Regional Comprehensive Economic Partnership*.

Box 2. Regional Comprehensive Economic Partnership – International cooperation in consumer protection

The *Regional Comprehensive Economic Partnership (RCEP)*⁶⁴ is a trade agreement between the ASEAN member States and five of its significant trading partners: Australia, China, Japan, Republic of Korea, and New Zealand.

It was signed on 15th November 2020 after 8 years of negotiations. The pact covers trade in goods and services, competition, intellectual property, e-commerce, and other issues.

RCEP negotiations were formally launched in November 2012 at the ASEAN Summit in Cambodia. There are two Chapters in the RCEP agreement that features Consumer Protection Provisions, i.e. Competition Chapter⁶⁵ and E-Commerce Chapter⁶⁶.

Competition: Parties recognized the importance of consumer protection laws and enforcement and cooperation.⁶⁷ Parties will maintain laws or regulations to proscribe use in trade of misleading practices, or false or misleading descriptions.⁶⁸ Parties also recognize the importance of awareness of or access to

⁶³ ACCP, ASEAN Committee on Consumer Protection.

See <http://asean.org/archive/the-asean-committee-on-consumer-protection-accp/> (accessed 2 December 2020).

⁶⁴ Regional Comprehensive Economic Partnership.

See <https://rcepsec.org/> (accessed 2 December 2020).

⁶⁵ Chapter 13, Article 13.7 on Consumer Protection.

See <https://rcepsec.org/legal-text/> (accessed 2 December 2020).

⁶⁶ See Chapter 12, Section C (Article 12.7 to 12.9) on Electronic Commerce which concerns consumer protection in the digital economy.

⁶⁷ Article 13.7 para 1. RCEP.

⁶⁸ Article 13.7 para 2 *ibid*.

consumer redress mechanisms.⁶⁹ And parties may cooperate on matters of mutual interest on consumer protection compatible with their laws and regulations.⁷⁰

e-Commerce: The RCEP e-Commerce Chapter consists of 20 Chapters. Of relevance is Chapter 12 Section C on 'Creating a Conducive Environment for Electronic Commerce', which among others include: online consumer protection (Article 12.7), online personal information protection (Article 12.8), and unsolicited commercial electronic messages (Article 12.9).

Source: ASEAN Secretariat

D. Europe and Central Asia

i. The Eurasian Economic Union

The **Eurasian Economic Union (EAEU)**⁷¹ is an international economic integration association of five member States: Armenia, Belarus, Kazakhstan, Kyrgyzstan and the Russian Federation.⁷² The fundamental document of the EAEU is the Treaty on the Eurasian Economic Union of May 29, 2014 (the Treaty on the EAEU). The EAEU Treaty contains the basic principles of the EAEU functioning - four economic freedoms: freedom of movement of goods, services, finance, labour. As part of the development of economic integration, the EAEU member States conduct an agreed policy in the field of consumer protection.

The principles of the agreed consumer protection policy are defined in Section XII and Appendix No. 13 of the Treaty on the EAEU.⁷³ The aim of the agreed policy in the field of consumer protection is to create equal conditions for the citizens of the member States to ensure the protection of the rights and legitimate interests of consumers.

The harmonized consumer protection policy in EAEU is being implemented in light of member States legislation on consumer protection and international law provisions in this field. Within the framework of a coherent consumer protection policy, national regulations are being harmonized on the basis of acts (recommendations) adopted by the Eurasian Economic Commission (EEC), which are:

- **No.2 of March 22, 2016** on the interaction of authorized bodies in the field of consumer protection of the EAEU member States;
- **No. 27 of November 21, 2017** on General approaches of the EAEU member States to consumer protection in the remote sale of goods (services);
- **No. 15 of May 21, 2019** on General approaches to the protection of vulnerable consumers (this recommendation benefited from the experience gained in 2018 - 2019 with the participation of EEC in the UNCTAD working group on the subject);
- **No. 14 of September 15, 2020** on the exchange of information between the authorized bodies of the EAEU member States and the EEC.

Regarding the analytical work of member States practices, the EEC prepared reviews on: Consumer protection in the application of non-recoverable air fares (2017); Interaction of the competent authorities of member States in the field of consumer protection (2017); Consumer protection in the EAEU countries in electronic commerce (2018); Activities of public consumer organizations of the EAEU countries (2018); Efforts to combat the trafficking of counterfeit products in EAEU countries (2018); Alternative consumer dispute resolution

⁶⁹ Article 13.7 para 3 *ibid.*

⁷⁰ Article 13.7 para 4 *ibid.*

⁷¹ Eurasian Economic Commission. See <http://www.eurasiancommission.org/en/Pages/default.aspx> (accessed 2 December 2020).

⁷² The Republic of Moldova is currently an observer State in the EAEU.

⁷³ Eurasian Economic Commission. *The Treaty on the Eurasian Economic Union is effective*, News, 01 January 2015. See <http://www.eurasiancommission.org/en/nae/news/Pages/01-01-2015-1.aspx> (accessed 2 December 2020).

mechanisms (Financial Ombudsman) (2019); Development of tourism and consumer protection of tourism services in the EAEU (2020).

As part of the integration and cooperation among members and the harmonization of rules on consumer protection, an online portal⁷⁴ constitutes a source of information on the status of consumer protection in the EAEU. Apart from that, an *interactive map*⁷⁵ has been created, containing information about the authorized bodies in the field of consumer protection of the EAEU member States, the information on the recommendations adopted by the EEC in the field of consumer protection, as well as on the legislation of the member States in this area.

The results of the first five-year stage of the EAEU development are taken into account in the further joint work of the EAEU countries. Currently, a draft Strategic Directions for the development of Eurasian integration up to 2025 (Strategy) has been prepared. The Strategy should be adopted by the end of 2020.

The Strategy contains measures to protect consumer rights, including:

- a. Elaboration of the Programme of Joint Action of the EAEU member States on Consumer Protection and Quality Assurance of Goods and Services;
- b. Elaboration of criteria for fair business practices;
- c. Preparation of common approaches of the EAEU member States to consumer protection in electronic commerce;
- d. Approximation of national mechanisms for the protection of consumers' rights in pre-trial proceedings, support for the activities of consumer associations;
- e. Other areas of joint activities of the EAEU member States.

EEC is currently developing two recommendations for member States on : i. a model methodology for the development of a national program for consumer protection; and ii. the principles and criteria of good business practices in the field of retail trade in goods. According to the Consumer Protection Section of the Eurasian Economic Commission, and as an active organization in the work coordinated by UNCTAD, the recommendations are being developed considering the United Nations Guidelines and the work UNCTAD's intergovernmental group of experts on consumer protection.

ii. The European Union

European Consumer Centres network

The European Consumer Centres network (ECC)⁷⁶ is a network of independently managed offices co-funded by the European Commission of the European Union. The ECC provides access to dispute resolution to the citizens of European Union member States, Iceland, Norway, and the United Kingdom. The ECC also provides guidance and advice on common consumer problems, having several publications on counterfeit products, air passenger rights, timeshares, extended warranties, online fraud, e-commerce, among others. For the occasion of its 10th anniversary in 2015, the ECC has launched a report,⁷⁷ on the information and redress work carried out through its network, solving more than 5000 complaints and being referred to as an Alternative Dispute Resolution form.

European Consumer Protection Cooperation Network (CPC)

⁷⁴ Eurasian Economic Commission Portal of General information, resources and open data. See <https://potrebitel.eaeunion.org> (accessed 2 December 2020).

⁷⁵ Eurasian Economic Commission, Map.

See <https://potrebitel.eaeunion.org/en-us/Pages/Organizations.aspx> (accessed 2 December 2020).

⁷⁶ See European Consumers Centres Network

https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint/european-consumer-centres-network-ecc-net_en (accessed 3 December 2020).

⁷⁷ European Union 2015. *The European Consumer Centres Network, 10 years serving Europe's consumers*, Anniversary Report 2005-2015.

Available at https://ec.europa.eu/info/sites/info/files/ecc_net_-_anniversary_report_2015_en.pdf

The European Consumer Protection Cooperation Network (CPC) is based on Consumer Protection Cooperation (CPC) Regulation [EU 2017/2394](#),⁷⁸ to channel cooperation between consumer protection authorities in the European Union. The Regulation enables national authorities to overcome national jurisdictional boundaries and to give full sense to the European Union Single Market.

As within the European Union enforcement of consumer protection laws is the responsibility of national governments, the CPC Regulation presents itself crucial to prevent non-compliant traders from exploiting gaps, territorial and other limitations in the enforcement capacity of each Member State. To activate the cooperation under the CPC Regulation there is a need for a cross-border context (e.g. trader marketing in another country than the one he is established or trader who is infringing the rights of consumers in more than two member States). The latter requirement can be easily met in the online world, which knows no borders.

The primary aim of the CPC Regulation is to ensure effective and equal enforcement of the European Union consumer laws, which are largely harmonized and therefore the same in all member States. This cooperation is applicable for business to consumers (B2C) relations covering harmonized legal acts such as unfair commercial practices, e-commerce, unfair contract terms, geo-blocking, portability of audio-visual content, digital contracts and guarantees, package holidays, retail financial services, passenger rights, etc. Currently the [CPC Regulation](#) covers 27 harmonized legal acts, which are included in its annex.

The cooperation is operating through a structured mechanism of alerts and bilateral mutual assistance requests, based on a set of powers, to ensure that national authorities work together in an efficient and legally sound manner. There is also a mechanism to tackle malpractices concerning more than two countries, where member States undertake coordinated actions. The current CPC Regulation provides more powers to the European Commission in case of practices, which harm a vast majority of European consumers. The Commission can alert national authorities and coordinate their action. This is followed by negotiation with the businesses concerned, directly at European Union level. With the entry into application of the [Directive of enforcement and modernization of consumer law](#)⁷⁹ in 2022, possible sanctions for infringements subjected to the coordinated action could reach at least 4% of the turnover of the businesses in the member States concerned.

On the strengths of its cooperation, the European Commission considers the common toolbox for national authorities, improvement of coordination and a better detection of infringements, the main achieved improvements in the field of consumer protection:

➤ **Common toolbox for national authorities**

- The functioning of the CPC system benefits from core common elements in national consumer laws as most of these laws are a transposition of European Union legislation in their national legal system. Authorities have therefore a common "dictionary" when they work together, they can use directly the text of the Directives and Regulations listed in the annex of the CPC Regulation and refer to this text when they resolve bilateral demands or address multinational traders.
- The new CPC Regulation has also formalized some steps in the coordinated action related to investigation and enforcement measures, which were developed ad hoc under the previous regulation and therefore offers a more stable legal framework for such actions.
- Not all member States are obliged to participate in a coordinated action. However, the new CPC Regulation sets a clear list of reasons for declining to take part in a coordinated action. When

⁷⁸ [Regulation \(EU\) 2017/2394](#) on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing [Regulation \(EC\) No 2006/2004](#) (the CPC Regulation).

Available at

https://ec.europa.eu/info/law/law-topic/consumers/consumer-protection-cooperation-regulation_en (accessed 2 December 2020).

⁷⁹ 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 modernization of Union consumer protection rules. Available at <https://eur-lex.europa.eu/eli/dir/2019/2161/oj> (accessed 2 December 2020).

participating in the action the Member State can support the action actively, by commenting the documents and participating in meetings with traders or decide to remain in a passive role. The coordinated aim is to obtain European Union-level benefits and solutions for all European Union consumers.

- When authorities work on a coordinated action related to a widespread infringement, an assessment of common issues is agreed by way of consensus. The issues for which national authorities do not come to the same conclusion, are not included in the assessment, which is then put in a document called the common position.
- **Strengthened coordination role of the European Commission**
- As indicated above, national authorities are competent for the enforcement of European Union consumer rules, but the Commission plays a key role in steering and managing the CPC network. It manages IT systems, organizes meetings, workshops, trainings and ensures competent authorities act in a coordinated manner. It also has an opinion-formulating role in cases where CPC authorities have not found a satisfactory solution, for example, when addressing widespread infringements. The Commission also acts as a provider of studies and statistical evidence and can offer logistic support, for example, a secure and confidential platform to draft and share common documents.
- **More effective detection of infringements**
- The new CPC Regulation allows external entities, such as consumer or trader associations (designated to do so by member States or by the Commission) and European Consumer Centres to post alerts (“external alerts”) in the CPC IT system to signal issues. We are increasingly noting that consumer and trader organizations are becoming more interested in a fair enforcement of consumer laws across the European Union.
- **One stop shop solution for traders**
- CPC coordinated actions also benefit traders as they have a possibility to propose European Union-wide commitments. This reduces considerably time and litigation cost.
 - Multinational traders are interested in such actions, which provide a one stop shop approach to tackle issues with regulators of several countries at the same time.

Box 3. CPC coordinated actions to protect millions of European Union consumers

The CPC network has already dealt with several European Union wide issues such as:

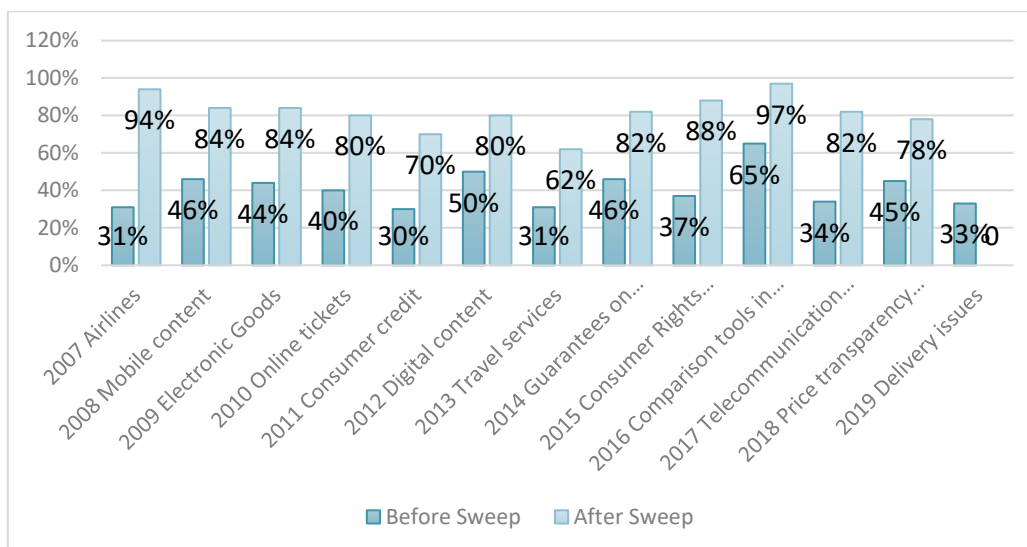
- Proliferation of **misleading offers and ads and consumer scams** related to masks, sanitizing gels and protective equipment found **on platforms** during the first wave of **COVID-19**.
- The **marketing of online games** as free when in fact in app purchases were offered. Apple iTunes and Google Play stopped this practice and developed information on the main items that can be purchased as part of the games.
- **Unclear conditions to rent cars**. The five leading car rental companies — Avis, Europcar, Enterprise, Hertz and Sixt — considerably improved the transparency of their offers and handling of damages.
- **Unfair terms in social media contracts**. Facebook, Twitter, and Google+ updated their terms of services and implemented a dedicated procedure for consumer authorities to signal problematic content.
- **Airbnb and Booking have agreed to improve and clarify the way it presents accommodation offers** to consumers, for example, to provide adequate and complete price information (including all mandatory charges and fees).

CPC sweeps:

What is a “sweep”?

A “sweep” is a set of **checks** carried out **simultaneously** by **national enforcement authorities** to identify breaches of European Union consumer law in a particular sector. These checks show whether

traders respect European Union consumer protection laws. Where the checks reveal potential breaches of European Union consumer law, the consumer protection authorities contact the responsible companies and ask them to make **corrections**.



*enforcement phase still ongoing

Source: European Commission

As for the challenges, the European Commission considers the implementation of coordinated actions, enforcement and the fast development of the market and consumption tools and forms, as the most critical ones:

1. To be able to cooperate bilaterally or to participate in coordinated actions, competent authorities should be equipped with the minimum investigation and enforcement powers, foreseen in the CPC Regulation. However, the exercise of these powers can differ significantly according to the member States' legal frameworks. member States may decide not to confer all the powers to every competent authority. In some cases, this can complicate procedures for mutual assistance or investigation in coordinated actions.
2. The enforcement capacities of national authorities still differ significantly and depends greatly on several factors, such as the size of the budget allocated to enforcement activities. Some member States have more human and financial resources to participate in coordinated actions.
3. The scope of coordinated actions is limited to core common elements, and therefore, there can be some illegal practices existing only in certain countries, which cannot be taken into account in the coordinated action.
4. CPC coordinated actions are suitable mostly for large multinational traders with large market shares. Indeed, the actions analyze specific practices of traders across a number of markets. This requires analytical capacities to scan numerous multilingual documents and websites.
5. If traders do not cooperate, different procedural laws for enforcement measures will have to be activated. This may be complex and time consuming. Knowing this, traders may refuse to cooperate in the hope that very few enforcement procedures would be launched against them at the end.
6. In addition, as online practices change rapidly, the CPC network's common positions may become obsolete or irrelevant quite quickly. There is also a need to assess the situation and practices in a holistic manner, taking into account various other issues such as cyber security, data protection, impact of processes managed by artificial intelligence.

Considering the lessons learned during the COVID-19 pandemic and the boost of the digital economy, the current enforcement priorities of the CPC network focus on:

1. The continuation of the actions to address the Covid-19 impact on consumer rights especially in terms of misleading commercial practices and scams, and travel related issues;
2. Unfair influencing techniques such as hidden sponsoring of online reviews and blogs;
3. Misleading sustainability claims;
4. Subscription traps in consumer contracts;
5. Unfair commercial practices linked to the use of consumers' data; and
6. Exploitation of financial vulnerabilities and other sector specific issues (for example ticket reselling or dating websites).

To work on these priorities, it is envisaged to : a) increase cooperation between the Consumer Protection Cooperation network and other networks (such as data protection authorities, domain registers or law enforcement authorities); and b) work on deploying a toolbox of innovative e-tools to strengthen national authorities' capacity of to tackle illegal online commercial practices.

By 2023, the Commission will evaluate the application of the CPC Regulation, to assess the effectiveness of enforcement in addressing European Union-wide practices that contravene European Union consumer law.

Consumer Policy Network

The Consumer Policy Network is a high-level group established by the European Commission whose members are the Directors-General responsible for consumer protection in the member States. This network meets three/four times a year to advise the Commission on policy priorities and initiatives at European Union level.

The GPSD Committee and the European Consumer Safety network

The general product safety directive (GPSD) committee assists the European Commission in tasks related to the implementation of the general product safety directive⁸⁰, for example when the Commission requests European Union countries to withdraw dangerous products from the market, when the Commission issues specific guidelines or in several steps of the standardization process. The committee is made up of delegates from national ministries or authorities that are responsible for product safety at national level.

The General Product Safety Directive covers products and risks which are not already covered by other product-specific (so called harmonized) legislation (*lex generalis*). Its general requirement is that all products sold on the European Union market must be safe, and therefore it represents a "safety net" for consumers. After two decades, the General Product Safety Directive is currently being reviewed. The review is taking into account the following aspects:

- Adapt the Directive to risks and products related to new technologies
- Address product safety challenges in the online sales
- Make product recalls more effective and efficient
- Enhance market surveillance

The European Commission has been working closely with the European Union member States in the framework of the Consumer Safety Network (CSN).

The consumer safety network is a consultative expert group chaired by the European Commission and composed of national experts from Market Surveillance Authorities representing all European Union countries,

⁸⁰ Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety.

See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0095:EN:NOT> (accessed 7 December 2020).

as well as Norway, Iceland and Liechtenstein. It also includes participants representing the consumers and businesses associations as well as the standardization organizations with the status of observers. This is a policy forum in which in the European Commission discusses priorities and initiatives with authorities and stakeholders. Those include for example market surveillance and enforcement, standards supporting legislation, international cooperation, awareness raising and communication campaigns. At the same time, delegates can share their challenges, practices and ideas in the consumer product safety field.

The European Commission can also establish ad hoc or on a more permanent basis sub-groups of the Consumer Safety Network. A recent example is the Sub-group on Artificial Intelligence, connected products and other new challenges in product safety, whose mandate was to provide expert advice useful for the European Commission in its process of assessing the review of the General Product Safety Directive.

The RAPEX contact point group is a sub-group of the Consumer Safety Network that meets regularly in the context of the Safety Gate/RAPEX system. The European Union Safety Gate Rapid Alert System for dangerous non-food products⁸¹ is an European Union platform which enables quick exchange of information between European Union/EEA member states and the European Commission on measures taken against dangerous non-food products posing a risk to health and safety of consumers. If a manufacturer or distributor finds out that one of their products on sale is dangerous, they have to inform the competent national contact in charge of receiving and dealing with alerts of dangerous non-food consumer products sent according to Article 5(3) of the General Product Safety Directive⁸². Consumers can as well report product related accidents/hazards found in the market to their respective local authorities.

The European Commission also funds the coordinated market surveillance activities, so-called CASP, among Market Surveillance Authorities (MSAs). CASP stands for Coordinated Activities for the Safety of Products. It enables all authorities of European Union/EEA countries responsible for market surveillance to cooperate to reinforce the safety of products places on the European markets. CASP projects can focus on the analysis of a single product or a group of products (product specific activities) or on the exchange of best practices on market surveillance (horizontal activities). member States take part in each activity according to their priorities.

CASP operates at three levels:

- It organizes the testing of products pre-selected by the Market Surveillance Authorities (MSAs) participating in each project.
- It encourages cooperation and exchange of good practices among the MSAs.
- It contributes to greater awareness about product safety among economic operators and consumers through an active communication strategy about its activities and results.

Participation is voluntary, but the results are shared with all MSAs.

Regional efforts in consumer protection are central towards ensuring healthy markets and consumer welfare. They are complemented by international and multilateral initiatives that bridge national and regional ones.

In the increasingly interconnected world and global markets, the European Commission upholds the key role of international cooperation in this field. There is established bilateral cooperation with some countries, in particular, the biggest producer countries and/or countries with similar markets, and multilateral cooperation in the frameworks of UNCTAD, OECD and World Trade Organization.

The European Commission organizes every two years the International Product Safety Week that gathers international regulators, businesses, consumer associations, academia and other product safety experts from around the globe.

⁸¹ European Union, Safety Gate: the rapid alert system for dangerous non-food products.

Accessible at

https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/repository/content/pages/rapex/index_en.htm (accessed 7 December 2020).

⁸² Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety.

See <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32001L0095> (accessed 7 December 2020).

The 2020 edition gathered more than 500 registered participants from more than 70 countries to discuss about several product safety aspects such as product safety in the time of crisis, traceability and recalls. In the ambit of international cooperation, it is worth mentioning the Joint European Commission-UNCTAD workshop held on 12th November 2020, "Kick-starting consumer product safety: a worthwhile endeavour which counted with lecturers from Least Developed Countries, namely Burkina Faso, Ethiopia and Zambia. The workshop was designed to identify the needs of least developed countries and to discuss the fundamental building blocks required to boost consumer product safety. Experts in the field of consumer protection and product safety of the European Union, OECD and UNCTAD contributed to the discussions and exchange of experience, being the first official forum on this matter following the adoption of the UNCTAD Recommendation on preventing cross-border distribution of known unsafe consumer products.⁸³

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See https://unctad.org/system/files/information-document/tdrbpconf9_d01_consumer-products_en.pdf (accessed 7 December 2020).

5. Multilateral cooperation

In its resolution on Consumer Protection, the General Assembly recognized the value of coordination and partnership with established multilateral organizations that focus on consumer protection in order to maximize the benefits to consumers and avoid duplicating efforts. At the multilateral level, there are three main initiatives: the International Consumer Protection and Enforcement Network, the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD).

A. International Consumer Protection and Enforcement Network

The International Consumer Protection and Enforcement Network (ICPEN)⁸⁴ is a membership organization consisting of consumer protection law enforcement authorities from across the globe. ICPEN provides a forum for developing and maintaining regular contact between consumer protection agencies and focusing on consumer protection concerns. Currently, ICPEN consists of 65 member countries, 4 partner organizations, and 6 observer authorities. ICPEN represents approximately 5 billion consumers worldwide.

The mandate of ICPEN is to share information about cross-border commercial activities that may affect consumer interests and to encourage international cooperation and collaboration among consumer law enforcement agencies in this scope. Thanks to its global reach, ICPEN is able to target the consumer protection challenges and problems faced by consumers around the world.

ICPEN operates under a rotating presidency, with Canada acting as the 2020-2021 President. Canada took over from Colombia as the 2019-2020 President, while Portugal will act as the 2021-2022 President. The rotating presidency allows member countries to have opportunities to lead the organization and develop unique and timely programmes of work, which seek to address the pressing and important issues facing consumer protection globally.

ICPEN has a structured network. ICPEN is comprised of the President, who directs the organization and sets the programme of work for their tenure; the advisory group, which works to provide advice to the Presidency to ensure the fulfilment of ICPEN's strategic plan; the secretariat (currently held by Germany), which supports the Presidency and network activities; and the working groups that are created under the Presidency to meet the objectives of the current ICPEN presidencies programme of work.

Traditionally, ICPEN members meet twice a year at plenary conferences hosted by the country that is currently holding the ICPEN's annual rotating presidency. The conferences allow ICPEN members to discuss key consumer issues from a global perspective, exchanging their experience regarding prevention and enforcement. At the conferences, results of the ICPEN's different projects are presented and decisions are taken as to new initiatives or follow-up action. The meetings also serve to strengthen the Network's cohesiveness and foster better contacts between members.

Box 4. ICPEN Working Groups and priorities

ICPEN Work Streams and Steering Groups

ICPEN consists of three steering groups, which support and guide the entirety of ICPEN's work. These groups are intelligence, enforcement, and best practices. The Intelligence Steering Group focuses on the sharing of information and intelligence on consumer protection trends and risks. The Enforcement Steering Group focuses on the coordination and cooperation of members on consumer protection matters. While the Best Practices Steering Group focuses on the sharing of key information such as consumer protection laws, enforcement

⁸⁴ International Consumer Protection and Enforcement Network ICPEN. See <https://icpen.org/> (accessed 2 December 2020).

powers, and regulatory approaches to consumer protection. All of ICPEN's work and initiatives flow from these three steering groups.

ICPEN Priorities

Under the Canadian Presidency, ICPEN's 2020-2021 programme of work focuses on 'building consumer trust in a changing marketplace'. In recent years, conduct occurring even in the digital economy has become a larger focus of the organization, and this remains a key focus today. Under the 2020-2021 Canadian presidency, a programme of work was developed that focuses on artificial intelligence, digital platforms including enforcement challenges, data privacy concerns and third-party responsibility associated with digital platforms, enforcement in the digital economy, COVID-19 and consumer protection, and misleading environmental claims. All of these topics are headed by working groups comprised of a diverse group of nations.

Source: ICPEN

ICPEN Work and Initiatives

Working groups are a key part of ICPEN's work. They are comprised of a diverse group of nations with the mandate of fulfilling the current presidencies priorities. The working groups follow the key themes outlined in the current presidencies programme of work. Working groups will develop best practices for businesses, industry guidance, consumer education pieces, internal reference materials and tools, among others.

ICPEN also has five enduring initiatives that contribute to achieving current strategic objectives. Namely, Fraud Prevention Month, International Internet Sweep Day, eConsumer.gov, Consumer Education Awards, and Industry Guidance.

Fraud Prevention Month, an example of ICPEN's best practices workstream, is an annual initiative that consists of a series of education campaigns run every year by ICPEN members under a common theme but focusing on an issue relevant to each individual participating agency. Through this initiative, ICPEN educates consumers and businesses worldwide about scams and furnish them with appropriate information on how to protect themselves from falling prey to unfair businesses. The 2020 Fraud Prevention Month Campaign focused on the COVID-19 pandemic. ICPEN members collaborated and coordinated work to deliver consumer protection education and targeted enforcement action. The education focused on providing messaging that highlighted things such as trip and hotel cancellation due to COVID, hoarding of goods, and phishing techniques related to COVID.

A second component of ICPEN's work is the International Internet Sweep Day. This initiative is a pro-active enforcement tool to target growth in fraudulent and deceptive conduct emerging on the Internet and other forms of electronic communication. The International Internet Sweep Day aims to build consumer confidence in e-commerce through having a day dedicated to intensive searching to provide a list of suspicious sites for later enforcement action.

A third component of ICPEN's work is eConsumer.gov. a key aspect of the network's efforts in intelligence. eConsumer.gov. is a partnership website of more than 35 consumer protection authorities that are also members of ICPEN. Consumers can report cross-border complaints through the website and learn about alternative ways to resolve international disputes. Importantly, ICPEN members that participate in this initiative have access to their country complaint data. Essentially, the website has two components. First, a public website that allows consumers to make cross-border fraud complaints. It is currently available in English, French, German, Korean, Japanese, Polish, Spanish, and Turkish. Second, a secure econsumer.gov website that allows law enforcement around the world to share and access consumer complaint data and other investigative information.

A fourth component of ICPEN's work is industry guidance. ICPEN develops industry guidance material that reflects the basic principles of fair-trading practices in ICPEN member countries. In June 2020, ICPEN published industry guidance targeted at providing Best Practice Principles for Marketing Practices directed towards Children Online. This guidance targets the reality that children's lives have become increasingly digitized. Activities they once did offline, children can now do online such as watching videos, playing games

and searching for information. ICPEN developed principles that aimed to guide businesses targeting advertisements to children.

A final component of ICPEN's work is our consumer education awards program. Each year members are asked to nominate consumer education initiatives. Nominations are assessed against the success of the consumer education initiative, the strategy used, the results and impact achieved, and creativity and originality. The 2020 award winners were Mongolia and Estonia.

B. Organization for Economic Cooperation and Development

The OECD Committee on Consumer Policy (CCP)⁸⁵ addresses different matters in the field of consumer law and policy, helping public authorities to improve the development of consumer policies. The CCP carries out research and analysis, drafting policy guidelines, exchanging information on current and emerging issues and trends, such as e-commerce and consumer product safety and examining ways to strengthen policy outcomes, both among governments and with other [stakeholders](#).

The CCP is composed by consumer policy and enforcement officials from OECD governments and enforcement officials from OECD non-Members, experts from civil society and businesses. In addition to its semi-annual meetings, the CCP organizes workshops on specific issues in which stakeholders from non-Members often take part. International cooperation on consumer protection is a core aspect of CCP. Since 1969, the Committee has worked to promote consumer welfare by empowering consumers to make well-informed decisions and protecting them from fraudulent and misleading commercial practices.

On the work in the field of international cooperation, the OECD "[Consumer protection enforcement in a global digital marketplace](#)"⁸⁶ remains as a reference due to its investigative work on the enforcement powers of OECD Members and non-members countries and their abilities on cross-border cooperation. The research counted on answers of more than 30 countries, taking into account the differences among them on consumer protection authority powers, budgetary and staff resources and investigative/enforcement powers. Despite most of them (about 80%) have administrative and investigative powers, when it comes to enforcement powers, there is a clear drop, especially when it comes to cross-border matters.

Despite the collaboration among national consumer protection authorities and regulators, the same is yet to be seen in the international field. In the ambit of the OECD, "countries are implementing and developing a common framework for enforcement as set forth in the Recommendation of the Council concerning [Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders](#)"

Another field in which the OECD has been fostering cooperation is consumer health and safety, through the [OECD Global Recalls portal](#), (2012) which provides the possibility for governments to share information about ongoing product recalls. The portal has been developed in the ambit of the OECD's Working Party on Consumer Product Safety, which has as well following the work of other forums in the field of product safety, such as of ASEAN, FIAGC, OAS-CSHN and the European Union rapid alert system for dangerous non-food products, [Safety Gate](#). The work of the Working Party on Consumer Product Safety (WPCPS) represents a fruitful reference of international cooperation beyond regions.

The CCP has a longstanding focus on improving enforcement cooperation between consumer protection authorities as embodied in the OECD Council Recommendations on Cross-border Fraud (2013)⁸⁷ and E-

⁸⁵ OECD Committee on Consumer Policy (CCP). See <https://www.oecd.org/digital/consumer/> (accessed 2 December 2020).

⁸⁶ OECD (2018) Digital Economy Papers, *Consumer protection enforcement in a global digital marketplace*.

Available at https://read.oecd-ilibrary.org/science-and-technology/consumer-protection-enforcement-in-a-global-digital-marketplace_f041eead-en#page1 (accessed 2 December 2020).

⁸⁷ OECD, *Recommendation of the Council concerning Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders*, OECD/LEGAL/0317.

commerce (revised in 2016).⁸⁸A 2018 review of the former,⁸⁹ together with a survey of consumer authorities,⁹⁰ confirmed the progress made while also identifying remaining obstacles to enforcement cooperation, particularly domestic legal barriers. Accordingly, the CCP agreed in 2019 to develop a guide (*toolkit*) on legislative actions for cross-border enforcement cooperation, in partnership with the ICPEN. The aim of the toolkit is to help countries address remaining legal barriers to cooperation and support the implementation of the Cross-border Fraud and E-commerce Recommendations;⁹¹ it is expected to be finalized in the Spring of 2021.

The CCP also promotes cooperation among consumer authorities and businesses, including by acting as a forum for dialogue. For example, the CCP is currently exploring how businesses incorporate artificial intelligence to improve consumer products and transactions, as well as the role and responsibilities of online marketplaces to protect consumers, including during the COVID-19 pandemic. Furthermore, the CCP provides practical guidance to consumer authorities and businesses on a number of topics through publications such as 2019 Good Practice Guides on Consumer Data,⁹² Online Ratings and Reviews⁹³ and Online Advertising,⁹⁴ which are based on key principles of the E-commerce Recommendation.

The OECD Council Recommendation on Consumer Product Safety,⁹⁵ adopted in July 2020, promotes cooperation on consumer product safety by establishing key principles to be included in domestic and international policy frameworks, and by encouraging information sharing. It is accompanied by policy guidance on maximizing product recall effectiveness⁹⁶ and will be supported by a companion document to encourage consistent interpretation. It calls for greater use of the OECD's Global Recalls portal,⁹⁷ a public online platform

Available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0317> (accessed 2 December 2020).

⁸⁸ ECD, *Recommendation of the Council on Consumer Protection in E-commerce*, OECD/LEGAL/0422.

Available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0422> . (accessed 2 December 2020).

The original Recommendation, from 1999, was revised in 2016.

⁸⁹ OECD (2018), *Conclusion of the Review of the 2003 Recommendation on Protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders*.

Available at [https://www.oecd.org/sti/consumer/DSTI-CP\(2018\)7-FINAL.en.pdf](https://www.oecd.org/sti/consumer/DSTI-CP(2018)7-FINAL.en.pdf).

⁹⁰ OECD (2018), "Consumer protection enforcement in a global digital marketplace", *OECD Digital Economy Papers*, No. 266, OECD Publishing, Paris.

Available at https://www.oecd-ilibrary.org/science-and-technology/consumer-protection-enforcement-in-a-global-digital-marketplace_f041eead-en (accessed 2 December 2020).

⁹¹ OECD (2020), *Roundtable on Legislative Initiatives to Improve Cross-border Enforcement Cooperation: Summary of Discussion*.

Available at [https://one.oecd.org/document/DSTI/CP\(2019\)21/FINAL/en/pdf](https://one.oecd.org/document/DSTI/CP(2019)21/FINAL/en/pdf).

⁹² OECD (2019), "Good Practice Guide on Consumer Data", *OECD Digital Economy Papers*, No. 290, OECD Publishing, Paris.

Available at https://www.oecd-ilibrary.org/science-and-technology/good-practice-guide-on-consumer-data_e0040128-en (accessed 2 December 2020).

⁹³ OECD (2019), "Good Practice Guide on Online Consumer Ratings and Reviews", *OECD Digital Economy Papers*, No. 288, OECD Publishing, Paris. Available at https://www.oecd-ilibrary.org/science-and-technology/good-practice-guide-on-online-consumer-ratings-and-reviews_0f9362cf-en (accessed 2 December 2020).

⁹⁴ OECD (2019), "Good Practice Guide on Online Advertising: Protecting Consumers in ECommerce", *OECD Digital Economy Papers*, No. 279, OECD Publishing, Paris. Available at https://www.oecd-ilibrary.org/science-and-technology/good-practice-guide-on-online-advertising_9678e5b1-en (accessed 2 December 2020).

⁹⁵ OECD, *Recommendation of the Council on Consumer Product Safety*, OECD/LEGAL/0459. Available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0459> (accessed 2 December 2020).

⁹⁶ OECD (2020), *Policy Guidance on Maximizing Product Recall Effectiveness*.

Available at

[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/CP/CPS\(2019\)4/FINAL&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/CP/CPS(2019)4/FINAL&docLanguage=En) (accessed 2 December 2020).

⁹⁷ The OECD Global Recalls is available at <https://globalrecalls.oecd.org/#/> (accessed 2 December 2020).

containing more than 27,000 recall notices shared by 47 OECD members and non-Members and linked to the ASEAN rapid alert system since 2019.

In addition, each year the WPCPS undertakes a global consumer awareness campaign on important product safety issues. Last year's campaign #reacttorecalls encouraged consumers to check whether they owned any recalled products. This year's campaign, released on the World's Children's Rights Day (20 November), focuses on the safety of toys sold online.⁹⁸

The WPCPS also fosters dialogue between businesses and product safety authorities, acknowledging that product safety is businesses' primary responsibility. In 2019, the WPCPS held a roundtable on the role of online marketplaces in enhancing consumer product safety⁹⁹ and in 2018 held a workshop on enhancing product recall effectiveness.¹⁰⁰

All of the above issues and more will be discussed at the OECD's International Conference on the Consumer Marketplace of the Future to be held on 15-17 June 2020, with sessions planned on consumers in the digital transformation, enforcement cooperation, and product safety, inter alia.

In addition to cooperation between consumer authorities, collaboration with relevant international fora – such as the ICPEN, ICPHSO, UNCTAD, Consumers International, as well as the ASEAN, OAS, FIAGC, African Consumer Dialogue, COMESA are essential to protecting consumers globally, in particular in COVID-19 times. Furthermore, cooperation areas across other relevant sectors, such as privacy, data security, competition or trade, and coordination with relevant authorities, will be critical to address cross-cutting issues resulting from the rapid growth of digital markets.¹⁰¹

C. United Nations Conference on Trade and Development

UNCTAD supports developing countries to benefit from a globalized economy in a fairer and more effective manner, while assisting them to deal with the drawbacks of global economic integration. UNCTAD does this through its three pillars of work: facilitating consensus-building, conducting research and analysis, and providing technical assistance, in areas including trade, investment, finance, technology and inclusive and sustainable development. In 2015, the United Nations General Assembly entrusted UNCTAD with the formal mandate to serve as focal point on consumer protection law and policy.¹⁰²

Since 2016, UNCTAD has channeled its first pillar of work on consensus-building for consumer protection through the annual meetings of the Intergovernmental group of experts on consumer protection law and policy (IGE).¹⁰³ The Group was described succinctly in chapter 1 as it serves as the international machinery of the United Nations Guidelines. With 195 member States, UNCTAD's IGE is the only quasi-universal forum on

⁹⁸ The key messages and the campaign materials for #safetoysonline are available at <http://www.oecd.org/sti/consumer/safe-toys-online/> (accessed 2 December 2020).

Past campaign's information is available at

<http://www.oecd.org/digital/consumer/consumer-product-safety.htm> (accessed 2 December 2020).

⁹⁹ OECD (2020), Roundtable on the role of online platforms in enhancing consumer product safety, Summary of Discussion. Available at [https://one.oecd.org/document/DSTI/CP/CPS\(2019\)13/FINAL/en/pdf](https://one.oecd.org/document/DSTI/CP/CPS(2019)13/FINAL/en/pdf)

¹⁰⁰ OECD (2018), "Enhancing product recall effectiveness globally – OECD workshop report", *OECD Science, Technology and Industry Policy Papers*, No. 58, OECD Publishing, Paris. Available at <https://doi.org/10.1787/23074957> (accessed 2 December 2020).

¹⁰¹ The CCP has in particular produced a policy brief, "Protecting online consumers during the COVID-19 crisis", underlining the importance of increased international and cross-sector co-operation among government agencies, businesses, and civil society, available at <https://www.oecd.org/coronavirus/policy-responses/protecting-online-consumers-during-the-covid-19-crisis-2ce7353c/> (accessed 2 December 2020).

¹⁰² resolution 70/186 of 22 December 2015 for consumer protection.

¹⁰³ Intergovernmental Group of Experts on Consumer Protection Law and Policy.

See <https://unctad.org/topic/competition-and-consumer-protection/intergovernmental-group-of-experts-on-consumer-protection> (accessed 2 December 2020).

consumer protection, and in a few years has become the world reference for multilateral consultations, discussion, and exchange on the subject matter. Its functions, which are well defined in guideline 97, were outlined in chapter 1. Following the method of work and work programme adopted in its first session,¹⁰⁴ all relevant stakeholders are invited to actively participate in IGE discussions, including permanent missions to the United Nations Office at Geneva, government-level, members of Government, consumer protection authorities and other interested government authorities (representing member States), international organizations, academia, civil society organizations (particularly international consumer associations) and international business associations. An average of four Ministers speak at the annual meetings of the IGE, with an overall participation over 300 delegates, which is a testament of the political importance the IGE gained through the years.

The IGE discusses consumer protection issues of global interest, decided by member States on a yearly basis. Such issues are varied and reflect the cross-cutting nature of consumer protection. They include: challenges and perspectives for the collaborative economy, engaging stakeholders for the achievement of the Sustainable Development Goals, the protection of vulnerable and disadvantaged consumers, consumer protection in e-commerce, consumer protection in financial services, dispute resolution and redress, consumer product safety, and the contribution of consumer protection to sustainable consumption. A session of each IGE meeting is devoted to reviewing capacity building and technical cooperation on consumer protection.

IGE meetings report to the quintennial Ministerial Conference on Competition and Consumer Protection, whose Eighth session¹⁰⁵ took place from 19 to 23 October 2020. The Conference provides an occasion for members of Government, heads of competition and consumer protection authorities and senior officials from both developed and developing countries, including least developed countries and economies in transition, to establish direct contacts and promote voluntary cooperation and the exchange of best practices. It is the highest-level meeting on competition and consumer protection at the multilateral level and an opportunity for the global community to continue advancing the welfare of consumers in open markets, leaving no one behind.

Consensus-building at the Conference and IGE is expressed in outcome documents: Resolutions and Agreed conclusions respectively, which are customarily adopted by consensus. They express political statements on consumer protection and contain the programme of work for UNCTAD until the following meeting. The Conferences and IGEs have established Working Groups in order to pursue more in-depth exchanges throughout the year. To date, four Working Groups have been established on: consumer protection in e-commerce, vulnerable and disadvantaged consumers (closed), consumer product safety, and modalities for the UNCTAD voluntary peer reviews (established in October 2020).

The longest standing of UNCTAD's working groups is devoted to consumer protection in electronic commerce. The group was created in 2017 upon request from member States. It has since then established three subgroups on: misleading and unfair practices; consumer education and business guidance; and cross-border enforcement cooperation in light of United Nations Guidelines 63 to 65. Through its regular meetings and discussions, the group identifies challenges faced by consumers and consumer protection agencies and facilitates the exchange of experiences and best practices among agencies to address these challenges. The working group held two virtual meetings and three webinars between July 2019 and October 2020. The group engages with other organizations and consumer associations in its work. In April 2020, the group organized a joint webinar in cooperation with the ISO Committee on Consumer Policy and Consumers International on "*Using standards as a tool for consumer protection to facilitate exchange of information and best practices among member States.*"¹⁰⁶

As the result of consultations at the Working group on consumer product safety, and under the leadership of Colombia and Australia, the Eighth Conference adopted the recommendation on "*Preventing cross-border*

¹⁰⁴ TD/B/C.I/CPLP/2

¹⁰⁵ Eighth United Nations Conference on Competition and Consumer Protection.

See <https://unctad.org/meeting/eighth-United-nations-conference-competition-and-consumer-protection> (accessed 2 December 2020).

¹⁰⁶ UNCTAD / ISO-COPOLCO / Consumers International Joint Webinar – Using standards as a tool for consumer protection. See <https://unctad.org/meeting/unctad-iso-copolco-consumers-international-joint-webinar-using-standards-tool-consumer> (accessed 3 December 2020).

distribution on known unsafe consumer products,¹⁰⁷ which is directly linked with Guidelines 80 and 81 on international cooperation and has been referenced in chapter 1 above. Currently, rogue distributors are able to further distribute consumer products that have been withdrawn from one market, due to non-compliance with consumer product safety requirements, to other jurisdictions where that non-compliance has not been assessed or acted upon, thus endangering the physical safety of consumers in that country. This proposal aims to address such problem by recommending that member States pursue policies, consistent with World Trade Organization rules, aimed at preventing cross-border distribution of consumer products known in their own jurisdictions to be unsafe. As mentioned above under item D, ii, the Working group also recently organized a joint workshop with the European Commission, in the framework of the European Commission's International Product Safety Week 2020,¹⁰⁸ entitled "*Kick-starting consumer product safety: a worthwhile endeavour*"¹⁰⁹ targeting developing and least developed countries.

The IGEs and United Nations Review Conferences also host a new exercise, which is so far only conducted by UNCTAD: Voluntary Peer Reviews of Consumer Protection Law and Policy, as per Guideline 97(c). The purpose of voluntary peer reviews is to provide an external and independent assessment of the effectiveness of consumer protection law and policy in a given country; to identify the challenges to be addressed and areas to be improved in the legal and institutional frameworks, thereby contributing to enhancing quality, efficiency, and consumer protection regimes; to assess the consumer protection awareness of relevant stakeholders and their contributions in this area; to formulate and recommend appropriate measures, designed in consideration of the economic and developmental particularities of each country, to address these challenges; and, where appropriate, to assist countries in implementing the recommendations by developing a capacity-building project in consultation with the country concerned.¹¹⁰ To date, Morocco, Indonesia and Peru have volunteered and undergone the review and Chile will be reviewed in 2021.

The IGE also requested UNCTAD to collect information on the legal and institutional frameworks for consumer protection. This took the form of the World Consumer Protection Map¹¹¹ which was the source of intelligence of chapter 2 of this report. The Map currently displays contributions received from 87 member States, responding to various filters and charts. The aim of this project is to provide reliable data to inform policy decisions and future work of UNCTAD.

The second pillar of UNCTAD's work is research and analysis. The first publication since receiving the formal mandate on consumer protection in 2015 was the revision of the UNCTAD Manual on Consumer Protection.¹¹² It is the first comprehensive international reference in this field, aiming to support developing countries and economies in transition in their choice of policies by providing practical tools to assist policymakers in enhancing capacities while implementing the United Nations Guidelines. Other UNCTAD publications include: Report on consumer associations,¹¹³ Guidelines on agency structure and effectiveness;¹¹⁴ Guidelines on

¹⁰⁷ UNCTAD Preventing Cross-Border Distribution of Known Unsafe Consumer Products.

Available at https://unctad.org/system/files/information-document/tdrbpconf9_d01_consumer-products_en.pdf

¹⁰⁸ European Commission, International Product Safety Week (IPSW).

See https://ec.europa.eu/info/events/international-product-safety-week-2020-2020-nov-09_en#:~:text=Interested%20in%20participating%20in%20stimulating,November%20in%20your%20calendars%20now!&text=Keeping%20consumers%20safe%20in%20times,the%20bar%20for%20product%20traceability. (accessed 3 December 2020).

¹⁰⁹ Joint European Commission-UNCTAD workshop: Kick-starting consumer product safety: a worthwhile endeavour, International Product Safety Week 2020.

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¹¹⁰ UNCTAD, *Framework for voluntary peer reviews on consumer protection law and policy* (TD/B/C.I/CPLP/6).

Available at https://unctad.org/system/files/official-document/cicplpd6_en.pdf (accessed 2 December 2020).

¹¹¹ See UNCTAD World Consumer Protection Map <https://unctadwcpm.org/> (accessed 2 December 2020).

¹¹² UNCTAD Manual on Consumer Protection.

Available at <https://unctad.org/webflyer/manual-consumer-protection> (accessed 2 December 2020)

¹¹³ UNCTAD/DITC/CLP/2019/2

¹¹⁴ UNCTAD/DITC/CPLP/2017/4

business engagement;¹¹⁵ and Achieving the Sustainable Development Goals through consumer protection.¹¹⁶ UNCTAD's Research Partnership Platform on Competition and Consumer Protection¹¹⁷ was launched in 2010 and brings together research institutions, universities, competition and consumer authorities, business and civil society to contribute to the development of best practices in the formulation and effective enforcement of competition and consumer protection laws and policies towards achieving inclusive development.

The third pillar of UNCTAD's work is technical assistance and capacity building, which is member States driven, that is, UNCTAD acts in response to the requests from its member States. It is carried out through various means: advisory services, ad hoc assistance, and extra-budgetary projects and programmes. member States can request advisory services of UNCTAD to inform law, policy, or institutional reform. They can also request ad hoc technical assistance for particular activities or longer-term assistance. Such activities are carried out depending on the availability of funds, which come from beneficiary countries themselves or development partners. UNCTAD has a well-established experience in implementing both national and regional technical cooperation projects in all continents. Regional projects include COMPAL in Latin America (2003-2018),¹¹⁸ MENA in Middle East and Northern Africa (2016-2018),¹¹⁹ CEMAC for Central Africa (2017-2019), and BODR in Southeast Asia (beginning 2020). Recent national multi-year technical cooperation projects on consumer protection have been implemented for Botswana, Cabo Verde, Ethiopia and United Republic of Tanzania. UNCTAD is currently participating in the United Nations-wide project on *Strengthening Social Protection for Pandemic Responses: Identifying the Vulnerable, Aiding, Recovery and Building Resilience*, under the title "Strengthening consumer protection in the provision of health services (including e-health) in the wake of the COVID-19 pandemic". UNCTAD also partners with regional organizations to deliver technical assistance. For example, UNCTAD is currently leading the development of an ASEAN Toolkit on Sustainable Consumption.

¹¹⁵ [UNCTAD/DITC/CPLP/2017/3](#)

¹¹⁶ [UNCTAD/DITC/CPLP/2017/2](#)

¹¹⁷ UNCTAD Competition and Consumer Protection Research Partnership Platform.

See <https://unctad.org/topic/competition-and-consumer-protection/research-partnership-platform> (accessed 2 December 2020)

¹¹⁸ UNCTAD COMPAL Programme. See <http://unctadcompal.org/> (accessed 2 December 2020)

¹¹⁹ UNCTAD MENA Programme. See <https://unctadmena.org/> (accessed 2 December 2020)

6. Trends and challenges

This chapter provides an analysis on international cooperation in consumer protection stemming from the reading of the United Nations Guidelines for consumer protection and the inputs received from participating organizations and networks. While aiming to identify the emerging trends and challenges, its findings must be considered preliminary and a basis for further discussion.

Regarding cross-border enforcement cooperation among consumer protection authorities, the current standard is informal cooperation (memoranda of understanding), in line with the recommendations of the OECD and the United Nations Guidelines. Although this is a good starting point to address cross-border unfair commercial practices, there is much room for improvement, which can be summarized in four main issues.

First and foremost, as shown in UNCTAD's World Consumer Protection Map, consumer protection agencies rarely engage in cross-border enforcement cooperation, and when they do it is mainly among developed countries' authorities. Fully 60% of respondents report no experience in cross-border cooperation. Secondly, as recently signaled by the OECD¹²⁰ and the General Assembly resolution on Consumer Protection, applicable law and jurisdiction is an obstacle, which needs to be addressed in a more effective way, to enable enforcement through international cooperation and consultation. This issue is larger than the traditional remit of consumer protection agencies and will require cooperation among Ministries of Justice and Foreign Affairs. However, in an increasingly interdependent global economy where international trade is significant and with growing online cross-border business-to-consumer transactions, especially since the outbreak of the COVID-19 pandemic, it is in the interest of States to address the issue of applicable law and jurisdiction for consumer law purposes. The legislative and institutional challenges pertaining to the remit of consumer protection enforcement agencies that are linked to applicable law and jurisdiction include: lack of legal powers to address cross-border unfair commercial practices and to engage in cross-border cooperation; handling information confidentiality, and language barriers.¹²¹ Finally, there are few regional frameworks in place that specifically address cross-border cooperation, especially for developing countries.

Regarding regional cooperation, it is commendable that regional economic organizations and networks in consumer protection are present in all continents. Their level of experience and relevance depends on the purpose for which they were created and the framework in which they operate. Based on the contributions presented in chapter 4, policy coordination and exchange of experiences are the basis of all regional initiatives. Policymaking on consumer protection mainly happens within the framework of formal institutions such as regional economic organizations, on the basis of provisions directly or indirectly relating to consumer protection. This is the case of ASEAN, CEMAC, COMESA, the EEC, the European Union and MERCOSUR. The European Union has the only fully functional mechanism for formal cross-border enforcement cooperation in consumer protection at regional level.¹²² The European Union and the OAS both have operational regional cooperation networks in the field of consumer product safety.

Regarding multilateral cooperation there is a clear distinction between enforcement, policy-making and technical cooperation. ICPEN is the only multilateral initiative that deals exclusively on enforcement issues. It is informal and integrated by consumer protection agencies of 65 (mainly developed) countries. It has achieved

¹²⁰ OECD *Consumer protection enforcement in a global digital marketplace*.

"It is based on questionnaire responses from 31 countries, supplemented by additional research." Accessible at : https://read.oecd-ilibrary.org/science-and-technology/consumer-protection-enforcement-in-a-global-digital-marketplace_f041eead-en#page1

¹²¹ OECD, *Ibid*.

¹²² See European Union, Treaty on the Functioning of the European Union (TFEU), article 4 and article 169. See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT> (accessed 7 December 2020). In addition, the Charter of Fundamental Rights of the European Union (2000/C 364/01) in its article 38 also refers that the Union consumer policies shall ensure a high level of protection. See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32000X1218%2801%29> (accessed 7 December 2020); and Communication from the Commission to the European Parliament and the Council, New Consumer Agenda, Strengthening Consumer resilience for sustainable recovery. Available at https://ec.europa.eu/info/sites/info/files/com-2020-696_new_consumer_agenda.pdf

remarkable results in sharing best practices, reaching common understanding and producing tools for its member agencies, but its informal nature impairs it from adopting formal positions or undertaking common enforcement action. Policy making at the multilateral level happens in the framework of the OECD, with 32-member countries; and of UNCTAD, with 195 member States. With over sixty years of experience on consumer policy, the OECD has produced the first thorough recommendations, research, and analysis, namely on emerging issues such as e-commerce. As recommended by the United Nations Guidelines,¹²³ collaboration among the OECD and UNCTAD is fluid as both secretariats regularly exchange information on projects and initiatives and participate and report to each other's intergovernmental meetings. Technical cooperation at the multilateral level is conducted by ICPEN, through peer learning and the development of tools for its members, and UNCTAD, through its technical assistance and capacity building activities and projects, targeting developing countries.

The fact that multilateral cooperation in consumer protection is carried out by two organizations and one network, with different mandates and membership, allows to reduce overlaps or duplication and enhance synergies. UNCTAD, as the focal point within the United Nations system on consumer protection law and policy, is well placed to lead such coordination efforts, including with other United Nations organizations whose work relates to consumer protection, such as the United Nations Environment Programme, the United Nations World Tourism Organization, or the World Health Organization, to name just a few. The United Nations Guidelines require UNCTAD's IGE to "consider relevant studies, documentation and reports from relevant organizations of the United Nations system and other international organizations and networks, to exchange information on work programmes and topics for consultations and to identify work-sharing projects and cooperation in the provision of technical assistance."¹²⁴ The first step towards implementing this recommendation could be to convene annual meetings with all relevant regional and multilateral organizations and initiatives to present workplans.

Two substantive issues stand out as current priorities for international cooperation in consumer protection: e-commerce and product safety (developed in Guidelines 63 to 65 and 16 to 19, respectively). This stems from the obvious cross-border dimension of both issues. Consumers can access products from foreign providers online and therefore are prone to cross-border unfair commercial practices. It is in this context that the security of consumer products gains an international dimension. Both issues are thoroughly addressed in most regional and multilateral organizations and networks presented in this report. Although a common understanding in these two issues is well established, there is still room for improvement in the pursuit of increasing consumer welfare. Consumers are still missing a common minimum standard for effective online dispute resolution irrespective of their place of residence; laws are not yet effectively enforced against cross-border unfair commercial practices; and known unsafe products are still distributed across-borders. Rising to these challenges will require much more political will from States, including decisive efforts to formalize cross-border cooperation, as is the case in the European Union, common understanding and implementation of online dispute resolution and participation in international recalls initiatives. It is in the field of consumer product safety where more effective international cooperation has been achieved: the European Union, the OECD and the OAS have regional recalls portals.¹²⁵ The OECD's Global Portal, which is open to non-members, is the only existing initiative at multilateral level.

In recent years, sustainable consumption, as a means to achieving the Sustainable Development Goals, is growing in relevance in international discussions and consensus-building for policymaking. It was the main subject of discussions during G20 Consumer Summit under Japanese Presidency¹²⁶ and UNCTAD's intergovernmental meeting in 2019,¹²⁷ and European Union's Consumer Day under German Presidency in 2020.¹²⁸ Initiatives in these fields show that consumer protection is increasingly understood to be larger than

¹²³ UNGCP 97(f)

¹²⁴ Ibid.

¹²⁵ As mentioned earlier in sections 4 B. iii (Americas - OAS); 4 D. ii (Europe – European Union); and 5 B. (OECD).

¹²⁶ https://www.caa.go.jp/en/about_us/topics/g20/

¹²⁷ <https://unctad.org/meeting/intergovernmental-group-experts-consumer-protection-law-and-policy-fourth-session>

¹²⁸ <https://eu2020-bmjv-consumer-day.de/en>

protecting “shoppers’ rights,” and are a testament to the pivotal role that consumer protection can play in broader policymaking.

Finally, and perhaps most importantly, international cooperation in consumer protection is only feasible when effective national laws, policies and institutions are in place. Although most of developing and least-developed countries participating in UNCTAD’s World Consumer Protection Map reported having enacted consumer protection laws, the majority still needs support in reviewing them to keep up with recent developments or developing secondary legislation. They also need to build capacities of institutions to effectively fulfil policymaking and enforcement roles consumer protection. For this purpose, technical cooperation at bilateral level and through international development organizations must remain a priority for all actors with stakes in consumer protection.

7. Conclusions

There are two convergent trends in international cooperation in consumer protection: regional trade agreements are gradually considering consumer protection cooperation as a means to facilitate implementation of trade liberalization measures, while consumer protection concerns in policy and enforcement are increasingly considered at multilateral discussions due to their global dimension. Such trends are exacerbated by the COVID-19 induced economic crisis.

International cooperation in consumer protection is more than ever regarded as an effective way to improve the welfare of citizens across the world. It allows for the exchange of experiences and peer learning, the building of consensus and agreements, the improvement of cross-border enforcement and of the technical capacities of government officials as well as awareness-raising and engagement of relevant stakeholders. Cross-border international cooperation, especially in enforcement, is still relatively uncommon. With the exception of the European Union, it is currently based on inter-agency informal cooperation, which may be insufficient to adequately address the growing number of cross-border unfair commercial practices. Neither does it allow for satisfactory dispute resolution and redress for consumers, especially those who shop online, ultimately hindering consumer trust in digital markets. International cooperation at regional and multilateral levels could benefit from more regular exchanges of information between international institutions and networks on work programmes and topics for consultations, which should lead to identifying common projects and avenues for cooperation, while avoiding duplication.

UNCTAD, as the focal point within the United Nations on consumer protection law and policy and with its widest membership in comparison with other organizations or networks, is playing a prominent role in promoting and facilitating international cooperation at all levels: cross-border, regional and multilateral. UNCTAD offers a platform for international consultations and exchange of experiences at its intergovernmental meetings. This allows consensus to emerge at the global level, as was shown in the recent adoption of the recommendation on “Preventing Cross-Border Distribution of Known Unsafe Consumer Products” by the Eighth United Nations Conference on Competition and Consumer Protection.¹²⁹ More of such initiatives could nourish the existing framework for international cooperation in consumer protection and allow it to bloom. UNCTAD’s policy advice, such as the recent recommendations regarding measures to better protect consumers in times of COVID-19,¹³⁰ including in the tourism sector,¹³¹ can shape national public policy as was reportedly the case in India and Colombia. Disseminating such good practices is effective way to support international cooperation.

While raising awareness about the United Nations Guidelines, and supported by the Manual on Consumer Protection, UNCTAD provides technical assistance and capacity building to developing and least developed countries to equip them with the necessary tools to fully participate in and benefit from international cooperation. These tools could be further developed into training modules with the participation of other organizations. In particular, UNCTAD’s technical cooperation pilot project to deliver online dispute resolution for consumers to two Southeast Asian countries (UNCTAD BODR Project)¹³² could be the first step towards providing fair, affordable and speedy online dispute for all consumers around the world. For this to come to fruition the relentless participation of all stakeholders involved at the national, regional and multilateral levels would be required.

UNCTAD also conducts research and analysis to inform policy debates and decision-making in various areas of common interest, such as consumer associations, business guidance or agency structure, to name the most recent publications. Such intelligence is further enhanced through the contribution of academics to UNCTAD’s Research Partnership Platform,¹³³ which would benefit from increased participation of developing countries’

¹²⁹ <https://unctad.org/meeting/eighth-united-nations-conference-competition-and-consumer-protection>

¹³⁰ UNCTAD, COVID-19: Firmer action needed to better protect consumers.

See <https://unctad.org/news/covid-19-firmer-action-needed-better-protect-consumers> (accessed 7 December 2020).

¹³¹ UNCTAD, Airlines must respect consumers' rights.

See <https://unctad.org/news/airlines-must-respect-consumers-rights> (accessed 7 December 2020).

¹³² Partnership to deliver online dispute resolution to consumers, <https://unctad.org/news/partnership-deliver-online-dispute-resolution-consumers> (accessed 7 December 2020).

¹³³ <https://unctad.org/topic/competition-and-consumer-protection/research-partnership-platform>

scholars. Finally, UNCTAD is well placed to play the role of “networking the networks” among relevant multilateral/regional organizations and initiatives to “exchange information on work programmes and topics for consultations and to identify work-sharing projects and cooperation in the provision of technical assistance.”¹³⁴ This has been the call among consumer product safety experts, which offers promising prospects for cooperation on this issue at the global level.

The ultimate goal of international cooperation in consumer protection is to improve the welfare of consumers regardless of their cultural, economic and social situation, and irrespective of their country of origin or residence. It is in the interest of all those engaged in enhancing consumers’ welfare to foster international cooperation in consumer protection.

¹³⁴ UNGCP 97(f)

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