



### **Working Group on Vulnerable and Disadvantaged consumers**

As indicated in its concept note, the purpose of this Working Group (“WG”) is to provide a forum for Member States representatives and interested stakeholders to exchange experiences on how to better protect vulnerable and disadvantaged consumers considering the challenges faced by developing countries, low-income consumers and those with low or non-existent literacy levels in both rural and urban areas.

The working group met every two months in conformity with the calendar which was annexed to the concept note. Overall, the Working Group will meet 5 times from October 2017 to June 2018. The outcome of its deliberation will be presented during the Third Session of the IGE on consumer protection law and policy.

The WG held its first conference call on October 2<sup>nd</sup> when the participants decided: a) share information to work and analyse the current status of the legal definition of the vulnerable and disadvantaged consumers in various jurisdictions and not to develop a new definition.; b) work on the theme of financial issues, including elderly consumers as both are usually related; c) work on the theme of children as vulnerable consumers.

In order to share information regarding vulnerable and disadvantaged consumers, participants were asked to send contributions on existing legal definitions and policies. By December 4th, the Secretariat had received contributions from Ecuador, Egypt, Lebanon, Portugal, Spain (Catalan Agency), the United States of America and the Eurasian Economic Commission.

During the second WG meeting, most Member States advised that they had no specific legislation regarding vulnerable or disadvantaged consumers. However, some participants presented actions, information, consumer education, and policies regarding vulnerable and disadvantaged consumers. During the WG meeting, shared certain definitions, policies and ideas regarding vulnerable and disadvantaged consumers, such as:

- the status of vulnerable/disadvantaged consumer can be permanent, temporary and/or vary based on circumstances;
- Children (definition varies by jurisdiction), the elderly, the rural consumers, disabled persons, and illiterate can be vulnerable/disadvantaged consumers;
- social and economic status are considered impact factors to determine consumer vulnerability;
- information and access to information also have impact on consumer vulnerability;



- business-consumer relations often lead to information gaps, knowledge gaps, (technical knowledge, economic and bargaining power, legal knowledge) for vulnerable and disadvantaged consumers Member States have different definitions for vulnerable and disadvantaged consumers;
- personal and geographical dimensions should as well be considered in the definition;

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During the third conference call of the WG, in view of the need of sharing information, the United States of America Federal Trade Commission was invited to present some of their experience related to vulnerable consumers, namely related to financial issues and elderly consumers.

The FTC representative explained that a survey was needed to understand consumers' problems considering consumers' complaints and consumers' age. FTC has worked in cooperation with other agencies and developed educational material focused on consumer awareness.

FTC's presentation generated a very fruitful debate and questions; specially about the "pass it on campaign (educational material).

Following the WG purposes' and aims, Member States were asked to provide ideas and suggestions on the Group's product and results.

The Eurasian Economic Commission made a very interesting proposal **to create a summary on Member States and Stakeholders' best practices** to protect and inform vulnerable and disadvantaged consumers. Indeed, the suggestion comprises a concrete result of the WG's aims.



Member States were once again invited to send contributions on existing laws, policies and actions on how to better protect vulnerable and disadvantaged consumers.

The fourth conference call of the Working Group on Vulnerable and Disadvantaged consumers confirmed the members will to continue the work and create a document compiling all best practices shared by Member States. Once again Member States were invited to send contribution on policies and best practices.

On the fifth and last conference call of the WG on Vulnerable and Disadvantaged consumers, the Russian Federation, Zambia, Spain (Catalan Agency of Consumption) and the Eurasian Economic Commission shared their views on policies to protect vulnerable and disadvantaged consumers as well as on the continuity of the working group.

The Russian Federation and the Catalan Agency of Consumer Protection (Spain) manifested the importance of maintaining the WG and its discussions giving as an example of the topics importance the work that has been carried out in the country to implement the United Nations Guidelines on Consumer Protection.

**Contributions:**

1. Consumers International
2. Costa Rica
3. Ecuador
4. Egypt
5. Lebanon
6. Israel
7. Turkey
8. Portugal
9. Peru
10. United States of America
11. Spain (Agencia Catalana del Consum)
12. Netherlands
13. Cambodia
14. Zambia
15. Russian Federation
16. Eurasian Economic Commission
17. Germany



## Consumers International

### *Contribution from Consumers International to UNCTAD's Working Group on vulnerable and disadvantaged consumers*

CI have been invited to submit some thoughts to the WG on this difficult issue, particularly around the matter of the classification of vulnerable and disadvantaged consumers ((V&D). The minutes of the meeting of December 4<sup>th</sup> includes a list of V&D consumers and/or the circumstances that give rise to those characteristics. The subject is potentially vast, but its importance is clear from its salience in the UN Guidelines for Consumer Protection (UNGCP), where it features four times. V&D consumers are singled out for mention in GL 37 (dispute resolution) GL 42 (Education) and GL 77 (Public utilities). But the most significant mention is perhaps that in GL 5, the 'legitimate needs' clause which is the most quoted clause in the guidelines, sometimes quoted in national legislation, even in constitutions.

A new legitimate need was inserted into this clause in the 2015 revision, to the following effect:

GL 5: *'The legitimate needs which the guidelines are intended to meet are the following:*

- a) Access by consumers to essential goods and services;*
- b) The protection of vulnerable and disadvantaged consumers'*

*....'*

Clearly if member states are to try to apply GL 5 then they need help with turning into concrete actions.

But the UNGCP do not have a definition of vulnerable and disadvantaged consumers, and the WG decided to advance on building a definition upon which the WG can work and move forward.

As stated in the minutes of the WG meeting of 4 December 2017, many participants expressed that there is only scarce legislation on V&D consumers and therefore definition



is practically non-existent; nevertheless, there are some academic papers that deal with the notion of vulnerability, disadvantage and consumer protection.

The first we need to suggest is that there are dangers in over-defining the V&D category and that even if a list is established that raises the issue of what we can do with it, given our limited resources, when entire sections of international institutions are devoted to work on vulnerable and disadvantaged populations. Clearly the answer must lie in identifying the consumer dimension and that may involve generic approaches as well as specific initiatives for specific groups.

A good starting point is to go to the Oxford English Dictionary, and look for the entries for “vulnerable” and “disadvantaged”.

***Vulnerable:*** (of a person) in need of special care, support, or protection because of age, disability, or risk of abuse or neglect.<sup>1</sup>

***Disadvantaged:*** (of a person or area) in unfavourable circumstances, especially with regard to financial or social opportunities.<sup>2</sup>

We can say that vulnerable are those who need a special treatment or protection due to a special condition, while the disadvantaged are tied to specific circumstances that are unfavourable.<sup>3 4</sup>

We can also define V&D by opposition. To the concept of vulnerable consumer, we can counterpose, as established in the European Union Directive on Unfair Commercial Practices<sup>5</sup>, that of “average consumer”, which is one that is reasonably well informed, and is reasonably observant and circumspect. We can say, then, that there is an average consumer that would be a “model” consumer, who is informed, knows its rights and claims

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<sup>1</sup> <https://en.oxforddictionaries.com/definition/vulnerable>

<sup>2</sup> <https://en.oxforddictionaries.com/definition/disadvantaged>

<sup>3</sup> See below the OECD 2010 Toolkit, that has the opposite definitions.

<sup>4</sup> Professor Norbert Reich has suggested that there are three different kind of vulnerability for consumers, that can be divided into three groups: physical disability, intellectual disability and financial disability. See, Reich, Norbert “Vulnerable Consumers in the EU Law” in Dorota Leczykiewicz and Stephen Weatherhill, “The images of the Consumer in EU Law” (Hart, 2016).

<sup>5</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market, OJ L 149, 11.6.2005, p.22-39



for them, who would oppose a consumer who is not informed, who lacks access to information, and therefore he does not know his rights, which prevents him from claiming them. The latter could be characterized as a vulnerable consumer. If we take this characterization, we can conclude that consumer vulnerability can occur occasionally and in front of certain issues in which is not an expert or has little information or knowledge, although in other areas or topics he may be an average consumer. As mentioned in the resolution of the European Parliament of May 22, 2012 "...all consumers at some point in their life may become vulnerable due to external factors and their interactions with the market, or because they experience difficulties in accessing and understanding consumer information. Therefore, need special protection."<sup>6</sup>

There are scholars that consider the mere condition of being a consumer as a vulnerability, and that consumer protection legislation was developed departing from this assumption: we must legislate on consumer rights as consumers are vulnerable within the marketplace because of the asymmetries of information and knowledge they have upon businesses and providers.

Therefore, the notion of vulnerability is intrinsically part of being a consumer. So, within the market we find the vulnerable and we can also find those "vulnerable among the vulnerable", often referred as "hyper-vulnerable" consumers.

We can argue that the hyper-vulnerable consumers can be the disadvantaged consumers, if we characterize this ones as those who are vulnerable because of a certain condition or position, such as children, elderly people and the poor.

To assist our deliberations, the following text is taken from the OECD Toolkit of 2010:<sup>7</sup>

#### "Vulnerable and disadvantaged consumers

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<sup>6</sup> See Barocelli, Sebastián "Towards the construction of 'hyper-vulnerable consumer' category", in Consumer Protection, current challenges and perspectives – Proceedings of the 25 years of IACL Congress, Lima Marques, Pearson and Ramos, editors. Porto Alegre, 2017, page 51

<sup>7</sup> OECD *Consumer Policy Toolkit*, 2010.



*Vulnerability may be due to a consumer's psychological or financial state or the nature of a transaction. Service providers might, for example, be in good position to prey upon a grieving person's sense of remorse and guilt, to sell a higher priced or overpriced product that the consumer would normally pass up. Moreover, research indicates that consumers may also be vulnerable by reasons of the place or context in which purchases take place. (e.g. door to- door sales).*

*Some consumers, however, may be more susceptible to detriment on a persistent basis. They are sometimes referred to as **disadvantaged consumers**..<sup>8</sup>*

*Examples of disadvantaged groups include those with the following characteristics:*

- *Targets of discrimination (racial, ethnic or gender.)*
- *Low education or literacy levels.*
- *Language limitations. This concerns an individual's inability to speak, read, or write in the language of normal communication in a given country.*
- *immigrants and other outsiders who do not have local knowledge (e.g. about consumer rights) may therefore not be able to function effectively in the market place.*
- *Impaired vision, hearing, or mobility.*
- *Learning difficulties or cognitive impairment, such as dementia.*
- *Restricted mobility. Access to markets may be limited to persons without adequate transport.*
- *Restricted means of communication. This concerns lack of access to telephone or, for example, Internet services.*
- *Geographical remoteness.*
- *Unemployment.*
- *Low income. Low income is frequently correlated with other types of vulnerability, such as being unemployed, retired, not working in order to care for a child or sick relative, or*

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<sup>8</sup> An interesting point is that the OECD description of vulnerable and disadvantaged consumers are the opposite to the definitions in the Oxford dictionary.



*being otherwise unable to work. Low income could increase the impact of adverse events, as could limited savings or wealth.*

*Caution must be used in defining and over-generalising vulnerable and disadvantaged groups. The elderly, for example, have traditionally been cited as a group that is susceptible to predatory practices and a group that is not proficient in using Internet and related technologies. While this may be true to some extent, it is also true that there is a sizeable population who are as capable, or more capable, in many regards than younger persons, in no small part because of their years of experience as consumers. They might be quite capable of defending themselves from predatory practices and absorbing and using emerging information and communication technologies.*

*Governments often give special attention to situations which impact vulnerable and disadvantaged consumers, sometimes introducing targeted measures to address problems... Remedies that provide benefits for vulnerable consumers need to be carefully designed so as not to have unintended and unwanted effects... They could, for instance, result in restrictions and/or limitations on the choice of products in a market."*

We agree with the caution expressed by the OECD about over-definition. Indeed, to some extent, the OECD's own text is close to the same syndrome that it warns against. In compiling a list, we are bound to feel guilty about leaving out any eligible group. That leads to an ever-growing list.

But alongside over-definition possibilities, there is a cautious approach that needs to be taken with such a sensible issue that vulnerability is.

One reason for our caution is that in practical terms we need to consider what steps can be taken. There is a wide range of statistics and indices, many of which are generated by the UN bodies, such as the Human Development Index. The listing of different forms of deprivation and the associated groups can lead to paralysis faced with the scale of the problems, or even degenerate into competition between groups, based on an expectation that priority can be set between say under-fives suffering from malnutrition and disabled people suffering injury as a result of war or road accidents. Such judgments are almost



impossible for us to make, but we can make a contribution in the form of analysis from the consumer point of view by suggesting approaches that might be adopted by CP Agencies to the mitigation of vulnerability and deprivation.

Are there examples of such approaches on which we can borrow?

### ***Legislation against exploitation of vulnerability***

In one of the few examples of consumer protection legislation pertaining to V&D, the Moroccan consumer protection Act refers to the exploitation of V&D consumers. Art 59 of the CP Act 31-08 states: (translated from the French): *'this law nullifies all forms of transaction arising from abuse of the weakness or ignorance of the consumer, who has the right to reimbursement of sums paid and compensation for any damages suffered.'*

There is no list of groups identified as qualifying for the protection, it is presumably left to the relevant authorities including the courts to interpret the evidence in the light of the differing positions of the parties.

In the Brazilian Consumer Defence Code, article 39, paragraph IV, emphasizes the problem of abusive practices, and the prevalence of the "ignorance", "age", "health" or "social status" of the consumer, to impose their products and services. In quite the same line, the Peruvian Consumer Protection Code, in article IV, paragraph 4, states that consumer protection and defence work should place special emphasis on those who are most likely to be victims of practices contrary to their rights by their conditions such as pregnant women, girls, children, elderly people and people with disabilities, as well as consumers in rural areas or in extreme poverty.<sup>9</sup>

A similar provision leading to nullification of contracts, exists in UK law on consumer credit, where *'an unfair relationship test'* was introduced under the 2006 Consumer Credit Act as being at the discretion of the courts taking the relationship as a whole, clearly with a view to protecting 'vulnerable consumers from undue sales pressure for example. By applying cases in context, the law does not seem to prioritise one social group over

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<sup>9</sup> Barocelli, op. cit., page 52



another in advance. The point is not the precise categorization of the groups, but the circumstances of vulnerability when regulating the conduct of the suppliers.

So, we suggest that in terms of legislation pertaining to consumer/supplier relations, such a formula works flexibly and protects against exploitation.

As the OECD point out vulnerable and disadvantaged are different concepts. To paraphrase President Lincoln, one could say that all consumers are vulnerable some of the time and some consumers are vulnerable all of the time. And the context matters very much. Some groups, such as children, may be especially vulnerable to certain forms of conduct such as manipulation, which is why for example, Quebec bans advertising aimed directly at children on the grounds that they cannot tell the difference between advertising and other content. Illiterate people are clearly vulnerable in specific contexts where literacy is a requirement as in ability to read contract terms or basic instructions. But they may not be vulnerable in their local daily food market, the context is vital in judging such matters. Nearly all of us could be said to be vulnerable **as consumers** in the context of highly technical consumer issues such as car repair, medical interventions, or financial service contracts. Again, the concept of exploitation of vulnerability and its prohibition, may be more helpful to CP agencies and legislators than specific lists developed a priori.

### ***The poor pay more syndrome***

But vulnerability is only part of the story. The other term 'disadvantage' implies a more permanent and structural factor, the systemic obstacles faced by entire groups of people as listed by the OECD and by the record of our meeting of December 4th. Clearly an obvious category here is the poor and the syndrome which has been repeatedly identified is the 'poor pay more' syndrome. Below is the text of the 2016 UNCTAD Manual on CP (advance copy – now revised and about to be republished). <sup>10</sup>

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<sup>10</sup> UNCTAD *Manual on Consumer Protection*. Advance copy 2016. p.4 Overview



*'In 1968, the United States Federal Trade Commission documented the particular problems facing low-income families. Consumers purchasing from retailers, catering mainly to persons with low incomes, pay significantly higher prices than those charged by retailers for identical products to the rest of society. David Caplovitz's often quoted study 'The Poor Pay More,' and Alan Adreassen's 'Disadvantaged Consumer' confirmed decades ago that the poor indeed pay more.<sup>11</sup> In 2008, the consumer protection body "Energywatch" of the United Kingdom published a study showing how the same patterns persisted for 40 years in that country.<sup>12</sup> Even more noteworthy are the large differentials in the unit prices paid for water and energy by the poor inhabitants of slum settlements in many developing countries because of their lack of access to 'official' network services, which are frequently subsidized. <sup>13</sup>Both of these syndromes are discussed in chapter 15 on public utilities. These findings support the contention that consumer protection can and should be part of the legitimate methods of achieving the redistributive goals of any society.'*

CI have worked on services to vulnerable consumers in this case migrant workers, in the context of the remittances market that were for a long time characterised by very high fees, practices and a lack of transparency. Although the situation has improved as a result of international action, regulation and greater transparency and new digital services, the rates are still high in some corridors.

In this case the policy recommendation was that greater competition was needed in this highly concentrated sector, as well as regulations governing transparency of charges.

The syndrome hits all groups on low income and so transcends the issue of recognizable demographic groups. Furthermore, there may steps that governments and CP Agencies can take to try to reverse it by introducing legislation against 'undue discrimination'.

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<sup>11</sup> Alan R. Adreassen, *The Disadvantaged Consumer*, The Free Press, 1975, D. Caplovitz, *The Poor Pay More*, 1963.

<sup>12</sup> Energywatch, *Poor Choices: The Limits of Competitive Markets in the Provision of Essential Services to Low Income Consumers*, eds. S. Thomas and R. Bates, 2008.

<sup>13</sup> Judy L. Baker, *Opportunities and Challenges for Small Scale Private Service Providers in Electricity and Water Supply*, World Bank/PPIAF, 2009, PPIAF, *The Most Expensive Service Is That Which Does Not Exist*. In: *Lessons Learned; Pricing and Affordability in Essential Services*, Note 5, 2012.



### ***Disadvantage through exclusion***

Perhaps the most structurally disadvantaged groups of all are those who are simply excluded from access to essential services, a clear example of disadvantage. Here the classic examples are the vital life-giving services related to water, sanitation and energy and more recently there has been a move towards financial inclusion which is endorsed by UNGCP GLs 67 and 68. In this regard the UNGCP GL 5a) cited above marks a great step forward. Again, we cite the UNCTAD Manual:<sup>14</sup>

*“What are the unserved poor already paying for? The Africa Infrastructure Country Diagnostic reported that: “in the largest African cities, alternatives to piped water supply are priced from 1.3 times as high for small piped networks to 10 to 20 times as high for mobile distributors.” For energy, non-connected consumers use more costly sources such as candles, kerosene, car batteries, wood or charcoal. In Mali, these sources cost ten times more per kilowatt hour than supply from the grid which only went to 13% of the population.* <sup>15</sup>

*This adds up to a clear example of the ‘poor pay more syndrome’ which has been described several times in this manual. It has several dimensions:*

- *The poor pay more per unit because they depend on high cost small scale independent providers;*
- *The better-off receive a subsidy from below cost network prices from which the poor are excluded;*
- *The poor may pay for those subsidies as taxpayers;*
- *Connection charges go up to recoup revenue when network running costs are below costs thus making it even more difficult for the poor to gain access;*
- *The non-connected poor waste time fetching and carrying; and*

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<sup>14</sup> UNCTAD Manual p.137 public utilities

<sup>15</sup> AICD V. Foster and C. Bricenio-Garmendia, *Africa’s Infrastructure: A Time for Transformation, Summary of Main Findings*, World Bank, 2010.



- *The quality of alternative services to the poor will often be low and even dangerous.*

*Given that the poor are paying high unit prices it gives some sort of clue for eventually moving away from the present pattern of regressive subsidy to the better off and no service for the poorest. The AICD concludes: "If provided with access to utility networks, even at cost recovery prices, poor households would still be better off than they are today using alternative service. This suggests that ultimately, subsidisation of connection costs may be a more equitable and cost-effective way of targeting public resources."*

The analysis of the 'poor pay more' syndrome in this case resulted in a policy option – in this case subsidizing connectivity and thus extending networks, rather than open-ended subsidy to consumption.

### **Conclusion**

We have suggested that listing groups and then setting priorities between them is an almost impossible task for such a small group as the WG. Each group is vast and the contexts are so variable and the judgments as to which groups are the most in need can be fraught and they assume that an 'objective' judgment is possible, which may simply not be true. The other possibility is to have an approach to V&D consumers by themes and issues and not by groups; this kind of approach can help to identify in which circumstances a consumer can become vulnerable or face a situation of vulnerability and propose tools to overcome those situations. But the problem here is again the vastness of the endeavour.

This does not mean there is nothing we can do. Above we suggest some fields of study and the search for solutions that could be put forward by CP Agencies and other consumer bodies such as NGOs and adopted by governments, possibly to the benefit of a wide range of V&D consumers. Perhaps in this way we could make a modest contribution to implementing the UNGCP, which, in GL 7 refers to *'the goals of eradicating poverty, satisfying the basic human needs of all members of society and reducing inequality within and between countries.'*



## Costa Rica

Dirección de Apoyo al Consumidor  
Costa Rica

Costa Rica has a general consumer protection law, the Law for the Promotion of Competition and Effective Consumer Defense, Law 7472, and its Regulations, Executive Decree 37899-MEIC.

Last October, the Ministry of Economy Industry and Commerce of Costa Rica (MEIC) partially reformed the Regulations to Law 7472 to address, among other things, the issue of advertising directed at minors and vulnerable or disadvantaged consumers.

According to the new regulation, businesses must take special care to ensure that advertising aimed at minors, vulnerable or disadvantaged consumers, and others who may not have the capacity to understand the information with which they are represented, does not harm their dignity and well-being.

Businesses must also ensure that any advertising directed at minors disseminated through websites or other electronic methods:

- a) Identifies which content is aimed exclusively at adults;
- b) Takes the necessary measures to prevent minors from accessing goods and services that, by law, are not suitable for them;
- c) Refrains from depicting children in dangerous situations, unless specifically related to safety warnings, or in situations contrary to the law, morals or public order;
- d) Refrains from encouraging minors to act in an inappropriate or illegal manner that may affect their dignity and integral wellbeing or that of others; and
- e) Respects other obligations under the law in connection with advertising aimed at minors.

However, the reform does not provide a definition of “vulnerable or disadvantaged consumers”, because it was considered that the

In addition, MEIC has issued educational guides on the topic of consumer rights for primary and high school students, and it has collaborated with the Ministry of Public Education to reformulate the curriculum content for the subject called “Education for Life” to include various consumer education modules related especially to financial issues.

Similar efforts have been carried out to educate the elderly about their rights as consumers, in particular, by giving lectures and providing useful information on how they can assert these rights.



Ecuador

## GRUPO DE TRABAJO PARA CONSUMIDORES VULNERABLES Y EN DESVENTAJA

20 de noviembre de 2017

En la primera reunión del grupo de trabajo mantenida el 2 de octubre de 2017 se acordó que los países aporten en base a tres puntos relacionados con consumidores vulnerables, en este sentido, por parte de la Defensoría del Pueblo de Ecuador se remiten los siguientes aportes.

### **1. Definiciones legales existentes de consumidores vulnerables y desfavorecidos.**

En el Ecuador existe un marco constitucional y legal en el que se ampara la protección de personas y grupos de atención prioritaria, de acuerdo al artículo 35 de la Constitución del Ecuador, dentro de este grupo constan las personas adultas mayores, niñas, niños y adolescentes, mujeres embarazadas, personas con discapacidad, personas privadas de libertad y quienes adolezcan de enfermedades catastróficas o de alta complejidad, quienes deben recibir atención prioritaria y especializada en los ámbitos público y privado. Además, el Estado prestará especial protección a las personas en condición de doble vulnerabilidad.

La Constitución también reconoce a las personas usuarias y consumidoras como parte del grupo de atención prioritaria, debido a la situación de desigualdad o desequilibrio que se genera en la relación comercial entre proveedores de bienes y quienes acceden a los mismos, por factores como la situación económica, nivel de educación, el poco o nulo poder de negociación, limitaciones sociales, entre otros.

A continuación, se presentan algunas definiciones que constan en la normativa ecuatoriana, en relación a las personas de atención prioritaria:

#### **a) Ley Orgánica de Defensa del Consumidor**

El artículo 2 de esta Ley define al consumidor como toda persona natural o jurídica que como destinatario final adquiera utilice o disfrute bienes o servicios, o bien reciba oferta para ello. Dicha denominación incluye al usuario.

#### **b) Ley orgánica de Discapacidades**

**Artículo 6.-** Persona con discapacidad. - se considera persona con discapacidad a toda aquella que, como consecuencia de una o más deficiencias físicas, mentales,



intelectuales o sensoriales, con independencia de la causa que la hubiera originado, ve restringida permanentemente su capacidad biológica, psicológica y asociativa para ejercer una o más actividades esenciales de la vida diaria, en la proporción que establezca el Reglamento.

**Artículo 7.-** Persona con deficiencia o condición discapacitante.- Se entiende por persona con deficiencia o condición discapacitante a toda aquella que, presente disminución o supresión temporal de alguna de sus capacidades físicas, sensoriales o intelectuales manifestándose en ausencias, anomalías, defectos, pérdidas o dificultades para percibir, desplazarse, oír y/o ver, comunicarse, o integrarse a las actividades esenciales de la vida diaria limitando el desempeño de sus capacidades; y, en consecuencia el goce y ejercicio pleno de sus derechos.

### **c) Código de la niñez y adolescencia**

Artículo 2.- ... se considerará niño o niña a toda persona desde su concepción hasta los doce años de edad cumplidos, y adolescente a toda persona mayor de doce años y menor de dieciocho. Ante la duda, prevalecerá la condición de adolescente frente a la de adulto y la de niño frente a la de adolescente.

### **d) Ley del Anciano**

Artículo 1.- ... personas naturales que hayan cumplido 65 años de edad, sean éstas nacionales o extranjeras, que se encuentren legalmente establecidas en el país.

## **2. Cuestiones financieras, incluidos los consumidores de edad avanzada.**

Las personas adultas mayores y las personas con discapacidad tienen beneficios en cuanto al pago de algunos bienes, servicios, así como a la reducción y exoneración de impuestos, tasas y contribuciones. Es así que, en el Ecuador, se cuenta con la Ley del Anciano y la Ley Orgánica de discapacidades que establecen dichos beneficios.

Por otro lado, es importante señalar que desde la Defensoría del Pueblo se han realizado campañas para fomentar una cultura de consumo responsable en las finanzas familiares a las personas consumidoras a través de herramientas prácticas y conocimientos necesarios para adoptar decisiones financieras de manera informada. Esta campaña consistió en talleres de socialización a nivel nacional en la que se fomentaron herramientas de planificación de presupuesto, productos y servicios que oferta el sector



financiero, así como consejos prácticos sobre consumo financiero y los derechos y obligaciones que tienen los usuarios del sector financiero.

## **2. Niños como consumidores vulnerables.**

Si bien los niños no tienen la capacidad económica para adquirir productos, son un grupo de atención prioritaria que utilizan bienes y servicios. En este sentido, es importante observar que existen factores como la publicidad que influyen el comportamiento de consumo. Por lo que, es recomendable encontrar mecanismos que frenen la publicidad abusiva o la publicidad engañosa que a través del uso de información incompleta o falsa motive a adquirir un bien o servicio, aprovechándose de la falta de madurez de los niños o adolescentes.

Por otro lado, la educación en temas relacionados al consumo responsable a temprana edad es importante para cambiar los hábitos de consumo a futuro, en este marco, se puede proponer la inclusión de actividades y temas relacionados al consumo dentro de la malla curricular a fin de que los docentes impartan temas relacionados al consumo.

Adicionalmente, a nivel internacional existen organismos que proporcionan alertas sobre varios tipos de productos, entre ellos los utilizados por niños, como los juguetes o material didáctico, por lo que es importante que los países estén pendientes de estas alertas a fin de que el estado tome las medidas de protección necesarias para evitar posibles afectaciones a la salud y seguridad de los menores.

## **GRUPO DE TRABAJO PARA CONSUMIDORES VULNERABLES Y EN DESVENTAJA**

### **DEFENSORÍA DEL PUEBLO DE ECUADOR**

#### **ADJUNTÍA DE USUARIOS Y CONSUMIDORES**

**Febrero de 2018**

En la segunda reunión del grupo de trabajo mantenida el 4 de diciembre de 2017, los asistentes acordaron que los países miembros remitan información sobre los aportes realizados en políticas existentes, así como, sobre acciones relacionadas para la protección de las personas consumidoras en condición de vulnerabilidad.

En este sentido, por parte de la Defensoría del Pueblo de Ecuador se remite la siguiente información.



La Defensoría del Pueblo de Ecuador es la Institución Nacional de Derechos Humanos que promueve y protege los derechos de las personas, comunidades, pueblos, nacionalidades y colectivos que habitan en el país, así como, el de las personas consumidoras; de ecuatorianas y ecuatorianos en el exterior; y los derechos de la naturaleza, para propiciar la vida digna y el buen vivir. Y bajo estas competencias, se han realizado dos incidencias importantes en la política pública para la protección de los derechos de las personas consumidoras en condición de vulnerabilidad.

### **1. Garantía Jurisdiccional en protección de los derechos de las personas de grupos de atención prioritaria.**

En el ámbito de las competencias atribuidas a la Defensoría del Pueblo, se intervino a nivel nacional en la protección y tutela de los derechos de las personas afectadas en el proceso de comercialización de cocinas de inducción.

En el año 2014, el Ministerio de Electricidad y Energía Renovable (MEER) estableció el Programa de Eficiencia Energética para Cocción por Inducción y Calentamiento de Agua con Electricidad en sustitución del gas licuado de petróleo en el sector residencial-PEC, programa mediante el cual se incentiva el uso de cocinas de inducción, motivando a varias empresas de electrodomésticos a comercializar dichas cocinas. Además, se estableció la planilla del servicio eléctrico, como una de las formas de pago, es decir, el comprador puede pagar la cocina en cuotas mensuales conjuntamente con el consumo eléctrico. Sin embargo, el MEER, como organismo de control del Programa, no estableció los mecanismos necesarios para vigilar el proceso de venta de las empresas, generándose inobservancia de los derechos de las personas consumidoras por parte de las casas comerciales, principalmente en la modalidad de venta “puerta a puerta”, modalidad en la que la fuerza de ventas de las empresas se traslada hacia los domicilios de las personas para ofrecer el producto. De acuerdo a las denuncias recibidas ante la Defensoría del Pueblo, las personas afectadas manifestaron haber sido mal informadas al momento de la venta, ya que en algunos casos se les habría indicado que las cocinas eran gratuitas, por tratarse de un programa impulsado por el gobierno; o incluso, se les habría indicado que, el producto constituye un beneficio del bono de desarrollo humano<sup>16</sup>; en otros casos, se les indicó que si no recibían el producto se les quitaría dicho bono, lo

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<sup>16</sup> Transferencia monetaria mensual de USD 50 que está condicionada al cumplimiento de requisitos establecidos por el Viceministerio de Aseguramiento y Movilidad Social, y que lo reciben los representantes de los núcleos familiares (de preferencia a la mujer que consta como jefe de núcleo o cónyuge) que se encuentran bajo la línea de pobreza establecida por el Ministerio de Coordinación de Desarrollo Social de acuerdo a los resultados obtenidos del Registro Social.



cual no era verdad; otro de los problemas detectados fue que, personas pertenecientes a los pueblos y nacionalidades que no comprenden el castellano, fueron manipuladas y engañadas, debido a su poca o nula comprensión del idioma. Vulnerándose así, derechos establecidos tanto en la Constitución como en la Ley Orgánica de Defensa del Consumidor, como son el derecho a la información precisa y no engañosa; el derecho a la libre elección y al trato transparente, equitativo y no discriminatorio o abusivo.

Es importante señalar que, bajo estos hechos, la Defensoría recibió y tramitó 2 407 casos a nivel nacional, en el periodo del 1 de enero del 2015 al 30 de septiembre del 2017, de los cuales el 23 % (485 casos) corresponden a grupos de atención prioritaria, de conformidad con art. 35 de la Constitución de la República del Ecuador, como son: personas adultas mayores (424 casos), personas con algún tipo de discapacidad (85 casos), personas con enfermedades catastróficas (cuatro casos); e incluso, se reportaron casos de personas en condición de doble vulnerabilidad (persona adulta mayor con discapacidad, 96 casos). Dada la reincidencia de la casuística, se realizaron acciones de incidencia con las empresas comercializadoras de cocinas de inducción y con entidades públicas como el MEER y también empresas prestadoras de servicio de electricidad, a fin de generar correctivos generales para todas las personas beneficiarias del programa.

Sin embargo, muchos casos quedaron represados ante la falta de atención y respuesta por parte de las empresas comercializadoras. Por otro lado, se dieron inconvenientes como la suspensión del servicio eléctrico, derivado de la falta de pago de las planillas de consumo de energía eléctrica, dado que, muchas de las veces, las personas al haber aceptado el producto “gratuito” no contaban con los recursos para cubrir la deuda.

Finalmente, al no contar con una respuesta clara y óptima por parte de los involucrados, es decir, del MEER y las empresas, el Defensor del Pueblo, en noviembre de 2017, presentó una garantía jurisdiccional, correspondiente a una Acción de Protección, ante la autoridad judicial competente, con el objetivo de:

- *Que mediante sentencia se declare que el MEER vulneró los derechos constitucionales de las personas consumidoras de cocinas de inducción por la falta de control ante prácticas comerciales indebidas, por cuanto la política pública establecida por dicho Ministerio no prevé mecanismos de protección ni de reclamación de los derechos de las personas consumidoras.*
- *Se establezca que en un plazo razonable el MEER implemente y ejecute mecanismos accesibles, efectivos y oportunos **de protección y reclamación** para las personas consumidoras respecto del derecho a la información precisa y no engañosa para que estas puedan elegir con libertad, en particular para las*



- personas con discapacidad, adultas mayores y otros grupos de atención prioritaria.*
- *Adicionalmente, que el MEER disponga que se garantice que bajo ninguna circunstancias se suspenderá el servicio público de energía eléctrica, a los reclamantes afectados por la comercialización de cocinas de inducción.*
  - *Que mediante sentencia se declare que una de las mayores empresas comercializadoras omitió su deber de actuar con diligencia debida para proteger los derechos de las personas consumidoras, con énfasis en la protección de las personas con discapacidad y adultas mayores.*

Sin embargo, no se acogió la acción por parte de la autoridad que tramitó la causa. Frente a este hecho, la Defensoría del Pueblo, en reiteración de su posición inicial de protección de derechos, presentó la Apelación el 26 de diciembre de 2017.

## **2. Propuesta de Ordenanza Modelo para el Buen Vivir de las Personas Adultas Mayores.**<sup>17</sup>

A nivel institucional se vio necesario que los GAD, dentro del marco de sus competencias constitucionales y legales, ejerzan una autoridad de control y protección de los derechos de las personas y grupos de atención prioritaria; por lo que, en un trabajo conjunto con colectivos de personas adultas mayores, la DPE diseñó una propuesta de Ordenanza Modelo Cantonal del Buen Vivir de las Personas Adultas Mayores (Anexo).

Durante el año 2017, la propuesta de ordenanza fue socializada a 57 cantones a nivel nacional, la misma que tiene los siguientes objetivos:

- a) Fortalecer el núcleo familiar como escenario de protección, desarrollo y cuidado para las y los adultos mayores;
- b) Promover, regular y garantizar la plena vigencia, difusión y ejercicio de los derechos fundamentales de las personas adultas mayores, en el marco del principio de atención prioritaria y especializada, con un enfoque de género, generacional e intercultural, tomando en cuenta especialmente su ubicación geográfica en el área urbano o rural del cantón, así como las distintas condiciones especiales de las personas adultas mayores;
- c) Promover e implementar la política pública mediante la ejecución de la Agenda Mínima Política Cantonal de los Derechos de las y los Adultos Mayores;

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<sup>17</sup> Defensoría del Pueblo de Ecuador. (2016). Contribuciones de la Defensoría del Pueblo de Ecuador para la transversalización del enfoque de derechos humanos en la normativa local [versión Adobe Reader]. Quito: DPE



- d) Construir participativa y conjuntamente el presupuesto correspondiente para este grupo de atención prioritaria;
- e) Garantizar recursos financieros y técnicos para la ejecución de planes, programas y proyectos encaminados al pleno respeto y garantía de los derechos de las y los adultos mayores; y,
- f) Lograr progresivamente el mejoramiento de las condiciones que permitan una mejor calidad de vida de las y los adultos mayores

La Ordenanza Modelo pretende dar una viabilidad normativa para la construcción de la política pública local que permita el pleno ejercicio de los derechos de las personas adultas mayores. Se busca, especialmente, promover la participación de este grupo en ámbitos de competencia del GAD, como el establecimiento de servicios municipales que garanticen el buen vivir, espacios de recreación, de descanso, acceso a la cultura y el deporte, servicios educativos y de salud, acceso a la vivienda, seguridad, integridad, derecho a la familia, protección contra la discriminación y la violencia.



## Egypt

Who is a vulnerable consumer?

Vulnerability is the concept which defines the relation between consumer and business justifying the need for a specific protection to consumers .So it is a permeant situation that may be individual or collective which causes imbalances on the consumer and business relation. It is a characteristic in which the consumer is disadvantaged due to lack of technical knowledge or bargaining power.

Factors determine when and why a consumer becomes vulnerable.

1. Difficulties choosing and accessing products and services especially when consumers:

- ☐ are not able to read terms and conditions due to small print.
- ☐ do not know their contract conditions.
- ☐ rarely compare deals from providers.
- ☐ rarely read or thoroughly understand communication from their providers.

2. Consumers in difficult financial situations are generally, more likely to be vulnerable.

3. Consumers who suffer a long-term sickness or disability are more likely to be vulnerable.

4. Gender related issues, namely females who are poorly educated or who live in low-density regions are more likely to be vulnerable in some areas compared to other consumers.

5. Inability or lack of access in using the internet to search for information is associated with a higher likelihood of vulnerability in some indicators.

6. Difficult personal traits like lack of trust or being highly impulsive put consumers in vulnerable situations. Best Practices: -

1- Consumer Protection Legislation (A new Law discussed now on Egyptian Parliament)  
Considering the new types of products and services deriving from telecommunications and technological advances which consumers are obligated to deal with several e-commerce products and services that can increase consumer vulnerabilities.

New law Goals: -

- Include stipulations in national consumers protection law (CPL)that address specific issues which could give rise to vulnerability.
- Secure product and food safety, through enhanced product identification and traceability.
- Strengthen the enforcement of CPL and market surveillance measures
- 2- Awareness raising and education of consumers
  - o Integrating consumer protection rights in school curricula.
  - o Educational Seminars for students in Universities Especially (Media Sections ) .
  - o Tailoring special awareness programs to serve different



community groups

3- Concrete and effective collaboration between national regulatory bodies.

CPA took the initiative in 2013 to establish the “High Committee of market regulation and consumer protection”, since then the consumer protection system in Egypt is being enhanced which helped at solving the consumers personal and collective complaints faster as urged professional exchange of information among the regulatory bodies. The committee meets regularly at CPA to study market issues and consumer complaints received at CPA and other entities to decide on the best legal and procedural action feasible for each case.



## Lebanon

Subject: Existing laws, policies and actions regarding the protection of vulnerable & disadvantaged consumers.

Consumers' vulnerability is situational. All consumers can be vulnerable depending on their circumstances and situation. **Therefore, vulnerable consumers are those who due to socio- demographic characteristics, behavioral characteristics, personal situation or market environment become susceptible to certain marketing practices or fraudulent actions. Either because they have difficulty to obtain or assimilate information or they have limited ability to choose or access suitable products or services.** For this reason, a consumer can be vulnerable in one situation but not in others, and some consumers can be vulnerable more than others.

**Disadvantaged consumers are always vulnerable as they live in persisting unfavorable circumstances “ mental or physical disability , health status , income status , poor level of education ...** There are varying degrees of being disadvantaged; one person can be less or more disadvantaged.

In this regard, **The Lebanese General Directorate of Economy and Trade** exerts permanent efforts to protect vulnerable & disadvantaged consumers through the directorate of consumer protection that is responsible for applying the Lebanese **consumers' protection law No 659 of 4 Feb 2005** that includes specific articles to particularly protect vulnerable and disadvantaged consumers, as well as applying the **general standards of products & services advertisement decree No 3380 that was issued in 12 May 2016 due to the efforts of General directorate of economy & trade,** as well as other decrees.

Moreover, the directorate general has set an action plan to promote the protection of vulnerable & disadvantaged consumers.

**Listed below the specific articles meant to protect mainly vulnerable & disadvantaged consumers , and decree No 3380**

<b><u>Article 1</u> of the Lebanese consumer protection law # 659/2005</b>	Protecting consumer's rights and providing transparency in all economical transaction that he undertakes.
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<b><u>Article 3 of the Lebanese consumer protection law # 659/2005</u></b>	The right of consumers to get correct and abundant information about goods & services (regarding prices, characteristics, way of use, & the danger of misusing it). In addition to getting <b><u>equitable treatment</u></b> .
<b><u>Article 48 of the Lebanese consumer protection law # 659/2005</u></b>	Forbids producers & merchants to use misleading information or hide necessary information about goods or services regarding (place of origin, products characteristics, ingredients, prices, benefits, and way of use...

**The general standards of products & services advertisement decree No 3380 of 12 May 2016:**

➤ <b><u>Section three- article 17:</u></b> that forbid producers or merchants to use misleading or unclear advertisements to deceive children or old people as well as disadvantaged consumers that may harm them directly or indirectly.
➤ <b><u>Section three- article 18:</u></b> Oblige merchants to specify the category of age that is allowed to use each product. In addition to stating the optimal way of using the product, its benefits and the harm that may be caused from its use.
➤ <b><u>Section three- article 19:</u></b> Forbid the use of certain pictures, words or sounds that instigate children to undertake dangerous actions or cause them moral, physical or mental damage.

**The action plan set by the general directorate to promote the protection of vulnerable & disadvantaged consumers.**

- A comprehensive Awareness campaign that includes TV spots, & power point presentation in schools and universities.
- Lessons about consumers' rights & obligations to be included in schools' curriculum.



- A training program for merchants in different sectors to ensure better quality of services & products & enhancing good business practices.
- A wide geographical & sectorial inspection patrol.
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Finally, we would like to extend our appreciation to the efforts of the entire working group and to express our openness to any proposal from your part that enhances the protection of vulnerable and disadvantaged consumers in our country as well as other countries, especially if it is binded with technical and physical help.

As for **the Online-fraudulent purchases best advertisement contest** of the university students , **Ten universities had participated** , each university team included five to ten persons (students & their teachers). Each team presented a visual advertisement to a committee , consisted of the General director of economy & trade, the sponsor of this contest “ Brand Protection Group- BPG” from the civil society, and the ministry expert in management & marketing.

The winning team was the Lebanese International university “ LIU” that won a financial prize and their winning advertisement has been broadcasted via Lebanese Tv-channels.<https://www.youtube.com/watch?v=wmv-H0Prgss&feature=youtu.be>

As for the **annual study about consumers’ behavior** that is still in process, **samples had been taken randomly from all the areas of the six Lebanese districts**, the sample size is proportional to the population number in each area according to the Central Administration of Statistics criteria. Each sample consists of 50 to 70 questionnaires per area, the total is 1010 questionnaires. The questionnaire includes different sections about demographic issues and the consumer’ behavior, experience, attitude and opinion. With the help of **twenty two university students volunteers**, we have finished the first step which is filling all the Arabic questionnaires that targeted consumers of age between eighteen and sixty five years equally from both gender.

The second step is to process the data of the questionnaires in order to obtain a specific result about consumers. Note that this study will be conducted each year to form the “Lebanese Consumer Trust Index” with precise indicators that help us to pinpoint strengths and weakness in order to enhance our performance and to come up with new awareness policies.

As for **the study about vulnerable and disadvantaged consumer**, it is still in the preparatory phase handled by the ministry experts according to the instructions of the General Director.



## Israel

### Israel Consumer Protection and Fair Trade Authority

The Israel consumer Protection Law has specific provisions in place aiming to protect vulnerable and disadvantaged population:

1. Section 3 of the Consumer Protection Law prohibits businesses from **Exerting Unfair Influence on the consumer**. The section stipulates certain actions that shall be considered as exerting unfair influence, among them:

- (1) Limiting the ability of a consumer to leave a location or creating an impression that the consumer is limited in his ability to leave a location;
- (2) Preventing from a consumer the possibility of consulting about the transaction or its terms;
- (3) Conducting repeat visits to a consumer's home in order to convince him to enter into a transaction, even when such consumer has expressed, whether implicitly or explicitly, his disapproval of such visits;
- (4) Contacting a consumer or members of his family repeatedly in order to enter into a transaction, even when such consumer has expressed, whether implicitly or explicitly, his disapproval of such contacts;
- (5) Taking advantage of any mental, psychological or physical disability of a consumer, of which the business is or ought to be aware;
- (6) Taking advantage of a consumer's insufficient command of the language in which the transaction is conducted to understand the transaction;
- (7) Using threat or any other means of intimidation in respect of the consumer or any member of his family;
- (8) Providing the consumer with any asset or service without an explicit request therefor by the consumer;
- (9) Creating an impression that the consumer has won or will win any prize or other benefit, when such prize or other benefit do not exist, or if, in order to collect such prize or other benefit, the consumer is required to pay or meet any other condition that has not been previously advertised;

2. Section 14C1 **extends the period of cancellation in both distance selling and door to door transactions when the consumer is a senior citizen, a disabled person or a new immigrant**. According to the Consumer Protection Law the general population may cancel a distance selling or a door to door transaction within fourteen days from the date of the transaction, the date of receiving the asset or the date of receiving the document containing the information specified in the law whichever is later. According to this specific section, persons belonging to the above groups may cancel their transactions within a period of four months following the date of the



conclusion of the transaction, the delivery of the product, or the receipt of the document containing the information specified in the law. A distance selling transaction for the purpose of this section is a transaction which involves a conversation between the business and the consumer (including a conversation by electronic means). It does not include e-commerce transactions in which no conversation occurred.

**3. Sections 13E, 13F and 13G protect consumers** (usually sick or elderly) **entering continuous transactions involving Healthcare Services**. Such transactions include medical support services including transportation by ambulance, medical counseling or doctor visits and emergency response centers by means of a panic button or supply of medical equipment.

According to these provisions such a transaction which is for a fixed period cannot exceed one year. However, it may be extended for a period not exceeding six months each time even without obtaining the consent of the consumer if the terms of the transaction are not changed during the extension period and the consumer receives a notification in writing that includes his entitlement to terminate the transaction at any time.

In addition these provisions provide specific instructions regarding the contract that must be signed, the disclosure form that must be provided as well as specific instructions regarding the cancellation of such a transaction and the results of the cancellation.

**4. Consumer Protection Regulations (Advertisements and Marketing Methods Aimed at Minors)**- These regulations define marketing methods as a direct or indirect approach to a consumer, including by means of mail, telephone, radio, television, electronic communication of any kind, fax, catalogues and notices for the purpose of concluding a transaction or promoting the sale of a product or service. The regulations stipulate the principles for advertisements and marketing methods aimed at children, which include the following:

□□□□□□ Advertising and marketing must be compatible with the knowledge, the understanding and maturity of the targeted audience;

- Advertising and marketing must be compatible with acceptable social values, such as integrity, equality and nonviolence;
- Information must be easily understandable by the targeted audience;
- It must be taken into account that advertisements and marketing methods may cause minors to act in a manner which may harm their wellbeing and health;
- Advertisements and marketing methods must not hinder the capability of minors to value the true size of the marketed product;



- When targeting minors, it is prohibited to advertise or market in a manner which takes advantage of the minors innocence, beliefs, imagination and lack of experience;
- It is prohibited to use nudity or sexual innuendo;
- It is prohibited to encourage minors to consume intoxicating beverages, to smoke cigarettes or other tobacco products and to participate in gambling.

It should be noted that violations of the provisions of the Consumer Protection Law and Regulations are enforced by the Consumer Protection Authority.

In addition, in order to protect vulnerable populations such as the elderly, we are currently working on legislative amendments with regards to telemarketing:

- (a) establishment of a do not call registry
- (b) introducing an obligation to record conversations and give access to them.

**Research:**

One of the authority's priorities is focusing on vulnerable and disadvantaged populations. Within this framework, we focused on the following three vulnerable populations: the elderly, ultra-orthodox and minorities.

With regards to the elderly, the authority, together with the Israel Gerontological Data Center at the Hebrew University, conducted a research regarding consumerism among the elderly in Israel and in the world. The work reviewed the condition of the elderly in Israel, their consumer habits, issues regarding exploitation of the elderly and experiences in the world dealing with such issues. In addition, a survey regarding telemarketing was conducted focusing on the elderly population. Unfortunately, the research and survey are not available in English.

With regards to the ultra-orthodox and minorities, we held focus groups in order to understand the shopping habits and the characteristics of each specific population so that we can identify the specific consumer issues relevant to each population.



## Turkey

### REPUBLIC OF TURKEY MINISTRY OF CUSTOMS AND TRADE Directorate General of Consumer Protection and Market Surveillance

As indicated in its concept note, we reaffirm the importance of this working group and believe that working group will provide precious information about how to protect vulnerable and disadvantaged consumers.

We confirm the decisions that were taken on 2nd October. You can find our views and opinions below;

- Law Of Consumer Protection, which entered into force on 28 May 2014, defines consumer as; “Real person or legal entity acting with non-commercial or non-professional purposes”. According to Law Of Consumer Protection, this definition also includes vulnerable and disadvantaged consumers. Vulnerable and disadvantaged consumer’s rights were designated generally in the law. In order to inform vulnerable consumers about their rights, web-based “Consumer Academy” was formed. In this web site consumers can easily access educational videos about redress mechanisms, their rights and more.

- Elderly consumers have been mainly targeted by commercial advertisements and off-premises contracts. Therefore it's important to protect their rights in order to prevent financial losses to the firms that have been exploiting their conditions. In order to prevent this, legal framework about commercial advertisements was done. Board of Advertisement is actively enforcing fines for those firms. In addition to this, firms that conducting off-premises contracts should get a license from Ministry according to regulation.

- Protecting children is another important aspect. Imitation Food Products are very dangerous products for the health of kids. Therefore it's important to regulate this area to prevent injuries and loss of life. According to law; “The production, marketing, importation and exportation of goods, which appear different than they are because of their form, odor, appearance, packaging, labeling, volume or size, even though they are not foodstuffs, and which can be mistaken for foodstuffs by the consumers, and especially children; thus, jeopardizing the health and safety of consumers, is prohibited. Products that are not actually foodstuffs but are manufactured looking like foodstuffs, as a traditional craft/art and, which are not harmful to health, are excluded from this provision, providing a warning sign and an inscription on such. The Ministry is authorized to take the necessary measures and make the necessary arrangements against these products that threaten the health and safety of consumers by appearing different than they really are. In addition to this specific chapter has been designated about children in commercial advertisement regulation.



## Portugal

### Strengthening of the Protection and Defence of Vulnerable Consumers Rights Consumer Directorate-General (Portugal)

The Consumer Directorate-General (Direção-Geral do Consumidor), as a central body of the Public Administration, contributes to the elaboration, definition and implementation of consumer policy in Portugal, with the aim of ensuring a high level of protection, particularly for vulnerable consumers.

#### **a) Essential public services provision, financial services and other services subject to economic regulation**

In Portugal, a number of measures have been taken to protect vulnerable consumers, particularly in the field of essential public services provision (energy, water and waste, electronic communications), financial services (housing loan, consumer credit and bank charges) and other services subject to economic regulation such as health and transport services.

##### ☐ **Essential public services**

Within the electricity sector and natural gas, a social tariff was created, in which the economically vulnerable consumer has the right to be protected, in particular, with regard to prices. In December 2017 this social tariff was extended to the water sector and is applied by the municipalities that join this initiative.

The legislation applicable to the communications sector, namely the Electronic Communications Law, reflects the need to accommodate the interests of disabled end-users as well as the interests of the elderly or the interests of users with "special social needs" within the scope of the universal service. Universal service providers are required to make specific offers available in a way that ensures the access for disabled users.

##### ☐ **Financial services**

At the level of financial services, it was created the minimum banking services account in which any natural person can access the minimum banking services when not holding a current deposit account or, if holding a single current deposit account, this account can be converted into a minimum banking services account.

In the out-of-court settlement procedure, bank customers benefit from a set of rights and guarantees aimed at facilitating an agreement with credit institutions to settle default situations, avoiding the use of courts. This model applies to all credit agreements entered into with consumers, with the exception of leasing contracts.

##### ☐ **Network for Indebted Consumer Support**

With regard to public policies and existing rules on consumer over-indebtedness, in 2012 was created a Network for Indebted Consumer Support, which is composed by public and private entities whose function is to inform, advise and monitor a bank customer who is



at risk of breaching his obligations under a credit agreement concluded with a credit institution or who, due to the delay in complying with those obligations, is in the process of negotiating with the credit institution (article 27 of Decree-Law 227/2012). The Consumer Directorate-General is the entity that is competent to recognize the entities that wish to join the Network, and the central bank of the Portuguese Republic – Bank of Portugal (Banco de Portugal) is responsible for supervising, monitoring and evaluating the compliance with the diploma. In 2012, an extraordinary regime of protection of debtors of housing loans in a very difficult economic situation was also created through Law 58/2012.

#### **b) Complaints Book**

In Portugal, with a view to strengthening the rights of consumers and users, it was established that a Complaints Book should be in existence and made available. In the legislation that establishes this measure, it is foreseen that when, due to illiteracy or physical incapacity, the consumer is unable to complete the complaint sheet, the supplier of goods, the service provider or any person responsible for the service must, at the time of presentation of the complaint and at request of the consumer, fill in the complaint sheet in the terms described orally by the latter.

#### **c) Priority attendance**

Still in view of the special needs of vulnerable consumers, it was established that priority should be given to persons with disabilities, elderly, pregnant women and people accompanied by children, to all public and private entities providing face-to-face customer services.

#### **d) Targeted consumer information**

The Consumer Directorate-General pays special attention to vulnerable consumers, ensuring more information and greater protection for older consumers. Among other initiatives, we highlight the development and dissemination of the “Practical Guide for the Elderly Consumer”, together with the Public Security Police (PSP). This initiative made possible to extend its area of intervention to Senior Universities and solidarity institutions such as Mercies, which were the target of campaigns and awareness actions, regarding the rights of elderly consumers in online contracting, in the provision of essential public services and financial services.

The Consumer Directorate-General also collaborates with public and private entities, such as Town Councils or Social Institutions in supporting and enlightening vulnerable consumer groups on the issues of Essential Public Services and supporting consumer over-indebtedness.

Through the Consumer Fund, a number of entities are financed to promote civil society initiatives to raise awareness among young people, children, economically disadvantaged consumers and the elderly population. 3



Also, the safety of products and services placed on the market is a key element in ensuring compliance with consumer rights enshrined in the Constitution and should be evaluated taking into account the categories of consumers who may be particularly vulnerable to the risks arising from products and in particular children and the elderly. Consumer Directorate-General, February 2018.



## Peru

### Consumer Protection and Defense Code (Law 29571)

#### Article VI.- Public policies.

1. The State protects the health and safety of consumers through appropriate and updated regulations, encouraging the participation of all public or private bodies. For this purpose, it promotes the establishment of the regulatory norms for the production and commercialization of products and services and supervises their compliance through the competent organisms.

2. The State guarantees the right to consumer information by encouraging the respective public sector and the private sector to provide more and better spaces and information tools to consumers in order to make the market more transparent; and ensures that the information is accurate and appropriate for consumers to make consumption decisions in accordance with their expectations.

3. The State directs its actions to defend the interests of consumers against those practices that affect their legitimate interests and that to their detriment distort the market; and seeks that they have an active role in the development of the market, informing themselves, comparing and rewarding with their choice the loyal and honest supplier, asserting their rights directly before the suppliers or before the corresponding entities.

**4. The State recognizes the vulnerability of consumers in the market and consumer relations, guiding their work of protection and consumer protection with special emphasis on those who are more likely to be victims of practices contrary to their rights because of their special conditions, as is the case of pregnant women, girls, children, elderly people and people with disabilities as well as consumers in rural areas or extreme poverty.**

In our regulatory framework there is no specific definition of vulnerable consumer; however, the Consumer Protection and Defense Code (Law 29571) establishes within its chapter of public policies that there are vulnerable consumers in the market to whom the state must pay particular attention.

In this sense, it considers that pregnant mothers, children, seniors and people with disabilities, as well as consumers in rural areas or extreme poverty are people prone to be victims of practices contrary to their rights because of their special conditions.



It is important to mention that Indecopi's work in consumer protection does not cover public services, which is why regulatory entities handle their own definition of vulnerable consumers.

Finally, I would like to mention that Indecopi has carried out several activities aimed at vulnerable consumers.



## United States of America

On a separate note, the Secretariat asked Member State agencies to share information related to children and the elderly.

We forwarded information regarding children in December.

We are pleased to share that Mr. Joseph Simons recently appointed FTC Acting Chair.

<https://www.ftc.gov/news-events/press-releases/2018/05/joseph-simons-sworn-chairman-ftc>

See <https://www.ftc.gov/news-events/press-releases/2018/01/acting-ftc-chairman-ohlhausen-names-elder-justice-coordinator>; and <https://www.congress.gov/bill/115th-congress/senate-bill/178/text>. The FTC also has consumer education focused on issues most relevant to elderly consumers. <https://www.consumer.ftc.gov/features/feature-0030-pass-it-on>.

We believe that it is useful to gather this type of information and share with consumer agencies throughout the world.

## Children's Privacy

The Children's Online Privacy Protection Act (COPPA) gives parents control over what information websites can collect from their kids. The [COPPA Rule](#) puts additional protections in place and streamlines other procedures that companies covered by the rule need to follow. The [COPPA FAQs](#) serve as guidance to help keep companies COPPA compliant.

<https://www.ftc.gov/tips-advice/business-center/privacy-and-security/children%27s-privacy>

<https://www.ftc.gov/tips-advice/business-center/guidance/childrens-online-privacy-protection-rule-not-just-kids-sites>

<https://www.ftc.gov/tips-advice/business-center/guidance/complying-coppa-frequently-asked-questions>



May 2018 update

The FTC issued a blog regarding timeshares in May 2018.

(See <https://www.consumer.ftc.gov/blog/2018/05/timeshare-resale-scheme-preyed-older-adults>). The article and related case seem timely since timeshares featured prominently in our discussions.

(See also <https://www.ftc.gov/news-events/press-releases/2016/12/ftc-action-halts-timeshare-resale-scheme> ). A link to Spanish language materials is also available on our website (See <https://www.consumidor.ftc.gov/topics/arrendamiento-y-tiempo-compartido>).

## Former submission

### I. LEGISLATION

A. I previously reported the recent appointment of an Elder Justice Coordinator as part of the agency's responsibilities under the Elder Abuse Prevention and Prosecution Act. See [\*Acting FTC Chairman Ohlhausen Names Elder Justice Coordinator to Support Elder Abuse Prevention and Prosecution Act\*](#) (January 2018); and [\*Elder Abuse Prevention and Prosecution Act\*](#) (October 2017).

- The main responsibility of the FTC Elder Justice Coordinator is to coordinate with other U.S. agencies on law enforcement, consumer education and policy initiatives.
- The new law formalizes processes already in place with other U.S. agencies (e.g., with Department of Justice, Housing and Urban Development, and others).

B. In response to the increase in fraudulent telemarketing operations, the FTC announced proposed amendments in 2013 to strengthen the Telemarketing Sales Rule (TSR) by barring sellers and telemarketers from accepting payment methods that may lack adequate protections. In 2015, following a public comment period, the FTC approved final amendments to its TSR, including a change that will help protect consumers from fraud by prohibiting four discrete types of payment methods favored by con artists and scammers. See <https://www.ftc.gov/news-events/press-releases/2015/11/ftc-amends-telemarketing-rule-ban-payment-methods-used-scammers>)

### II. REPORTS

<https://www.ftc.gov/policy/reports/policy-reports/commission-staff-reports/consumer-sentinel-network-data-book-2017/main>



### III. ENFORCEMENT ACTIONS

[https://www.ftc.gov/news-events/press-releases/2018/02/ftc-challenges-schemes-target-or-affect-senior-citizens?utm\\_source=govdelivery](https://www.ftc.gov/news-events/press-releases/2018/02/ftc-challenges-schemes-target-or-affect-senior-citizens?utm_source=govdelivery)



Brief summaries of the elder fraud sweep cases are below:

- [Next-Gen Inc.](#) (February 20, 2018) In collaboration with an enforcement sweep led by the DOJ, the FTC and the state of Missouri filed a complaint and proposed temporary restraining order against two individuals and several companies for violation of the FTC Act as well as Missouri state law. The fraudsters contacted citizens via email and lured them into paying a fee in order to collect an alleged cash prize, taken an estimated \$110 million from consumers. The scheme although not specifically targeted at senior citizens defrauded many of them.
- [Genius technologies llc.](#) (February 21, 2018) The defendants, two companies and an individual, worked with Indian telemarketers, allegedly in violation of the FTC act and the Telemarketing Sales Rule. According to the FTC complaint and proposed temporary restraining order, defendants allegedly impersonated well-known technology companies pretending that hackers were about to enter customers computers and targeted their bank accounts. In order to protect their computers, customers were misled into purchasing outdated security software for a price above market value. The defendants also allegedly sold software updates to defrauded customers and stole some of their personal



information while given access to computers. This scheme defrauded a high proportion of elderly consumers.

- [DOJ Enforcement Sweep](#) (February 22, 2018) The Postal Inspection Services executed 14 search warrants against suspected members of transnational criminal organizations that have allegedly defrauded thousands of consumers around the world. This action closely follows the filing of more than 40 cases against defendants suspected of defrauding customers. Attorney General Sessions in his remarks insisted on the importance of protecting elderly people from online scams. Sessions noted that Elder Justice Coordinators are being placed in every U.S. Attorneys' office, as well as the importance of the collaboration between federal, state and foreign agencies. He also encouraged scam victims to step forward and report scams against older consumers.

More generally, the FTC has focused on deceptive telemarketing, deceptive marketing of health-related products, money transfer services, and other subjects of relevance to seniors, in coordination with other law enforcement agencies.

Other enforcement examples:

- i. [Federal Trade Commission v. The Western Union Company](#) (January 19, 2017)  
*(FTC's action alleged that despite knowing its service was used by scammers, Western Union failed to take reasonable steps to stop the fraud. For example, the FTC alleged that Western Union's own database included over 40,000 complaints about "emergency" scams, such as grandparent scams).*
- ii. [Federal Trade Commission v. Mail Tree Inc.](#) (June 12, 2015)  
*(FTC's action alleged a sweepstakes that used personalized letters to seniors to trick them into paying to claim their prizes and took in more than \$28 million in one scam and over \$17 million in another).*
- iii. [Federal Trade Commission, and the State of Florida v. Boost Software, Inc.](#) (November 19, 2014)  
*(FTC charged defendants with tricking consumers into believing there are problems with their computers and selling technical support products and services to "fix" these consumers' nonexistent computer problems)*  
<https://www.ftc.gov/enforcement/cases-proceedings/132-3283/boost-software-inc>
- iv. [Federal Trade Commission, and State of Florida, Office of the Attorney General, Department of Legal Affairs v. Worldwide Info Services, Inc.](#) (January 13, 2014)



*(FTC filed suit against telemarketers who used robocalls to pitch a purportedly “free” medical alert system that a friend, family member, or other had purchased for the consumer when, in reality, no one had agreed to purchase the system, and the company charged consumers, many of whom were elderly).*

v. [Federal Trade Commission v. Sun Bright Ventures LLC](#) (October 2, 2014)

*(FTC charged that defendants pretended to be part of Medicare and targeted older citizens. Defendants allegedly tricked seniors into providing their bank account information by telling the consumers the information was required to obtain a new Medicare card or to receive important information about Medicare benefit).*

#### IV. CONSUMER EDUCATION

<https://www.consumer.ftc.gov/features/feature-0030-pass-it-on>

**Pass It On** seeks to help older consumers avoid common fraud schemes by starting dialogues between older consumers, their families and friends, so that they can learn from each other in a more community-oriented learning experience. The program also provides materials on such topics as imposter and health care scams, charity fraud, and identity theft.

#### V. BLOGS

FTC staffers sometimes write blog posts on senior-related issues. Two examples:

[Get into the act and pass it on](#) (May 12, 2015)

[Stopping scams targeting older consumers](#) (February 22, 2018)

#### VI. CONGRESSIONAL TESTIMONY

The FTC has provided testimony to U.S. Congressional committees on issues relevant to older consumers:



<https://www.ftc.gov/news-events/press-releases/2017/02/ftc-testifies-senate-judiciary-committee-its-efforts-combat-fraud>; <https://www.ftc.gov/public-statements/2017/02/prepared-statement-federal-trade-commission-stopping-senior-scams> (February 2017)

**Committee:** Senate Special Committee on Aging

**Title:** Stopping Senior Scams: Developments in Financial Fraud Affecting Seniors

**Date:** Feb. 15, 2017

**FTC Presenter:** Lois Greisman, Associate Director of Division of Marketing Practices, BCP  
Associate Director Greisman identified FTC's law enforcement, policy, and education plans to protect older Americans from fraud

[Fighting Fraud Against the Elderly, An Update](#) (October 2015)

**Committee:** House of Representatives Committee on Energy and Commerce,  
Subcommittee on Commerce, Manufacturing, and Trade

**Title:** Fighting Fraud Against the Elderly, An Update

**Date:** October 2015

**FTC Presenter:** Deputy Director Kaufman (Deputy Director of BCP)  
Deputy Director Kaufman provided an overview of fraud trends affecting older Americans and the FTC's actions to address them. The FTC acknowledged the rapidly growing population of older Americans and addressed the trend with law enforcement, policy and consumer education initiatives.

## Children's Issues

**Living Life Online** - <https://www.consumer.ftc.gov/features/feature-0026-living-life-online>

- The FTC's Living Life Online publication offers consumers information on how to protect themselves and their data online.

**Admongo** - <http://www.admongo.gov/>

- This FTC consumer education resource aims to educate tweens (kids ages 8 to 12) about advertising so they can become more discerning consumers of information.

The goal of the campaign is to boost advertising literacy by: 1) raising awareness of advertising and marketing messages; 2) teaching critical thinking skills that will



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allow tweens to better analyze and interpret advertisements; and 3) demonstrating the benefits of being informed consumers.

**Net Cetera: Chatting with Kids About Being Online** - [https://www.consumer.ftc.gov/files/netcetera\\_2018.pdf](https://www.consumer.ftc.gov/files/netcetera_2018.pdf)

- This FTC consumer education tool kit teaches parents how to speak with their children about online issues.

**You Are Here** - <http://www.ftc.gov/YouAreHere>

- The FTC created a fun interactive website with an online virtual mall where children can learn about key consumer concepts, such as how advertising affects them, how businesses compete, how to protect information, and how to spot scams.



Spain: Agencia Catalana del Consum

The [Catalan Consumer School](#) (CCS) in Spain was created in 2003, inside the [Catalan Consumer Agency's](#) (CCA) premises, built as a permanent working space of consumer education in Catalonia, and also to facilitate to Catalan students the access to consumer education. CCS offers its activities to stakeholders related with primary and secondary education or school, training cycles, teachers and special education centres. In fact, facilitate the inclusion of consumer education in the curriculums of the different stages of the educational system is also a main goal of the CCS.

Therefore, consumer training is developed along 3 main axes:

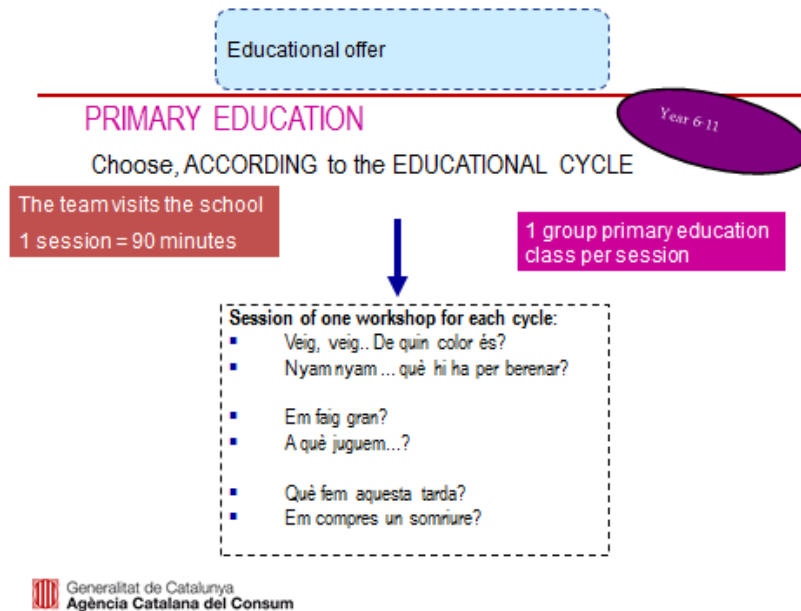
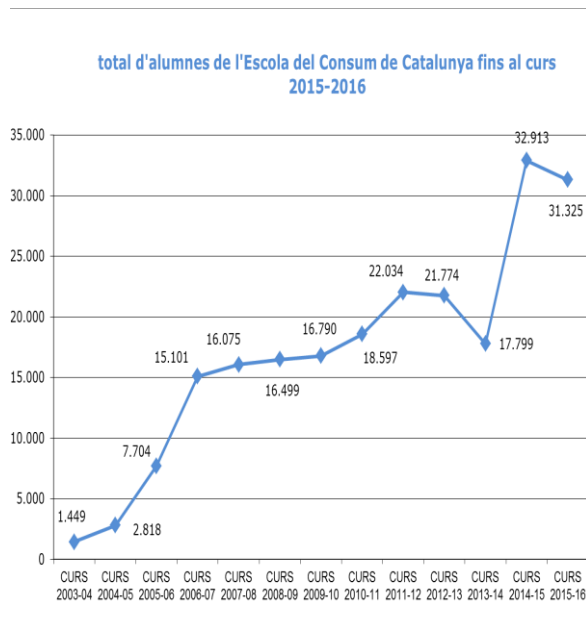
1. Learning to ask oneself. The capacity to question oneself and find answers out is basic, especially in the context of our society, since we receive more than 3000 daily advertising impacts.
2. To know oneself emotions. If we look at our expressions when we try on shoes, or at the face of a child receiving a gift, we will probably realize that there is an emotional side lying behind. Teaching about emotions helps to better know oneself, thus to control them, in a way that we can reach a balanced relationship between reasoning and feeling. Because of this, all of our workshops deal with emotions.
3. To build up a solid ability regarding dialogue. A conversational approach facing consumption acts should help students to build their own opinion and be positioned, since every act of consumption has its followers, detractor people, etc. Hence, the CCS avoids dogmatism in order to work on the consumers training. Dialogue should be a vital attitude, a way to live the consumption phenomenon, as well as a tool to understanding and planning the way of acting.

Those skills can be able to help training more reflexives young people, improving their ability to adapt to changing circumstances or choices indeed. The CCS takes on the challenge of consider vulnerable individuals as a sharp focus of consumer training. The purpose is to teach them to think, in order to arise and improve their thought by action, also assuming the emotional side.

CCS offers 8 workshops for primary school, 24 workshops to high school and training cycles, as well 8 workshops to disability people, in addition to seminars or tutorials aimed at teachers and teacher's students. All workshops have a question as a tittle, opening up to the daily work with students. So far, CCS has trained 220.878 students.

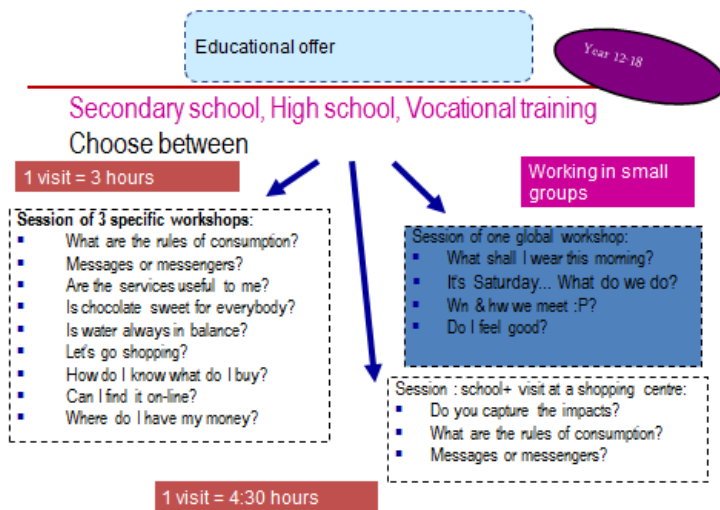
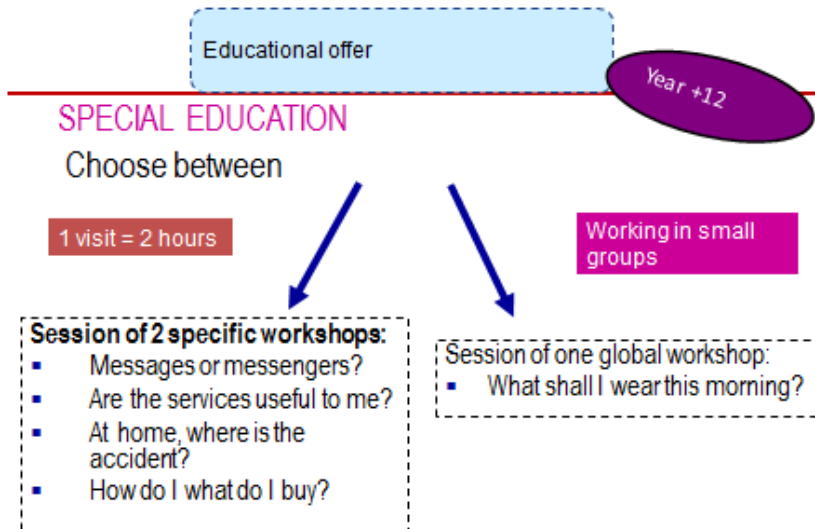
## Some facts and figures:

Total number of CCS' students: 220,878 (2003-2016)





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## Netherlands

In the Netherlands the most important legislation that ACM can use to protect vulnerable consumers is legislation based on the European Directive on Unfair Commercial Practices (2005/29/EC).

The Directive prohibits unfair sales practices that materially distort or are likely to materially distort the economic behaviour with regard to the product of the average consumer whom it reaches or to whom it is addressed, or of the average member of the group when a commercial practice is directed to a particular group of consumers. (art. 5.2). In particular, misleading and aggressive sales practices are addressed by this Directive.

As the Directive holds, commercial practices which are likely to materially distort the economic behaviour only of a clearly identifiable group of consumers who are particularly vulnerable to the practice or the underlying product because of their mental or physical infirmity, age or credulity in a way which the trader could reasonably be expected to foresee, shall be assessed from the perspective of the average member of that group (art. 5.3)

The following practices from the list of practices that are unfair under any circumstances are particularly relevant to vulnerable consumers:

Falsely claiming that a product is able to cure illnesses, dysfunction or malformations. (Annex I, 17)

Including in an advertisement a direct exhortation to children to buy advertised products or persuade their parents or other adults to buy advertised products for them. (Annex I, 28)

Also, the Directive holds, that in determining whether a commercial practice uses harassment,

coercion, including the use of physical force, or undue influence, and is therefore aggressive,

account shall be taken of the exploitation by the trader of any specific misfortune or

circumstance of such gravity as to impair the consumer's judgement, of which the trader is aware, to influence the consumer's decision with regard to the product (art. 9);



## Examples of enforcement cases involving vulnerable consumers

On our website you can find information about enforcement actions against unfair sales practices that specifically targeted vulnerable consumers. These are a few examples:

<https://www.acm.nl/en/publications/publication/14881/Apple-and-Google-no-longer-promote-games-as-free>

<https://www.acm.nl/en/publications/publication/7373/Consumer-Authority-imposes-fine-upon-photographic-studio-for-misleading-recruitment-of-models-via-the-internet>

<https://www.acm.nl/en/publications/publication/7446/The-Netherlands-Consumer-Authority-fines-providers-of-misleading-sales-demonstrations-during-coach-trips>

<https://www.acm.nl/en/publications/acm-takes-action-against-debt-collection-agencies>

More explanation and examples of cases from other European Countries can be found in the guidance document from the European Commission on the implementation/application of the Unfair Commercial Practices Directive. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016SC0163>

## Examples of actions to educate consumers:

<https://www.acm.nl/en/publications/publication/7377/Consumer-Authority-launches-campaign-on-doorstep-selling>

<https://www.acm.nl/en/publications/publication/16603/ACM-steps-up-efforts-against-unfair-debt-collection-practices>

<https://www.acm.nl/en/publications/publication/7337/Consumer-Authority-begins-information-campaign-concerning-misleading-telemarketing>



## **Cambodia**

The delegate from Cambodia made the following recommendations:

- 1-Government should have special policy for poor and disadvantaged consumer as reduction poverty policy adding more with the existing of constitutional law and UN guideline of consumer protection.
- 2-The ministry of Justice and consumer protection agency must work closely to protect and prevent all kind of risks that may be faced to vulnerable and disadvantaged consumers,
- 3-All stakeholders must take into account that any activities created for any areas in the country as products and services will be affected to these group of consumers,
- 4-NGO have the voice to share info for the community,
- 5-Competent authorities should cooperate with international partner for better manage and solve complaints and problems of vulnerable and disadvantaged consumers.



Zambia

## **Paper on Zambia's Experiences Working with Vulnerable Consumers**

**SUBMISSION TO THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD) WORKING GROUP ON VULNERABLE AND DISADVANTAGED CONSUMERS**

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### **Legal Framework**

Zambia's Competition and Consumer Protection Act No. 24 of 2010, currently enforced by the Competition and Consumer Protection Commission (CCPC) does not have specific provisions dealing with the protection of vulnerable and disadvantaged consumers. The law currently applies to protect all consumers regardless of their status in society.

The Act has various provisions proscribing unfair trading, misleading conduct, coercion, compromise of standard of honesty, misrepresentation, display of disclaimers which disclaim the rights that consumers have under the Act, supply of defective and unsuitable goods and services, improper labelling on goods, charging consumers more than the price that is displayed, supply of unsafe products and unfair contract terms.

That notwithstanding, Zambia through the Commission has identified the existence of vulnerable and disadvantaged consumers considering the challenges they face in their daily interactions with business entities in their areas of existence. The Commission now explains what strategies it uses to ensure the empowerment and subsequently, protection of such consumers.

### **Vulnerable and Disadvantaged Consumers in Rural Areas – Financial Issues**

In the quest to protect consumers in the rural areas from unfair trade practices in the Financial Sector, the Commission in its Strategic Plan for the period 2017 – 2021 Commission seeks to contribute to financial inclusion of all Zambians through consumer education and investigation of consumer complaints. The Commission has observed through complaints received that some Financial Service Providers (FSPs) have knowingly or otherwise engaged in practices that are unfair in nature and subsequently disadvantaged the consumers especially those based in rural areas. For example, the Commission has investigated financial complaints from rural areas such as



unauthorised deductions on bank loans and insurance policies; lack of information disclosure and education on financial services and contracts by FSPs. The existence of such conducts and the asymmetric information makes consumers especially those in rural areas to be financially excluded due to lack of confidence to transact in the financial marketplace.

However, it should be noted that the provincial sensitisation programmes conducted every year gives the Commission the impetus to disseminate information on financial consumer education to the grassroots levels such as the chiefdoms. It should be underscored that chiefdom sensitisation activities have proved effective in information dissemination on financial consumer protection as village subjects are easily advised in the presence of the Chief to appreciate their consumer rights and obligations. By and large this has been seen to enhance the confidence of consumers to transact freely in the marketplace.

### **School Pupils as Vulnerable and Disadvantaged Consumers**

It is worth mentioning that in terms of consumer issues in schools, from higher secondary education stage onwards, young people begin to enjoy increasing consumer freedom and become more active in buying goods and services due to various factors such as peer influences and advertisements. The young consumers in schools therefore are unique targets of the junk-food industry. The enterprises in this market knows that fast food is addictive and once young people get used to having their fat, salts and sugar rich food, they will become their loyal consumers. Hence, it is not surprising that the market spends huge sums of money on advertising campaigns alone.

Against this background, the Commission has embarked on a deliberate approach of setting up school clubs in secondary schools aimed at reaching the children in schools with the objective to make them aware of their consumer rights and responsibilities. The Commission has therefore established about three hundred (300) school clubs across the country in all the ten provinces of Zambia. These are in secondary schools. The Commission realises the need to empower the young generation with knowledge of their consumer rights and obligations by creating school clubs.

Through the use of matrons and patrons who are in charge of teaching the learners the role of the Commission, thereby educating them on their consumer rights and obligations, the school clubs engage in various activities to spread key messages about the Commission to the learners. Learners communicate how they are protected by the Commission by participating in various activities such as debates, drama, quizzes; and



essay writing competition and so on. Such events are usually televised on a national broadcaster for wider coverage.

### **The Elderly as Vulnerable and Disadvantaged Consumers**

In the quest to protect consumers in the rural areas from unfair trade practices particularly for the elderly as vulnerable groups the Commission has continued its sensitization efforts covering all the ten provinces of Zambia. The sensitization campaigns as alluded includes visiting chiefdoms, visiting trading premises, working with local NGOs and attending traditional ceremonies.

The Commission realises the need to empower the older generation with knowledge of their consumer rights and obligations by teaching them issues they are supposed to be aware of as they consume products from the trading premises. In most cases during Chiefdom sensitisations, these vulnerable groups are assembled and taught in local languages on the provisions of the Zambia consumer. This is very effective as most of these groups are illiterate and this platform henceforth offers the best opportunity for them to interact in their mother tongue and this provides them the best way to therefore know their consumer rights and obligations.

The Commission has in the past years witnessed an increase in the number of consumer complaints especially those received from the outskirts of Lusaka and Provincial towns. Mostly these are the most vulnerable people such as the illiterate and the old. However, the Commission could not adequately deal with all these complaints owing to the fact that its presence is currently at Provincial level. The Commission has therefore decided to partner with NGOs as these are engaged with a large network of local communities. In most cases these NGOs have access to large numbers of elderly consumers who are under their care and supervision. In this strategy, the Commission has engaged CSOs whose work deals with under privileged members of the community in educating and sensitizing them about the provisions of the Act. This **Civil Society Organisations Partnership Program** whose line of work is to deal with the public or consumers in far flung areas in Zambia is cardinal in reaching out to the elderly. This is in line with Section 5(f) and (K) of the Act which mandates the Commission to act as the primary advocate for competition and effective consumer protection in all sectors of the economy in Zambia meaning that the Commission can work with other stakeholders/institutions with sector mandate to enhance the enforcement of the Law. Further, the Act mandates the Commission to co-operate with and assist any association or body of persons to develop and promote the observance of standards of conduct for the purpose of ensuring compliance with the provisions of this Act.



### **The illiterate as Vulnerable and Disadvantaged Consumers**

Illiteracy levels in rural parts of Zambia are high and most people do not know how to read and write. Against this background, the Commission has deliberately produced a number of local language Information, Education and Communication (IEC) materials in all the seven official major languages spoken on the national Television-the Zambia National Broadcasting Services (ZNBC) namely Luvale, Kaonde, Lunda, Tonga, Bemba, Nyanja and Silozi. This has enabled a large percentage of the disadvantaged have access to competition and consumer information. The Commission has also produced cartoon like IEC materials in the transport sector so as to enhance the sensitisation process.

The Commission has also engaged over 30 community Radio stations across the country where spot Adverts on consumer issues in local languages as in regards to the rights and obligations of consumers as they interact with the traders. These Adverts also target the traders on their obligations as they conduct trading in line with the provisions of the Act .The Commission through its provincial investigators has carried out a number of radio programs/sensitisations in local languages. Not only that, the Commission has also engaged a number of drama groups to perform Radio drama shows on consumer issues affecting the vulnerable in the rural areas.



Russian Federation

Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing (Rospotrebnadzor)



## Emerging challenges in children's online protection

2018, Russian Federation

### System of state measures for protection of children online in Russia

#### Mechanisms for online children protection

Restrictions (prohibitions) on dissemination of content that is harmful to health and development of children (for example content that encourage use of drugs/alcohol, gambling, content that justifies violence and cruelty, illegal conduct, etc.)

Voluntary rating of information products (content) for certain age groups (RARS - "Russian Age Rating System" (0+, 6+, 12+, 16+, 18+))

Prevention of dissemination of online content on suicidal topics

Special requirements for advertising

Development and promotion of consumer literacy programs among children and young people

Control over turnover of children's products sold online (products for children and adolescents)

#### Children protection authorities

- Guardianship and wardship authority (supervision over rights of minors, control of real estate transactions)
- Commission on juvenile affairs (prevention of delinquency)
- Children's rights ombudsman (consideration of applications, social projects, promotion of children rights protection)
- Ministry of Culture of the Russian Federation
- Ministry of Communications of the Russian Federation
- Consumer protection authority (Rospotrebnadzor)
- Public Prosecution Service

## Children online. Some statistics (2017)



**In average child is active in media environment for about 3-5 hours a day**

Content preferred by children from 2 to 12 years old:

72% - TV    45% - games on tablet/smartphone    36% - computer games  
48% - YouTube videos    42% - music    16% - online social networks

50% of children from 4 to 12 years old have their own TV  
10% of children have their own gadget at the age of 3 years, children older 10 years - 90%  
Role of social online networks increases with age of children. So 36% of children from 8-12 years are users of online social media.

### Children become consumers at 3-5 years old

95% of parents confirmed that choice of content largely depends on their children  
19% of children (2-5 years) and 65% of children (older than 10 years) download games by themselves.

Most children ask parents to buy toy-hero from popular cartoons.

51% of parents are not concerned that child may spend money as a result of his online activity (only 25% of parents are concerned about such risk)



### Children's shopping

86% of parents do not buy games online on a regular basis, 35% have purchased games at least once, 20% buy games online once a year

31% of parents go shopping with children once in 1-2 months, 16% - once a week and more often

## Restrictions related to dissemination of online content

### RARS — «Russian Age Rating System» (0+, 6+, 12+, 16+, 18+)

**16+**

Rating of content is carried out by manufacturer or distributor.



Online content is marked by RARS only if this content is posted in the media (website is registered as a media resource) or provided as audio-video content for large audience (more than 100 thousand visitors per day)



The state monitors over the presence of such labelling.



Upon request of citizens and/or public organizations, special expertise of content distributed online could be carried out

### Monitoring and blocking of dangerous content (suicidal topics targeted at children and adolescents)



In 2012, citizens reported 568 cases of dangerous online content.  
In 2017 - about 24.5 thousand cases were reported.



All reported cases were carefully examined by Consumer Protection Authority (Rosпотребнадзор)



**90%** of such content is published on pages of social networks

**In 95% of cases violations are confirmed, content is blocked**

## Restrictions related to dissemination of online content

### Safe Internet for children



In public places accessible to children (children's libraries, clubs, other facilities that provide free wi-fi or computers), administrators must ensure that children could not access content or digital products that are restricted for their age.



In all schools and other educational facilities online content is filtered on mandatory basis

Survey results (16.5 thousand respondents) show that parents consider following content as most dangerous for children:

- 20% - on suicides
- 17.7% - containing scenes of violence, cruelty
- 10.5% - on drugs
- 6.3% - spam, advertising
- 4.2% - online games

86% of parents control behavior of children online

40% do it regularly

22% ensure online safety of children with the use of technical means

## Online trade. Mechanisms of consumer protection

### Goods for children and adolescents sold online



System of measures to ensure safety of goods for children and adolescents (clothing, footwear) covers off-line trade and national online trade.

In 2017 results of inspection of children's products (clothes, shoes, goods for school, etc.), revealed violations of following requirements

37% - labelling

7,6% - mechanical

1% - chemical

0,7% - toxicological



Inspections of imported toys revealed violations of following requirements:

23,8% - labelling

17% - physical factors

11,1% - microbiological

2 % - toxicological



### What are mechanisms for protecting consumers in cross-border trade?

Blocking online shop

Digital consumer literacy

Verification of confirmation certificate (*document confirming the safety of the goods*) when imported products cross the border

Representative office of seller in the country of residence of consumer

Cross-border cooperation on cases of consumer rights violation



Eurasian Economic Commission

## **Proposals from the Eurasian Economic Commission**

Having studied the materials accumulated in the work of the UNCTAD Working Group on Protection of Vulnerable and Disadvantaged consumers (Working Group), the Eurasian Economic Commission made the following conclusions.

The object of the study conducted by the Eurasian Economic Commission in the field of protecting vulnerable consumers was the relationship between the subjects of the consumer market, where one of the parties is a consumer who, due to age or other circumstances, is in a more vulnerable position than other consumers.

The purpose of the study was to identify "vulnerability" as a special category of consumer risk, which determines the basic mechanisms for protecting consumer rights.

The definitions of "vulnerability" and "vulnerable groups" are used in various spheres of social relations and have rather variable meaning depending on the area in which they are applied.

In the field of consumer protection, the Eurasian Economic Commission concludes that the level of risk directly depends on the factors affecting to the consumer's behavior, those are as follows:

- uncertainty of the terms of the transaction;
- amount of information and knowledge that the consumer has;
- availability of danger and the adequacy of the situation assessment and possible damage by the consumer himself.

The Eurasian Economic Commission conducted an assessment of consumer risks arising in situations when young children, elderly people and people with disabilities act as consumers. As a result, certain features of transactions made by these categories of persons were determined.

Experience shows, the legislation of the countries of the Eurasian Economic Union governing relations in the field of consumer protection is general and applies



to all consumers without identifying the certain categories of vulnerability in this concept.

At the same time, the current state of social relations reflects the need for some differentiation in the sphere of consumer protection.

As preliminary conclusions of the work carried out by the Working Group, we suggest the following:

1) to draw the attention of governments of the world to the need to include in the national legislation on consumer protection certain provisions aimed at establishing special measures to protect the rights of the most vulnerable categories of consumers;

2) we propose to consider among the most vulnerable categories of consumers:

- minors – persons under the age of fourteen years (or other age specified by national legislation), transactions on behalf of which (with the exception of small domestic transactions, transactions aimed at gratuitous receipt of benefits that do not require notarization or state registration, transactions for the disposal of funds provided by a legal representative or with the consent of the latter by a third person for a specific purpose or for free disposal) can only be performed by their parents, adoptive parents or guardians;

- elderly – persons over the age of sixty years, unless otherwise provided by the laws of the Member States;

3) on the basis of information received by the secretariat of the Working Group, we suggest identifying the areas of legal relations characterized by the highest risks for the categories of consumers specified in paragraph 2), for example:

- for minors - the sphere of Internet trade in media content (including the terms of transactions and the level of quality of content offered to a minor); scope of advertising (avoidance of aggressive advertising) and others;

- for elderly - the sphere of so-called exit trade (i.e. sale outside retail premises), when expensive goods (often medicines, medical products, services that promise "cure for all diseases and rejuvenation of the body") are imposed on older consumers as a vital product/service, while offering to apply for a loan to pay for such goods/services, and so on.



Having determined the most risky spheres of legal relations, the Working Group needs to concentrate its efforts on developing recommendations aimed at the incorporating in the national legislation on consumer protection of provisions aimed at preventing such practices (including by increasing the responsibility of economic entities for violations of the rights of those minors and elderly consumers).

4) Recognize the need to prolong (continue) working of the Working Group during 2018-2019.



## Germany

### **1. The policy of the Federal Ministry of Justice and Consumer Protection regarding vulnerable consumers:**

The aim of consumer policy is to reach all consumers, including “vulnerable” consumers. With this policy, the government takes account of analysis which concludes that the knowledge, interests and needs of consumers will vary according to capabilities and markets. Confusing markets and an ever more complex range of products and services require a high level of decision-making competence, expert knowledge, and often also legal expertise. This is why all consumers are at risk of falling into a position of vulnerability. Irrespective of sex, age (adults), health, income, wealth, formal education, origin, nationality or membership of a particular social group, consumers may display “vulnerable”, “trusting” and “responsible” behavioural patterns, depending on their living situation and demands. Vulnerable consumers may be children or juveniles, older people, persons with impairments or persons whose native language is not German. In particular for poorly educated target groups, poor decisions and unfair deals can lead to serious, even existential problems.

Consumer policy aims at achieving better inclusion and participation and the more efficient use of low incomes.

In Germany, both the Federation and the *Länder* provide funds to private consumer organisations so that they can represent the interests of consumers and strengthen consumer competence. Some of the projects carried out by these organisation are directed at vulnerable consumers in particular. Realistic, proactive consumer advice must be provided, if possible locally, and budget management skills taught.

Reference is made to the following academic studies and essays on the subject of vulnerable consumers:

Christian Thorun, *Verletzliche Verbraucher im Quartier, Schnittstellenmanagement von verbraucherrelevanten Beratungsleistungen im Quartier*. Source (in German):

[www.conpolicy.de/referenz/verletzliche-verbraucher-im-quartier](http://www.conpolicy.de/referenz/verletzliche-verbraucher-im-quartier)

Christian Bala and Klaus Müller (eds), *Der verletzte Verbraucher*. Source (in German):

<https://www.ratgeber-verbraucherzentrale.de/mediabig/1153728A.pdf>

Andreas Oehler, Lucia A. Reisch, *Es gibt nicht den Verbraucher*.

### **2. Example – “Empowering consumers in city districts”: proactive consumer Protection**

For the period 2017–2024, the Federal Ministry of Justice and Consumer Protection (BMJV) and the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMUB) agreed to support the strategy of proactive consumer protection as part of the interdepartmental “Social City” programme, with funding to be provided by the BMUB (now provided by the Federal Ministry of the Interior, Building and Community – BMI).

Content:



With the slogan “Empowering consumers in city districts”, the project offers consumers easily accessible, user-friendly support in a residential environment. Working in 16 city districts (one district per Federal *Land*) within the project areas of the “Social City” programme, staff from consumer advice centres take a direct, proactive approach to communication with consumers. The staff are present in public spaces, community centres, youth clubs, facilities for the elderly, schools, club houses, church facilities etc.

The districts targeted by the Social City programme are disadvantaged in several ways: they have a poor infrastructure, socially deprived and suffer from a negative image.

Furthermore, changing demographics go hand in hand with social problems. The residents of these districts do not make use of the helpdesks provided by consumer advice centres. This applies in particular to migrants, the elderly, the long-term unemployed, welfare recipients, juveniles, young adults and people with disabilities.

The goal is to improve access to information. Furthermore, the projects aim at improving consumer literacy, strengthening the potential for self-help and promoting cooperation and networking between local stakeholders. It builds on existing structures and raises awareness of consumer protection issues among social workers and other stakeholders in disadvantaged urban areas. The consumer advisors are present in person, and therefore lend a human face to the issue of consumer protection. They can assist with matters relating to contracts, for example, or warn consumers of unfair business practices, cost traps and ripoffs.

Project coordinator:

The project coordinator and funding recipient is the Federation of German Consumer Organisations (*Verbraucherzentrale Bundesverband e.V.*), which is also where project management is based. Expert advice and guidance is provided by the Consumer Advice Centre of North Rhine-Westphalia. The Centre is able to draw on its experiences from city districts in Cologne during the pilot project – which was funded by the *Land* of North Rhine Westphalia – as well as from districts in Bonn and Halle an der Saale as part of the BMJVfunded project entitled “Bringing consumer information to urban areas”. This experience has been incorporated into the “Empowering consumers in city districts” project.

The project will run from 2017 to 2024, with funding totalling 16.3 million euros.

City districts in 16 Federal *Länder*:

The first project began on 01/12/2017 with districts in Bonn (Tannenbusch), Halle an der Saale (Neustadt/Silberhöhe) and Saarbrücken (Malstatt).

Subject to the decision of the German Bundestag regarding the individual Federal budgets, the participating districts in the following years will be: 2018 Ludwigshafen (Oggersheim-West), Leipzig (Leipziger Osten), Hamburg (Harburg/Eißendorf Ost), 2019 Munich (Ramersdorf), Gießen (Gießen-West), Bremen (Schweizer Viertel), an as yet unnamed district in Brandenburg, 2020 Berlin (Moabit-Ost), Göttingen (Maschmühlenweg), Gera (Bieblach-Ost), Kiel (Kieler Ostufer), Rostock (Groß-Klein) and an as yet unnamed district in Baden-Württemberg.



The *Länder* informed the BMUB (now BMI) of potential districts via the *Land* Ministries responsible for the "Social City" programme. Based on these suggestions, the districts were then chosen in close consultation with project management, the Consumer Advice Centre of North Rhine-Westphalia, the consumer advice centres of the respective *Länder* and the *Land* ministries responsible for consumer protection.

Staff working in the individual districts are assigned to the human resources and organisational structures of the consumer advice centre of the respective *Land*. Two positions are provided for in each district (pay category E9).

**Evaluation:**

In addition to the constant exchange of knowledge and experiences, an evaluation is to be carried out by the BMUB (now BMI).