Consumer law, Policy and Regulatory Actions in response to and in the aftermath of the COVID-19 pandemic

Ms. Emy Gustavsson
Legal Adviser International Affairs
Swedish Consumer Agency
Introduction: the points for today

• Emerging trends and challenges in the aftermath of the pandemic
  o The main challenges and possible actions to address them
  o International cooperation
• Final remarks
Emerging trends and challenges in the aftermath of the pandemic: the digitalisation of consumer markets

- Digitalisation of consumer markets has accelerated during the pandemic.
- Swedish e-commerce exploded in Q2 2020, and it has continued.
  - Q1 2021: 77% of the Swedes shopped online.
  - Q1 2021: 48% of the Swedes shopped online across the borders.
Emerging trends and challenges in the aftermath of the pandemic: the digitalisation of consumer markets

The Swedish Consumer Agency has identified four main challenges:
1. Digital exclusion
2. Digital vulnerability
3. Enforcement in the digital environment
4. International cooperation
1. Digital exclusion

- Digital exclusion is a significant barrier to well-functioning consumer markets.
- Important to ensure that no consumers are left behind.
- Different reasons to digital exclusion.
1. Digital exclusion

What can be done to ensure a digital market for all consumers?

• No quick fix available. Joint efforts by several actors needed; e.g. policy makers, organisations and public authorities.

• Actions to address the problem; for example legislation, lifelong learning activities and supportive actions.

• Consumer protection authorities could contribute by raising awareness about digital exclusion and educational activities towards consumers and businesses.
2. Digital vulnerability

- Digital environment makes it possible for businesses to collect consumer data.
- Knowledge is power; insights about consumers, including their vulnerabilities, are used to boost sales.
- Targeted advertisement
- Dark patterns

All these practices create a complex digital environment where, in principle, all consumers can be vulnerable at some point.
2. Digital vulnerability

How could we tackle these challenges?

• Again, no quick fix. Joint efforts by different actors and a number of actions could improve the situation:
  • Legislation
  • Consumer education
  • Cross-sectorial cooperation
  • More effective enforcement
3. Enforcement in the digital environment

The Swedish Consumer Agency has identified the following enforcement challenges:

- How should existing legislation be applied on new business models and marketing practices?
- Detection of infringements
- Infringements concerning several fields of law
- How to cooperate on a cross-border global basis?
3. Enforcement in the digital environment

The Swedish Consumer Agency has been focusing on the following activities to address some of the enforcement challenges:

• Capacity building exercises
• IT tools
• Develop and prioritise cross-sectorial and cross-border cooperation
• Explore new ways of tackling infringements
4. International cooperation

Key to ensure a high level of consumer protection.

- Main challenges:
  - No legal base supporting cross-border enforcement cooperation
  - Lack of resources
  - Lack of knowledge about different enforcement systems
  - Priorities
  - Language
4. International cooperation

What the Swedish Consumer Agency has done to contribute to international cooperation at global level:

- Keeping it as top-priority within the Agency
- Trying to actively participate where the Agency has knowledge and/or where we have a lot to learn. Important to prioritise.
- Raising awareness of the need to cooperate on a cross-border basis towards policy makers and other actors.
4. International cooperation

• What can be done to further foster international cross-border cooperation:
• Important to start with the basics; a good understanding of different consumer protection systems and a contact point in each country is a good start
• Learning from well-functioning regional enforcement cooperation mechanisms to identify the necessary powers and functions to ensure a smooth cooperation.
• Continue encouraging participation from authorities all over the world. UNCTAD has an important role to play here.
• Develop UNCTAD’s platform and provide for more exchange and sharing of information, and supportive functions to facilitate and enhance cooperation.
Final remarks

- Let’s focus our future work and efforts on the following:
  - Ensuring digital markets which are accessible to all consumers.
  - Ensuring fair digital markets where businesses do not take advantage of consumers’ vulnerabilities and allow them to make well-founded transactional decisions.
  - Continuing the work towards international cross-border cooperation; starting with the basics.
  - Continuing developing UNCTAD’s role and platform to further facilitate and enhance international cross-border cooperation.