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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

on the enforcement of the consumer acquis

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(Text with EEA relevance)

1. INTRODUCTION

The 493 million consumers in the EU are central to the effective functioning of the internal market. Since consumer expenditure generates half of the EU's wealth, consumers have a crucial role to play in achieving the Lisbon agenda goals of increasing growth, employment and competition.

The perception that the EU consumer protection rules are enforced swiftly acts as a driver for increasing consumer confidence and as a deterrent to businesses seeking to evade those rules. This in turn creates a fair and level playing field for all actors concerned. Effective enforcement is therefore a priority for consumer policy. It is also a key component of the Commission single market policy given that the implementation and enforcement of the rules is fundamental for the benefits of the single market to materialise for citizens.

Within the range of activities aimed at ensuring compliance with consumer protection rules enforcement by public authorities occupies a central role because it underpins all other strategies and is a prerequisite for their success. The effectiveness of public enforcement and market surveillance provides a forceful deterrent to traders otherwise tempted to evade the rules and acts as a stimulus to other measures improving the functioning of markets and trader behaviour. The visibility of enforcement activities and their results is instrumental to achieving this. Consumer trust can only be reinforced if consumers are aware of what is happening in markets and know that those who do not play by the rules will not get away with it. In the same vein, information campaigns will not have the desired impact unless consumers are confident that in asserting their rights they are backed by the threat of enforcement.

Given the current global economic downturn, strong and consistent enforcement is all the more important as the crisis leads to increased consumer vulnerability and low compliance levels may lead to additional consumer detriment. In addition, effective enforcement strengthens consumer confidence weakened by the crisis which contributes to consumer spending as a key driving force of recovery. Enhancing market surveillance and enforcement mechanisms to encourage consumer confidence is paramount, as consumer spending will be an important factor in economic recovery. The current economic crisis also brings new challenges to enforcers who may face increasing downward pressure on resources and must carefully establish their priorities and maximise the impact of their enforcement activities.

Moreover, European consumers remain reluctant to reap the benefits that market integration provides. One reason for this is that consumers do not feel confident that their rights will be equally protected when buying abroad¹. In a single market, consumers should not be concerned with where a trader is established since it should not influence the level of protection against unfair commercial practices. A particular challenge for the EU therefore is to secure a consistently high level of enforcement across its territory. It is the purpose of this Communication to take stock of ongoing Commission work and to explore the potential for future initiatives in the context of a comprehensive analysis of enforcement related activities.

2. THE CHALLENGES TO EFFECTIVE ENFORCEMENT

2.1. The fundamentals – the interplay between public enforcement and other measures to ensure compliance

Enforcement in consumer policy encompasses a spectrum of activities undertaken by a variety of actors, using different instruments, to ensure that consumer rights are respected. These include formal enforcement proceedings, primarily undertaken by public enforcement authorities, which are in the focus of this Communication, but also consumers acting to defend their own rights through private enforcement or other dispute-resolution mechanisms. An effective enforcement response combines activities which promote compliance through information of consumers and businesses, with more formal enforcement measures.

Effective enforcement depends on the availability of data which enable enforcers to target their efforts at markets which are failing consumers and provide a solid evidence base for enforcement actions. Similarly evidence should be gathered on the impact and effectiveness of the chosen mix of enforcement measures.

It also presupposes that there are competent bodies in place with adequate powers to ensure that the rules are applied. This includes proportionate, accessible and dissuasive remedies and sanctions.

The traditional view of enforcement of consumer protection has been that public authorities apply hard law. Today, alternatives exist where consumers may directly seek redress. Newer forms of ensuring compliance are also emerging. Alternative Dispute Resolution (ADR) schemes or out-of-court settlement mechanisms can be an expedient and attractive alternative for consumers who have been unsuccessful in informally resolving their dispute with a trader.

Co-regulation and self-regulatory measures can both reinforce industry's commitment to secure a high level of compliance (for example the Toy Safety Pact and the Citizen's Energy Forum) and as an alternative or a complement to formal legislation (the advertising round table or the bank switching code). In the latter case, it is essential that the measure not only establishes expected standards but also includes monitoring mechanisms and a complaint handling procedure.

¹ Of the 33% of Europeans who shopped online in 2008, only 7% did so cross-border (Special Eurobarometer 298: October 2008).

Public enforcement actions and enforcement actions by self-regulatory bodies can therefore complement one another: the former providing a supportive legal and judicial context and the latter extra resource for straightforward cases.

The Unfair Commercial Practices (UCP) Directive² is a good example of this since it maintains the view that self-regulation can support judicial and administrative enforcement and clarifies the role code owners can play in enforcement. Member States may rely on self-regulatory dispute settlements to enhance the level of consumer protection and maximize compliance with the legislation. However, the Directive is clear in that self-regulation cannot replace judicial or administrative means of enforcement. It reinforces the effectiveness of codes of conducts by requiring Member States to enforce the self-regulatory rules against traders who have undertaken to be bound by the codes.

As a result, the bodies that police self-regulatory codes provided they meet criteria of efficacy, legitimacy, accountability and consistency can maximise the impact of limited resources.

2.2. The challenges

Consumer markets evolve rapidly, creating new challenges for enforcers. Firstly, as products, services and sales channels become increasingly sophisticated and consumers have to make ever more complex choices resulting in enhanced risk of detriment, enforcement techniques must be adapted accordingly. Where appropriate, a review of the regulatory framework may also be needed to fill any regulatory gaps.

Secondly, the cross-border dimension of consumer markets is growing rapidly with the emergence of e-commerce. Factors such as enlargement of the internal market and the increasing globalisation of trade also contribute to the increased cross-border dimension of consumer markets. This brings new challenges to enforcers who are constrained by jurisdictional boundaries.

Thirdly, effective cross-border enforcement policy is in turn hampered by the fragmentation of the regulatory framework resulting from the minimum harmonisation clauses contained in many of the EU consumer directives. Cross-border enforcement calls for agreement on the principles determining the applicable law and the reconciliation of differing administrative capacities and enforcement traditions in Member States.

Fourthly, effective enforcement is achieved by making the best use of the tools available to enforcers. Targeting areas for investigation should be guided by a consistent set of criteria which should notably include the dimension of problems in a given sector (for example as evidenced by the number of complaints), the impact of improvements on consumer welfare and the potential detriment for consumers if no action is taken.

Lastly, achieving a high level of compliance is a matter of giving a clear signal to the market that a credible risk exists of being detected, caught and punished. This approach needs to be coupled with proportionate and dissuasive sanctions.

² OJ L 149, 11.6.2005.

2.3. The Commission's role

Article 153 EC Treaty establishes the role of the Community in promoting the interest of consumers and lays down the objective to ensure a high level of consumer protection. The enforcement of the consumer acquis against traders is the Member States' responsibility and frontline enforcement takes place at national level.

Against this background of decentralised enforcement, the Commission's task³ is to ensure that the EU regulatory framework attains the highest possible standard of consumer protection and creates both consumer and business confidence in order to achieve a single and seamless single market.

By virtue of its role as guardian of the Treaty, the Commission monitors Member States' transposition and implementation of directives as well as the implementation of directly applicable rules. Where a Member State does not comply with its enforcement obligations, the Commission, where appropriate, will bring infringement proceedings pursuant to Article 226 EC Treaty.

The Commission also contributes to addressing the difficulties enforcers face by ensuring that effective mechanisms are established at EU level to ensure that cross-border cases can be expediently resolved. The Commission uses its role as facilitator to initiate and coordinate joint enforcement actions at EU level. It also plays a central role in the exchange of best practice and provides additional support through trainings and by providing financial support for common market surveillance and enforcement activities undertaken by the national enforcement authorities.

Article 153(3)(b) EC Treaty also lays down a role for the Community in supporting, supplementing and monitoring national consumer policies. Monitoring and benchmarking enforcement is an important element in delivering an internal market that works for consumers. The Commission's tools providing supporting and supplementing measures to increase transparency have to be further evaluated. Increased transparency can be especially important where consumer detriment is neither confined to a single Member State nor related to cross-border situations, but where a given practice of a given company affects consumers in several or all Member States. In such cases with a European dimension, the Commission can usefully go first in addressing the problem and trying to identify a solution.

The same provision could also constitute a basis for future legal instruments that would enable the Commission to better support and supplement the enforcement work by Member States.

3. MOVING UP A GEAR

Addressing the challenges that enforcers face is critical to delivering tangible benefits to consumers. To achieve this objective, the Commission has identified five priority action areas:

³ In accordance with its obligations under Article 211 EC Treaty.

- Develop stronger and more effective cross-border enforcement cooperation mechanisms;
- Strengthening the transparency and visibility of market surveillance and enforcement activities;
- Improved knowledge sharing and developing a common understanding of the rules;
- Better market monitoring – developing a stronger evidence based approach;
- Stepping up international cooperation.

3.1. **Developing stronger and more effective cross-border enforcement cooperation mechanisms**

Experience shows that active cooperation between enforcement authorities is one of the most effective means of addressing the challenges enforcers face. Information sharing, investigative assistance, notification and coordination of market surveillance and enforcement actions are key elements underpinning effective cooperation frameworks between authorities.

Several EU sectoral instruments set up such cooperative frameworks and this Communication will focus on the following:

- The **General Product Safety (GPSD) Directive⁴ and the New Legislative Framework (NLF)⁵** establish a EU market surveillance framework to assist Member States' authorities in monitoring products on the market and establishes a rapid alert system (RAPEX) between market surveillance authorities through which they have to inform each other when measures are taken against consumer products posing a serious risk to consumers' health and safety.
- The **Consumer Protection Cooperation (CPC) Regulation⁶** brings together national public authorities responsible for the enforcement of the EU consumer acquis. This CPC Network gives authorities the means to prevent businesses undertaking cross-border activities that are harmful to consumers. It sets out a common framework under which these authorities are to work together and provides for minimum investigative and enforcement powers.

Having begun in 2002, the product safety activities are more developed than the CPC. The valuable insight gained through the GPSD is being used by the Commission to develop and consolidate the CPC Network, which started operating at the end of 2006.

⁴ OJ L 11, 15.1.2002.

⁵ OJ L 218, 13.8.2008. The New Legislative Framework (NLF) i.e. the Regulation (EC) No 765/2008 and Decision No 768/2008/EC reviews the existing horizontal provisions for the free movement of goods. It introduces a set of European rules for accreditation, sets the essential provisions for an effective and robust market surveillance system and enhances the existing horizontal provisions.

⁶ OJ L 364, 27.10.2004.

In order to facilitate the cooperation within the framework created by the GPSD and CPC Regulations, the Commission provides specific IT-tools (RAPEX and CPCS) to support the exchange of information which are being upgraded to ensure a swifter processing of all notifications and requests.

The implementation of both instruments is regularly reviewed. The last reviews were carried out in 2008. Both reports concluded that the instruments were capable of providing consumers with a high level of protection as long as the rules were properly applied. Some shortcomings were identified, such as a lack of adequate resources, difficulties with the IT-tool and issues concerning applicable law. Further details can be drawn from the relevant reports⁷.

The Commission also supports the Member States with their cooperation activities by providing financial contributions to joint cross-border activities. A key advantage of these joint activities is that the results benefit all of the networks members. In product safety, this has resulted in 13 joint market surveillance actions focusing on specific product groups, such as lighters, lighting chains and playground equipment. The Commission has also financially contributed to two CPC joint enforcement projects, one investigating bogus holiday club offer and the other on airline charges.

The Commission has initiated the following measures in product safety with a view to improving its impact:

- (a) The review of the legislative framework for the marketing of goods (the NLF) enhances the functioning of the internal market and in that context raised the level of product safety and reinforced market surveillance and the traceability of goods.
- (b) The guidelines used by the rapid alert system, RAPEX, are being revised to improve the functioning of the system.
- (c) A new approach to market surveillance is emerging which introduces more systematic controls upstream in the production and supply chains and targeted controls at entry points into the internal market and reinforced cooperation between customs authorities and market surveillance authorities. A pilot project for a selected range of high risk goods/or sectors will be carried out.

The EU market surveillance framework also promotes the cooperation between the national surveillance authorities which takes two main forms. Firstly, public authorities and economic operators make use of jointly agreed instruments such as codes of conduct⁸ or guidelines concerning the application of voluntary measures⁹. Secondly, Member State authorities interact closely with economic operators in the cases of 'voluntary' measures by providing pre-notification and post-notification guidance or agreeing with the economic operators on the application of such measures¹⁰. The experience with the RAPEX system shows that this cooperative

⁷ GPSD: COM(2008) 905; CPC: COM(2009)336 final.

⁸ http://ec.europa.eu/consumers/safety/projects/docs/tie_voluntary_agreement.pdf

⁹ http://ec.europa.eu/consumers/safety/projects/docs/safety_vol_agr_retailers-importers.pdf

¹⁰ http://ec.europa.eu/consumers/cons_safe/action_guide_en.pdf

OJ L 381, 28.12.2004.

market surveillance is of crucial importance to the accurate implementation of corrective measures.

For the CPC Network, the Commission's current priority is to consolidate its operations. The main objective is to ensure that it reaches a comparable level of enforcement in all the Member States.

The CPC Network review indicates that the handling of cross-border cases is experiencing difficulties as a result of the authorities' administrative capacities, particularly with regard to the lack of resources available. The current economic crisis risks further aggravating this at a time when consistent enforcement is all the more important. The Commission is engaged in a dialogue with Member States to examine how adequate resources can be secured in order to comply with existing obligations under the CPC Regulation. Where a Member State does not comply with these obligations, the Commission, where appropriate, will bring infringement proceedings pursuant to Article 226 EC Treaty.

The Commission has initiated a series of actions to enhance the CPC Network's operations:

- (a) **Concerted enforcement actions** are carried out on an annual basis. In targeted inquiries ("sweeps"), national authorities simultaneously screen a given sector for compliance with EU legislation and take appropriate enforcement actions. Two sweeps have been carried out by the Network: the first in 2007 on websites selling airline tickets and the second in 2008 on websites offering ring tones for mobile phones. Given the positive experience gathered from these first two exercises, the Network is now exploring ways to combine the sweeps with other tools such as mystery shopping activities;
- (b) An **annual Enforcement Action Plan** is adopted by the Network. The Commission will consider agreeing with Member States a high level multi-annual framework for the annual enforcement action plans. Increased attention could also be given to basing decisions on the choice of targeted sectors on a consistent set of criteria for prioritization including risk assessment. A group of authorities is working towards reinforcing this risk based approach in the framework of a 2008 common activity. The project's recommendations will be used to improve the Network's programming procedures. The Network will also benefit from the data provided by the Consumer Markets Scoreboard and enforcement indicators.
- (c) Dedicated **workshops** on specific themes are being organised to arrive at a common approach to addressing issues identified by the CPC authorities. Examples for this are the workshops on applicable law and on how to optimize the network's operations in 2009.

Currently the Commission's approach is posited on realising the potential of the decentralised model inherent in the GPSD and CPC Regulation. It may be desirable at a later stage to reconsider the administrative architecture, in order to promote greater synergies, in line with recent developments in other areas of European regulation.

3.2. Strengthening transparency and visibility

The visibility of the results of market surveillance and enforcement activities are integral elements of a coherent enforcement strategy. They ensure that the marketplace knows that there is a credible possibility of being detected, investigated, and punished. This is crucial both for reinforcing consumers' trust in market governance and for achieving a deterrence effect and therefore essential for a well functioning market. In this context, the Commission has undertaken the following:

- It has established a **Communicators' network** with Member States representatives to develop a common approach for the communication of CPC Network actions;
- It has given, through **targeted media activities**, more visibility at EU level to the enforcement work carried out by national enforcement authorities in order to maximise their impact.

Practical experience gathered in concerted enforcement activities has demonstrated the legal complexity related to the publication of results. The media activities surrounding the first joint action on airline websites in 2007 showed important differences in the legal rules and administrative practices of the Member States and in their approach to communication. The investigative work of enforcement authorities is often subject to strict confidentiality rules. The Commission also faces legal constraints in making public the results of its own activities in support of national consumer policies.

In view of the need for greater transparency and legal certainty in this area, the Commission will explore ways in which it can communicate market information to enable consumers to make well-informed choices. The aim of any future Commission initiative would be to facilitate the publication of the results of future studies and compliance monitoring including the breakdown of these results by individual companies. Such an initiative would take account of the legitimate interests of the companies concerned and of the fact that the Commission cannot itself formally pronounce on the existence of an infringement.

3.3. Improved knowledge sharing and developing a common understanding of rules

One of the major advantages of the cooperation networks described above is that they provide a privileged environment in which authorities exchange best practice. This pooling of knowledge contributes towards achieving a higher standard of consumer protection as well as a more uniform approach to EU enforcement.

Experience confirms that providing assistance to cross-border activities has proved to be essential in driving progress in this area. Encouraging such exchanges is a priority for the Commission which acts as a facilitator:

- Developing **guidelines and handbooks** in cooperation with Member States to ensure the smooth running of existing networks (e.g. RAPEX guidelines¹¹);

¹¹ OJ L 381, 28.12.2004.

- Setting up **databases** to store key documents such as guidelines, handbooks, legislation and case law. Examples for this are the EU Consumer Law Compendium, which links the directives under review, ECJ jurisprudence, national transposition measures as well as national case-law, and the new Unfair Commercial Practices database which is under development and will provide shared information on the national rules, enforcement decisions, national and EU case-law and other documents such as academic articles, studies and national guidelines;
- Providing financial contributions to **joint projects** which establish a framework for the exchange of best practice and common working methods.

One example of importance is the '**Enhancing Market Surveillance through Best Practice**' (**EMARS**) project in product safety. This three year joint action ended in 2008 and delivered a wide range of results that will be taken forward in a follow up project that started in 2009: a knowledge base and Rapid Advice Forum, a best practice handbook and a new training strategy, the latter to complement the training schemes for market surveillance at national level. Another project, carried out by the CPC Network, was to develop a common methodology for carrying out internet sweeps that will be tested in the 2009 joint exercise.

The Commission is developing **advisory guidance** through discussions in workshops as well as by issuing interpretative guidelines on EU consumer laws. An example for this is the work initiated by the Commission to issue interpretative guidelines on the new concepts introduced by the Unfair Commercial Practices Directive. The CPC Network's daily case handling has revealed complexities and a lack of consensus in the interpretation of EU consumer laws. This has contributed to the slow handling of cross-border cases.

The Commission will address this shortcoming through establishing a **mechanism by which a consensus is reached** on a common understanding of the consumer regulatory framework. This can take the form of web based tools to support a centralised processing of questions related to transposition and interpretation, vademecums, frequently asked questions or handbooks in either paper or electronic format. The aim is to propose guidelines to national enforcers which aim at establishing a common understanding of the rules. As a first step, a series of CPC committee workshops were organised in 2009.

3.4. **Better market monitoring (developing an evidence based approach)**

Policies that deliver in practice depend on objective facts and figures as an evidence base for policy development to devise enforcement strategies and set priorities as well as to assess the effectiveness of enforcement.

An evidence based approach is of particular importance when different priorities compete for limited resources. Evidence and analysis contributes to focus enforcement efforts and so maximize the use of resources available by addressing the right issues with the appropriate measures. It generates a culture of peer review on benchmarking to stimulate the development of a strong enforcement culture. Such an approach is equally effective in assessing the impact of binding legal rules and voluntary measures adopted via self-regulation.

The Commission has developed new tools to monitor market outcomes and benchmark the consumer environment in terms of compliance, enforcement and empowerment of consumers through specific indicators which will detect shortcomings and failures that require further investigative and/or corrective action. These tools include:

- The **Consumer Markets Scoreboard**¹², established in 2008, monitors markets from a consumers' perspective and annually assesses whether these markets are functioning effectively by a two-step process. The **screening of markets** as the first phase is carried out on the basis of five key performance indicators: complaints, satisfaction, prices, switching and safety. These indicators can also be used to identify areas where further investigative analysis may be needed. These data also give indications of problems that could be used to identify enforcement priorities at national and/or EU level;
- As a second step of the Consumer Markets Scoreboard mechanism, **in-depth analysis** examines markets in more detail from a consumer perspective and targeted at specific consumer issues where the Scoreboard finds preliminary indications that they are failing consumers. The objective is to identify the reasons behind the problems detected in relation to consumer policy and the consumer acquis. The Consumer Markets Scoreboard complements and feeds into a broader market monitoring exercise where the Commission considers an in-depth study of markets in their entirety necessary as a result of a comprehensive screening of all elements of market functioning from a demand and a supply side perspective. On this basis, appropriate solutions will be proposed.
- Work to develop a **harmonised methodology for classifying consumer complaints**. This will provide a common framework for the collection of complaints and facilitate the comparability of data. The methodology is to be used on voluntary basis;
- Detailed **surveys of consumer and retailer experience** aim to identify general compliance issues. This work will be reinforced with the development of further **enforcement indicators**, through a new tool to monitor media attention and national input and output data. The 2009 Consumer Markets Scoreboard contained a first set of indicators which will provide a benchmarking for enforcement across the EU.

4. STEPPING UP INTERNATIONAL COOPERATION

In an increasingly globalised world, the rationale for stronger cooperation between enforcement authorities also applies to relations with authorities outside the EU, notably with those countries that already have strong economic ties with the EU. Goods are increasingly produced outside the EU and imported from around the world, notably from China. Ensuring the safety of products circulating within the internal market also necessitates combining efforts with non-EU authorities and/or

¹² First and Second Editions of the Consumer Market Scoreboard - COM(2008) 31 and COM(2009) 25 final.

economic operators. The Commission's approach combines different instruments to promote EU consumer protection standards:

- Pursue formal agreements with enforcement authorities in third countries.

The CPC Regulation provides a legal basis for entering into international cooperation agreements. Contacts with the US and Swiss authorities are being stepped up to explore options for cooperation with the CPC Network.

Practical working relationships with the enforcement authorities in the US and China are well established in the area of product safety. This has resulted in a number of administrative arrangements on cooperation¹³ as well as substantial practical improvements in the Chinese approach to consumer safety.

- Promote the collaboration of enforcement authorities on a global platform by disseminating best practice¹⁴.

5. SUPPORTING ENFORCEMENT

An effective consumer policy depends on consumers and businesses knowing their rights and obligations under existing legislation as well as on their ability to apply them to their commercial transactions. While the credible option of enforcement by public authorities is indispensable and provides a powerful incentive for traders to comply, the measures described in this section are instrumental in putting consumers in a position to defend their rights and to facilitate enforcement.

5.1. Informed consumers are empowered consumers

Informed consumers who know where to turn in the event of non-compliance and their ability to recognise and report infringements are important elements to detecting non-compliant behaviour. The Commission therefore attaches high importance to ensuring that consumers are aware of their rights and supplements Member States' policies to inform and educate consumers in a variety of ways such as information campaigns in Member States, user-friendly websites¹⁵, for example the eYouGuide, a user-friendly online guide presenting consumers' rights in the digital environment¹⁶, and the EU Consumer Day, an annual event which champions consumer rights across the EU through a range of coordinated activities.

¹³ The Memorandum of Understanding between the European Commission and the General Administration for Quality Supervision, Inspection and Quarantine (AQSIQ) and the Roadmap for Safer Toys between the European Commission and AQSIQ.

¹⁴ ICPEN, the International Consumers Protection and Enforcement Network - the Commission has an observer status and most of the CPC Network are members.

¹⁵ <http://www.isitfair.eu/> and <http://ec.europa.eu/eyouguide>

¹⁶ With a particular focus on e-commerce and the online environment, the Commission has recently made available to consumers the eYouGuide, an informative website aimed at clarifying existing rights applicable online and provided at EU level. It provides links to the competent authorities and consumer organisations if consumers wish to exercise their rights or seek redress.

The Commission also co-finances the European Consumer Centres Network (ECC-Net)¹⁷ which provides practical information and advice on consumer rights and assists with cross-border complaints.

The Commission also attaches importance to working with consumer organisations and to support them in the vital work that they do. Consumer organisations also play an important role through their work on comparative testing of products and act as "watchdogs" on the market". Specific actions, such as training for national consumer organisations, aim at improving their capacity to act more effectively at the EU and national level.

5.2. Adequate means to seek redress

The ultimate goal of EU consumer policy is to create an environment in which consumers can purchase goods and services without having regard to national borders and secure in the knowledge that effective and expedient remedial action exists should something go wrong.

A number of mechanisms have been put in place at EU level which includes: a small claims procedure¹⁸ for cross-border disputes which, since 2009, simplifies, speeds up and reduces the costs of litigation for claims not exceeding €2 000; a Directive on certain aspects of mediation in civil and commercial matters¹⁹ seeks to reinforce the use of mediation in Member States, and the Injunctions Directive²⁰ establishes a common procedure to allow a qualified body in one Member State to seek an injunction in another to bring about the cessation of an infringement.

The Commission also encourages the establishment of ADR Mechanisms and has sought to promote them by adopting two Recommendations²¹ establishing the principles, procedures and quality criteria applicable to these ADR bodies.

The Commission also facilitates consumer access to non-judicial procedures in cross-border disputes through different networks. The ECC-Net acts as contact point relaying information for the 400 ADR-bodies notified by Member States. It also cooperates with other EU-wide networks such as FIN-Net²², an out-of-court complaints handling scheme for financial services and SOLVIT²³ which addresses problems arising from the misapplication of internal market rules.

The Commission is also examining the issue of collective redress²⁴ for cases where a group of consumers has been affected by the same or similar infringement by a single trader. Collective redress mechanisms can provide an alternative where consumers decide that taking action individually is not feasible as all too often litigation costs may be disproportionate to the value of the claim.

¹⁷ 2007 ECC-Net Annual Report: http://ec.europa.eu/consumers/reports/reports_en.htm#ecc-net

¹⁸ OJ L 199, 31.7.2007.

¹⁹ OJ L 136, 24.5.2008.

²⁰ OJ L 166, 11.6.1998.

²¹ OJ L 115, 17.4.1998 and OJ L 109, 19.4.2001.

²² http://ec.europa.eu/internal_market/finservices-retail/finnet/index_en.htm

²³ <http://ec.europa.eu/solvit/>

²⁴ Green Paper on Consumer Collective Redress - COM(2008) 794.

6. CONCLUSIONS

An effective consumer enforcement policy is central to the functioning of the single market and is a Commission priority for the years ahead. As guardian of the Treaties, the Commission will continue to facilitate, support and assist Member States in achieving this goal. The Commission will also explore options to review both the formal and informal CPC enforcement mechanisms.

To ensure that the consumer acquis is being correctly applied, the Commission will continue with its transposition checks and compliance monitoring exercises. Where appropriate, it will begin infringement proceedings against any Member State that fails to meet its obligations under the relevant rules.

Even in the current economic climate enforcement challenges can be met by reverting to the wide variety of instruments available to enforcers and through establishing strong and effective cross-border mechanisms that are able to adapt and function effectively in a rapidly evolving market environment; developing a common understanding of the rules to be applied; improving the means by which markets are monitored as well as the transparency of information collected in such monitoring and the visibility of enforcement work and by stepping up international cooperation with third countries.

Both the Commission and the national enforcement authorities need to increase efforts to meet today's complex challenges, if we are to attain the objective of achieving the highest level of consumer protection within the European Union and furnish consumers with the confidence to exploit the single market to its full potential.