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EU-wide investigation into websites selling consumer electronic goods. Frequently Asked Questions

SECTION 1: THE INVESTIGATION - RESULTS BY MEMBER STATE

Table 1. Websites checked by the sweep and number of the websites that need further investigation

Total number of websites checked	Sites flagged for further investigation		
	Flagged national cases	Flagged cross-border cases	Total no. flagged sites
369	176	27	203

Table 2. Websites checked by the sweep and number of the websites that need further investigation per country

Country name	Total number of websites checked	Sites flagged for further investigation		
		Flagged national cases	Flagged cross-border cases	Total no. sites flagged for investigation
Austria (AT)	10	0	0	0
Belgium (BE)	17	7	4	11
Bulgaria (BG)	12	0	0	0
Cyprus (CY)	12	12	0	12
Czech Republic (CZ)	10	4	0	4
Denmark (DK) ¹	10	6	0	6
Estonia (EE)	10	4	1	5
Finland (FI)	12	10	0	10
France (FR)	16	4	0	4
Germany (DE)	29	14	7	21
Greece (GR)	10	6	0	6
Hungary (HU)	10	10	0	10
Iceland (IS)	10	8	0	8
Ireland (IE)	15	6	0	6

¹ The preliminary results from Denmark seem to indicate potential minor breaches only and the Danish Consumer Ombudsman is currently investigating the implications of these results

Italy (IT)	17	6	0	6
Latvia (LV)	11	7	0	7
Lithuania (LT)	10	7	0	7
Luxembourg (LU)	6	4	1	5
Malta (MT)	10	4	3	7
Netherlands (NL)	13	9	1	10
Norway (NO)	22	6	2	8
Poland (PL)	10	6	2	8
Portugal (PT)	10	2	0	2
Romania (RO)	11	6	0	6
Slovenia (SI)	10	0	0	0
Spain (ES)	26	12	3	15
Sweden (SE)	16	12	1	13
United Kingdom (GB)	14	4	2	6
TOTAL	369	176	27	203

SECTION 2: BACKGROUND

What is a sweep?

An "EU sweep" is a joint EU investigation and enforcement action to check for compliance with consumer protection laws. It involves carrying out a targeted and coordinated check on a particular sector in order to see where consumer rights are being compromised or denied. National enforcement authorities then follow up on these findings, contacting the in-compliant companies and demanding that they come into line with the relevant requirements. Legal action can be taken against operators who violate EU consumer law.

The present sweep on **electronic goods targeted websites** selling popular electronic goods in six product categories. Co-ordinated by the European Commission, the simultaneous check was carried out between 11 and 15 May 2009 by enforcement authorities in 26 EU Member States (all except Slovakia) as well as by Norway and Iceland.

How does a sweep work in practice?

There are two phases:

1. The first phase is the **co-ordinated sweep action**. National authorities systematically and simultaneously check a particular market for practices which breach EU consumer law. All the authorities use a common checklist of irregularities that they are looking for. For instance, it is against EU-wide consumer rules not to provide full contact details of the trader, or not to inform online buyers clearly about their right to withdraw from the transaction.

2. The second phase is the **enforcement action**. During this phase, authorities will further investigate traders which are suspected of irregularities, and take follow-up actions to ensure that non-compliant conduct is corrected and to impose appropriate sanctions. National authorities will investigate and take enforcement actions for national cases. For cross-border cases (where the trader operates from another country), enforcement authorities can ask for assistance from authorities in other countries. This is possible thanks to the Consumer Protection Co-operation (CPC) Network of national enforcement authorities from 27 Member States and Norway & Iceland. During this enforcement phase the companies have a right of reply and an opportunity to correct practices which are illegal. Those who fail to do so can face legal action leading to fines or to their web sites being closed.

SECTION 3: THE ELECTRONIC GOODS SWEEP

Why were electronic goods picked for the third sweep?

Electronic goods are among the most popular product categories bought on-line. The value of online retail sales of consumer electronic goods in Europe is ca. € 6,8 billion (2007). In 2008, about 25% of EU consumers who ever purchased anything online bought an electronic product (including cameras)². This trend results in better deals and more choice for many buyers. But one of the consequences is also a large number of consumer complaints in this product category. The European Consumer Centres (ECCs) report that 34% of the complaints about online shopping which they handled concerned purchases of electronic equipment (2007 data). These were the key reasons why the network of national enforcement authorities (CPC) decided to pick this product category for their present joint exercise.

Which countries participated in the sweep?

26 EU Member States (all except Slovakia) plus Norway and Iceland participated in the electronic goods sweep. Slovakia did not participate because the capacity of the national authorities was absorbed by monitoring market prices after the introduction of the euro in the country. The full list of participating authorities, and their press contacts, can be found below.

Which product categories were concerned?

The sites that were targeted were those selling goods in any of the following product categories: computer-related equipment, personal music players, digital cameras, mobile phones, DVD players, and game consoles.

² "Report on cross-border e-commerce in the EU":
http://ec.europa.eu/consumers/strategy/docs/com_staff_wp2009_en.pdf

Websites checked by product category

Product category	No. websites
PC-related equipment	84
MP3/MP4 players	65
Digital cameras	62
Mobile phones	60
DVD players	56
Game consoles	42
TOTAL	369

What are the EU consumer rules that the traders need to comply with for this electronic sweep?

The following EU laws provide the legal basis for the sweep:

- **Distance Selling Directive 1997/7/EC.** The Directive defines some of the minimum information which online traders must provide, including the identity and contact details of the trader, main characteristics of products, the full price (including taxes), delivery costs, payment and delivery arrangements and the address for complaints. Under the Directive, the trader is obliged to deliver the goods within 30 days after the order is placed. The consumer has the right to cancel the contract (and send the product back) within a minimum of 7 working days without giving any reason and without penalty, except the cost of returning the goods. In such a case, s/he also has the right to a refund within 30 days.
- **E-Commerce Directive 2000/31/EC.** This Directive sets additional information requirements related specifically to online shopping. For example, it requires the trader to confirm the receipt of the order promptly and by electronic means accessible to the consumer.
- **Unfair Commercial Practices Directive (UCP) 2005/29/EC.** Under the UCP Directive, traders must display in a clear and intelligible way all the key information that consumers need to make an informed choice. This includes information on consumer rights such as the right to withdraw (e.g. to send the product back without giving a reason), and on the total cost (including all extra delivery or postal charges wherever they can be reasonably calculated). If the extra charges cannot be reasonably calculated in advance, the trader is obliged to clearly inform the buyer that these charges may be payable. Traders must not misinform consumers about their legal rights (such as the right to have a faulty product repaired or replaced). The Directive also bans deceptive and aggressive sales techniques, including a Black List of techniques that are illegal under any circumstances (such as fake "limited" or "free" offers, or bait advertising).

How many websites were investigated?

Of the 369 sites checked, 203 sites were flagged for further checks to verify whether one or several of the irregularities described above could be found on them.

What exactly was checked by the authorities?

Below is a checklist agreed on by the network of national enforcement authorities before the sweep and used by all participating countries to check websites during the sweep.

- Information about the trader
 1. Are the name, geographical address and e-mail address of the trader provided?
- Information about the offer
 2. Is there clear information about the **main features** of the product?
 3. Does the price **include taxes**?
 4. Is clear information provided about **payment** arrangements (e.g. about possible payment methods)?
 5. Is clear information provided about **delivery** arrangements (e.g. delivery options and times)?
- Misleading practices
 6. Is the consumer **clearly informed about all additional delivery costs**, if they can be reasonably calculated in advance?
 - 6a. If additional delivery costs cannot be reasonably calculated in advance, is the consumer **clearly informed that such extra charges may be payable**?
 7. Is the **final price to pay** (including all taxes and delivery charges) **the same** as stated in the information provided before the purchase?
 8. Is the initial price not displayed in a way which can **deceive consumers or mislead them into a purchase decision** which they may not have taken otherwise (for example, by falsely claiming an "all inclusive" price at the beginning)?
 9. Are consumers provided with information on their **right to withdraw** (e.g. return the product within a minimum of 7 days without giving a reason)?
 - 9a. If the information on the right to withdraw is provided, is it not **misleading** (e.g. by falsely claiming that the buyer cannot send the product back if it is not faulty)?
 10. If the site contains information about **legal rights of the consumer** (such as the right to have a faulty product repaired or replaced, or get a refund if the repair or replacement are impossible, too inconvenient or would take too long), is the information not misleading (e.g. by falsely claiming that this right only exists for one year after the purchase)?

What were the most common problem categories found?

Type of problem	Examples of problem	Total number of websites in which these problems were detected	% of problematic websites	% of total number of websites checked
Misleading or missing information about the buyer's rights	<ul style="list-style-type: none"> - No information or misleading information on the right to withdraw - Misleading information on the legal right to have a faulty product repaired or replaced, or get a 	131	66 %	36%

	refund			
Misleading or incomplete information about the total cost	<ul style="list-style-type: none"> - The initial price display does not include information on extra costs such as delivery charges - The initial price display contains deceptive information (e.g. "free delivery" or "all inclusive") - The initial price does not include taxes 	93	45%	25%
Missing or incomplete contact details of the trader	<ul style="list-style-type: none"> - Missing name, geographical address or e-mail address of the trader 	65	33 %	18%

How did the authorities pick the sites to check?

The following alternative selection criteria were used:

1. The **most popular and largest** websites selling electronic equipment and operating in the country but not necessarily based in that country (a total of 200 sites checked in that category);
2. The **most problematic** sites, based on consumer complaints (a total of 104 sites checked in that category);
3. **Other**: this category was added to reflect the local realities in specific countries (for example, the absence of large specialised traders in that sector in some small countries) and allow a margin of flexibility at the national level. The "other" selection criteria included, for example, random internet search using keywords or the small size of a trader (a total of 65 sites checked in that category).

Were the same websites checked by different Member States?

No. As for the previous sweep, authorities searched for sites targeting consumers in their country. For companies operating different sites for different countries, authorities checked the one concerning their own consumers. Sometimes a site operates in a language which is in use in more than one country. However, who checks what was coordinated within the enforcement network.

What kinds of problems do consumers actually experience on this market?

The two examples below are real cases reported by the European Consumer Centres. They illustrate some of the frequent problems that European consumers are faced with.

(a) Case study 1

A Belgian consumer decided to order a mobile phone on a Dutch website because it looked cheaper than the same model she could buy locally. She received confirmation and agreed to pay €148.95, which was supposed to include delivery costs. But when the phone was delivered she was asked to pay an extra €10 because the firm had to deliver to Belgium. The extra charge or even the fact that it could apply was not indicated anywhere on the order confirmation. She paid the freight company but was unhappy about the hidden charge and wanted to recover it. The trader refused, saying that information about possible supplements was on his website, which he considered sufficient, even though they were never mentioned in the contract.

(b) Case study 2

A Czech consumer bought a camera from a French online retailer specialising in electronics and offering goods in Czech on a website with a Czech domain. A little more than a week after receiving the camera, he changed his mind, and decided to return it. The time limit for sending back a product without giving a reason under the Czech law is 14 days. But the trader refused to refund him, first not replying at all and then citing a French law where the time limit is only 7 days. This was not indicated on the website, and was at any rate irregular because the Czech law applied in this case.

(This story had a happy ending: the consumer contacted the European Consumer Centre in his country, which in turn asked their French counterpart for help. The French ECC intervened and persuaded the retailer to refund the money)

How significant is the cross-border aspect?

The sweep identified 27 cross-border cases which have been flagged for further investigation. This represents about **13 %** of all the sites flagged for investigation (and about 7% of all the websites checked).

This could be interpreted as another sign that online commerce in Europe is still largely confined within national borders. A report on e-commerce published by the Commission in March 2009 (see [IP/09/354](#))³ shows that only about 7 % of European consumers shop online across borders and only 21% of online retailers sell cross-border. Obstacles include language and regulatory barriers, as well as low consumer confidence on issues such as delivery and payment.

But the potential is clearly there: according to the findings, one out of three European consumers would consider buying a product or a service online from another EU country if it were cheaper or better. One of the ways to boost consumer confidence is through effective, co-ordinated enforcement action, of which the EU-wide sweeps are a prime example.

In September 2009, the Commission will present the results of a study aiming to shed further light on barriers to shopping online across the EU.

³ "Report on cross-border e-commerce in the EU":
http://ec.europa.eu/consumers/strategy/docs/com_staff_wp2009_en.pdf

Why have only three countries agreed to name the websites?

Practices and national legal constraints of the participating enforcement authorities are different. In some countries they are free to go public with names of the companies involved right after they have detected problems while in other countries they need to wait until the enforcement actions are finalised, sometimes through court procedures. Authorities from only one EU Member State and two other participating countries confirmed that they can name some or all the websites which they have checked at this stage of inquiries (see Section 3 for details).

SECTION 3. NEXT STEPS

What happens next, as a follow-up to these findings?

Following on from the initial findings, national enforcers will contact the traders responsible for the incompliant websites, asking them to correct the irregularities or face legal sanctions. For cross-border cases, this enforcement phase will involve requesting investigative and enforcement assistance from enforcement authorities of other countries. Cases where the business and the consumer are situated in the same country will be followed by the relevant national authority.

Feedback on the first results of these enforcement actions is to be provided to the Commission by mid-2010.

How long does enforcement take?

It varies. Some companies are ready to correct mistakes after the first contact by the enforcers while others tend to use all the available tools (also including legal ones) to postpone the necessary changes. The length of the enforcement phase depends on how complicated the individual cases are or whether they require international coordination. Complicated cases – e.g. those involving several sites in different countries – may last even longer than a year.

We will have a clearer picture once authorities report back on their enforcement work by mid-2010.

How do you contact websites that do not have contact details (which is one of the problems identified with many of these websites)?

Authorities have the necessary powers and tools to establish the identity of operators – either those owning the site or at least those operating the server on which it is based. If the identity of the (legal or private) person operating a problematic website cannot be established and therefore enforcers cannot contact it, the authorities may request the web server operator to shut it down.

Why does a sweep require EU co-operation?

Online selling concerns a certain percentage of operators located in countries different from the consumers' country. **Tackling rogue online traders across borders** would be difficult without an EU-wide network. For example, a website selling to France may well be based in Belgium, and to challenge an illegal practice in this case France needs to ask Belgian authorities for co-operation. Handling such cases as part of a co-ordinated, simultaneous EU-wide check **reduces the risk of a duplication of effort.**

But co-ordinated EU-wide action also has **clear added value for the national cases** which are investigated as a result, i.e. currently for the majority of cases. National authorities benefit from **the same EU-wide methodology** and check sites **at the same time and against the same set of standards**, which makes it by far easier to **compare results** throughout Europe, **set benchmarks** and **share experience** among national enforcement authorities from various countries.

What sanctions can be applied?

EU consumer laws are enforced – and sanctions and penalties are therefore set – at national level. Possible measures can include a request to a company demanding it change or stop the illegal practice, imposing and collecting fines, or closing down websites. Enforcement authorities are obliged to act (repeatedly if need be) until the infringement has stopped.

SECTION 4: LIST OF WEBSITES PUBLISHED BY NATIONAL AUTHORITIES

Iceland

Iceland is publishing the complete list of all the websites which the national enforcers have checked and indicating which of them have been flagged for further investigation.

URL of the website	Flagged for further investigation?
http://www.bodeind.is/	<u>YES</u>
http://www.computer.is/	<u>YES</u>
http://www.ejs.is/	<u>YES</u>
http://www.elko.is/	<u>NO</u>
http://www.fartolvur.is/	<u>YES</u>
http://www.netverslun.is/	<u>NO</u>
http://www.siminn.is/	<u>YES</u>
http://www.start.is/	<u>YES</u>
http://www.tolvuvirkni.is/	<u>YES</u>
http://www.vodafone.is/	<u>YES</u>

Norway

At this stage of the inquiry, Norway is publishing only a partial list of the websites flagged for further investigation.

http://www.komplett.no
http://www.mytrendyphone.com/shop/frontpage.html
http://www.pixmania.com/no/no/home.html?sess=8c54bd4052831eaa6926cf29107c969c

Latvia

Latvia is publishing the complete list of all the websites which the national enforcers have checked.

<http://www.220.lv>
<http://www.brivi.lv>
<http://www.digiparks.lv/>
<http://www.m79.lv>
<http://www.ma-1.lv>
<http://www.neoshop.lv>
<http://www.ms.lv>
<http://www.neostore.lv>
<http://www.pta.lv>
<http://www.tehno.land.lv>
<http://www.xnet.lv>

SECTION 5: PRESS CONTACTS FOR NATIONAL AUTHORITIES

Country	Contact point	Authority
Austria	Maria Reiffenstein +43 1 71100 2500 maria.reiffenstein@bmask.gv.at	Federal Ministry of Labour, Social Affairs and Consumer Protection
Belgium	Pieter Van Vaerenbergh +3222775467 pieter.vanvaerenbergh@economie.fgov.be	FPS Economy - DG Enforcement & Mediation
Bulgaria	Gabriela Rumenova +35929330568 g_rumenova@abv.bg	Commission for Consumer Protection
Cyprus	Christos Solomonides 00357 22 867204 solomonides@mcit.gov.cy	Competition and Consumer Protection Service of The Ministry of Commerce, Industry and Tourism of Cyprus
Czech Republic	Kamila Juhanakova +420 296 366 145 kjuhanakova@coi.cz	Czech Trade Inspectorate

Denmark	Eva Sjoegren (+45) 32 66 91 53 evs@fs.dk	Consumer Ombudsman
Estonia	Hanna Turetski-Toomik +3726201706 hanna.turetski@tka.riik.ee	Consumer Protection Board of Estonia
Finland	Laura Salmi 010 60 57174 laura.salmi@kuluttajavirasto.fi	Consumer Agency
France	Nicole Nespoulous +33 1 44 97 34 49 nicole.nespoulous@dgccrf.finances.gouv.fr	DGCCRF / Bureau C1
Germany	Andreas Tief +49-30-18444-00210 pressestelle@bvl.bund.de	Federal Office of Consumer Protection and Food Safety
Greece	Maria Siakantari +302103821618 siakantari@efpolis.gr	Directorate of Consumer Policy
Hungary	Katinka Klima 00-36-1-459-48-38 k.klima@nfh.hu	Hungarian Authority for Consumer Protection (HACP)
Iceland	Þórunn Árnadóttir +3545101100 thorunn@neytendastofa.is	Neytendastofa
Ireland	Alison Mills + 353 1 4751444 amills@q4pr.ie	National Consumer Agency
Italy	Emanuela Goggiamani 0039-0685821492 emanuela.goggiamani@agcm.it	Autorità Garante Concorrenza e Mercato
Latvia	Sanita Gertmane (+371) 67388622 Sanita.Gertmane@ptac.gov.lv	Consumer Rights Protection Centre
Lithuania	Neringa Ulbaite +370 5 212 15 95 n.ulbaite@nvtat.lt	State Consumer Rights Protection Authority of the Republic of Lithuania

Luxembourg	Judith Meyers +352 247-84349 judith.meyers@eco.etat.lu	Ministère de l'Économie et du Commerce extérieur
Malta	Melanie Camilleri 00356 21446250-5 melanie-n.camilleri@gov.mt	Consumer and Competition Division - Ministry of Finance, the Economy and Investment
Netherlands	Saskia Bierling 0031703305971 s.d.bierling@consumentenautoriteit.nl	Netherlands Consumer Authority
Norway	Charlotte Tvedt 0047 45 21 22 78 ct@forbrukerombudet.no	Office of the Consumer Ombudsman
Poland	Konrad Gruner (+48 22) 55 60 430 konrad.gruner@uokik.gov.pl	Office of Competition and Consumer Protection
Portugal	José Ribeiro +351 21 356 46 00 dgc@dg.consumidor.pt	Directorate-General for Consumers
Romania	Irina Dinu +40 21 311 18 62 irinadinu@anpc.ro	National Authority for Consumers' Protection
Slovenia	Andrejka Grilic +38612808700 gp.tirs@gov.si	Market Inspectorate of Republic of Slovenia
Spain	Julio Cortés +0034 91 822 45 65 julio.cortes@consumo-inc.es	National Institute for Consumption
Sweden	Hans Lundin +4654194020 hans.lundin@konsumentverket.se	Swedish Consumer Agency
United Kingdom	Frank Shepherd 020 7211 8133 frank.shepherd@oft.gsi.gov.uk	Office of Fair Trading