



JUST/2014/CONS/PR/CO05/0131: *“Study on enforcement authorities’ powers in the application of Regulation 2006/2004/EC on Consumer Protection Cooperation”*

FINAL REPORT

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ABSTRACT

The scope of the Study is to gather information on the implementation of the minimum investigative and enforcement powers as introduced by Article 4(6) of Consumer Protection Cooperation (CPC) Regulation 2006/2004/EC (hereinafter the "CPC Regulation"). The CPC Regulation provides that all the Member States must ensure that competent authorities have a set of minimum powers in order to be able to effectively carry out their enforcement tasks and discharge the CPC Regulation's mutual assistance obligations. The exercise of these powers takes place in accordance with the national procedural rules. The minimum investigative and enforcement powers have been implemented at national level by taking into account the national institutional framework. This may give rise to some issues related to the correct implementation of the minimum investigative and enforcement powers and the way in which these powers are used by the national competent authorities. The Study intends to verify if there are any shortcomings in the way in which the CPC provisions have been implemented and applied, and if they are, focusing on whether there is a valid justification on the basis of the way a national system is set up.

EXECUTIVE SUMMARY

The scope of the "Study on enforcement authorities' powers in the application of Regulation 2006/2004/EC on Consumer Protection Cooperation" (hereinafter "the Study") is to gather information on the implementation of the minimum investigative and enforcement powers as introduced by Article 4(6) of Regulation 2006/2004/EC (hereinafter "the CPC Regulation").

The present Study complements the 2014 Study on Enforcement of Authorities' Powers and National Procedural Rules in the Application of Regulation 2006/2004/EC on Consumer Protection Regulation and it covers Member States that were not covered in the previous Study, namely Austria, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia, Sweden.

The Study will cover certain legislative acts contained in the Annex to the CPC Regulation. According to the Technical Specifications, the acts to be covered are:

- Directive 2005/29/EC on Unfair Commercial Practices;
- Directive 2000/31/EC on electronic commerce;
- Directive 93/13/EEC on unfair contract terms;
- Directive 2011/83/EU on consumers' rights and
- Directive 2006/114/EC in relation to provisions applying to comparative advertising (Article 1, Articles 2 c) and Article 4 to 8).

The CPC Regulation intended to enhance the protection of consumers from intra-Community infringements by establishing a network of public enforcement authorities throughout the Community with a minimum set of common investigation and enforcement powers to apply the CPC Regulation “effectively and to deter sellers or suppliers from committing intra-Community infringements” (Recital 6 of the CPC Regulation).

There are two main conditions for the functioning of the network created between national competent authorities for consumer protection: that a national public authority is designated as competent in each Member State and that this authority has the minimum investigative and enforcement powers provided by the Article 4(6) of the CPC Regulation. According to Article 3(c) of the CPC Regulation “competent authority’ means any public authority established either at national, regional or local level with specific responsibilities to enforce the laws that protect consumers’ interests”. However, each Member State may, if necessary in order to fulfil its obligations under this Regulation, designate other public authorities. They may also designate bodies having a legitimate interest in the cessation or prohibition of intra-Community infringements in accordance with Article 8(3) of the CPC Regulation.

Minimum investigative and enforcement powers are described by Article 4(6) of the CPC Regulation and include: “(a) to have access to any relevant document, in any form, related to the intra-Community infringement; (b) to require the supply by any person of relevant information related to the intra-Community infringement; (c) to carry out necessary on-site inspections; (d) to request in writing that the seller or supplier concerned cease the intra-Community infringement; (e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking; (f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions; (g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.” The Study has covered also those additional powers which are not specifically covered by Article 4(6) of the CPC Regulation but which are entrusted to the national competent authorities in the exercise of their competence, including the possibility to start investigations ex officio or to tackle past infringements.

- *Methodology*

The Study covers two deliverables required by the Tender Specifications. Deliverable 1 requires carrying out a comprehensive and accurate review of national legislation that constitutes the basis of mandated powers under the CPC Regulation. These powers refer to investigation and

enforcement measures necessary to remove intra-Community infringements to consumer protection rules laid down in the legislative acts indicated in the Technical Specifications. As indicated above, additional powers have been also covered, and described into a separate table

Deliverable 2 requires the analysis of possible shortcomings in the availability and exercise of the minimum powers under Article 4(6) of the CPC Regulation, focusing on whether there is a valid justification on the basis of the way a national system is set up.

- *Enforcement approach*

Enforcement is a matter of deploying a strategy or a mixture of strategies for securing the desired results on the ground. Enforcement actions signals what types of violation the authority is focusing on, which may provide additional incentives for firms to cooperate with the policies concerned.

Consumer protection enforcement seems to be modeled upon the responsive approach “in which regulators enforce in the first instance by compliance strategies but applies more punitive deterrent responses when the regulated firms fail to behave as desired”¹. The regulatory and enforcement tools are generally organised according to the Ayres and Braithwaite’s regulatory and enforcement pyramid², with a range of enforcement sanctions extending from persuasion, at its base, through warning and civil penalties up to criminal penalties, license suspension/revocation. However, regulators should not only be responsive to the compliance performance of the regulated subject, but also take into account the firms’ own operating and cognitive frameworks (the attitudinal settings), the broader institutional environment of the regulatory regime, the different logics of regulatory tools and strategies, the regime own performance and the changes in each of these elements.

- *State of Play in the analysed Member States*

With regard to the investigation and enforcement powers of the competent national authorities, a procedural diversity among Member States emerged. On the basis of the principles of procedural autonomy and institutional neutrality, the Member States were given considerable leeway in adapting the CPC Regulation to their own legal systems. When applying the CPC Regulation, the Member States implement their national procedural rules, including those concerning investigations, and impose remedies and sanctions that are available in their respective legal systems.

¹ R. Baldwin, J. Black, *Really Responsive Regulation*, London, LSE Law, Society and Economy Working Papers 15/2007.

² I. Ayres and J. Braithwaite, *Responsive Regulation*, Oxford University Press, 1992.

Under Article 4 of the CPC Regulation, each Member State had a clear obligation to designate a competent public authority responsible for the application of the CPC Regulation; however, the details were left to the Member States themselves. These authorities could exercise their powers under their own authority or under the supervision of judicial authorities or by application to courts. The diversity of institutional design among competent authorities across the EU is based on country-specific institutional traditions and legacies. The CPC Regulation provides that all the Member States must ensure that competent authorities have a set of minimum powers in order to be able to effectively carry out their enforcement tasks and discharge the Regulation's mutual assistance obligations. The exercise of these powers takes place in accordance with the national procedural rules.

From the Member States analysed, we have identified two enforcement frameworks at intra-community level: 1) a single authority in charge of consumer protection and 2) the multiple supervisory model where different authorities are in charge of enforcement of different acts covered by the Study. Where a single enforcement agency exists, infringements in specific sectors, such as electronic commerce or financial services, fall within the jurisdiction of specialized sector supervisors.

In particular, with regard to Directive 2000/31/EC, some Member State, Estonia, Lithuania, Portugal Romania and Slovenia, has decided to leave the enforcement to the national competent authority for information society, mainly due to the complex level of technicality of this enforcement.

With regard to Directive 2006/1147EC, in Bulgaria and Hungary, misleading advertising has been implemented under the unfair competition legislation. However, in Bulgaria, the consumer protection authority remains competent for business to consumer misleading and comparative advertising, in particular when the unfair or misleading practice is carried out through advertising.

Multiple competent authorities also exist where investigations are carried out by administrative authorities but the cease and desist orders and administrative fines are imposed by the court, upon an application of the administrative authority, resulting in mixed administrative/civil proceedings. This is the case of Austria, Denmark, Estonia, Finland, Ireland, Lithuania, Luxembourg, Romania and Sweden.

The implementation of the CPC Regulation into the national legal system has brought a new approach in Member States, such as Austria and Luxembourg, which previously relied only on private enforcement of consumer protection.

In general, the enforcers' choice and, eventually, the form of enforcement implemented are affected by the differences between divisible and indivisible remedies (damages and injunctions). When the remedy is damages and compensation is the primary goal, private enforcement is often the dominant strategy³. Deterrence is mainly associated with public enforcement. An interesting compromise seems to have been found in the Netherlands where the national competent authority may impose on the infringer the obligation to compensate the damaged subjects. This is due to the legacy of the private enforcement as sole remedy available to consumers before the implementation of the CPC Regulation. In Ireland and Sweden, the national competent authorities may act before the competent courts on behalf of the consumers to obtain damages. A peculiar aspect of the Nordic Countries is also that they conceive consumer law as an autonomous "market behavior" law and the national competent authorities for consumer protection play an important role in preparing guidelines for business companies in order to prevent unfair market behavior. In case of infringement, they primarily try to resolve conflicts through cooperation seeking voluntary compliance from the trader.

Among the Member States examined, Austria has emerged as the only system which may rely upon national consumer organizations for the public enforcement of consumer legislation, according to Article 8(3) of the CPC Regulation. However, the delegated third parties do not have the right to take investigative measures such as inspections at the companies' premises, but only to submit an action before the competent court. Investigations may only be carried out by the Federal Cartel Prosecutor or by the Federal Competition Authority, each one according to their competences.

- *Research of possible shortcomings in the implementation of Article 4(6)*

As explained above, the CPC Regulation has to be implemented and applied by Member States taking into consideration not only the constitutional division of powers in Member States, but also their legal traditions. In this context, some shortcomings may be "apparent", in the sense that the enforcement powers are not missing due to the non-implementation of the CPC Regulation, but to the constitutional and institutional architecture of the relevant Member State which does not allow the exercise of certain powers, such as cease and desist orders and sanctions outside the courts⁴.

³ F. CAFAGGI, *The Great Transformation: Administrative and Judicial Enforcement in Consumer Protection: A Remedial Perspective*, p. 510.

⁴ This mainly concerns the Member States relying on a dualistic enforcement system, which includes Austria, Denmark, Estonia, Finland, Ireland, Lithuania, Luxembourg, Romania, and Sweden.

As a general consideration, it must be said that all the examined Member States have implemented the investigative and enforcement powers to some extent. All the national competent authorities have the powers to obtain documents, information and to carry out inspections, both on their own or after having been granted a warrant by the court.

In general, all the examined Member States have implemented the CPC Regulation and the competent authorities are vested with the investigative and enforcement powers, albeit with differences regarding the modalities and the extension of powers. While in certain circumstances we cannot expressly individuate a shortcoming, some difficulties emerge concerning the exact content of the powers, in particular concerning the different content of the power to issue warnings to the trader or to issue a decision or injunction to cease the infringement.

Article 4(6) (d) of the CPC Regulation

Article 4(6)(d) provides for the power to request in writing that the seller or supplier concerned ceases the intra-Community infringement. This enforcement tool should correspond to the concept of “warning letters”. Warning letters are considered an important and cost-effective enforcement tool to combat deceptive market practices. However, warning letters, in the context of the pyramid scheme of enforcement, are one step above and two steps below the cease and desist orders/injunctions. In Austria, Cyprus, Hungary, Ireland, Lithuania and Malta, the power under Article 4(6)(d) of the CPC Regulation seems to be very well described and compliant with the intended scope of the CPC Regulation. In the other Member States, there seems to be an overlapping between the interim or emergency orders and the cease and desist order, such as in Finland, Portugal and Romania.

In the other Member States, there seems to be an overlapping with the power provided by Article 4(6)(f), i.e. the power to impose the cessation of the intra-Community infringement with a formal decision. In Luxembourg, where the injunction to cease the infringement is issued by the court, the national competent authority does not have the power to issue a warning.

Article 4 (6)(e) of the CPC Regulation

It provides for the possibility of the competent national authority to negotiate, obtain and accept the undertakings from the infringer. An enforceable undertaking is a legally binding agreement where the trader or business agrees to do certain things in order to comply with the law.

As examined in the 2014 Study, the undertakings fall within the categories of “affirmative” decisions, which order businesses to change or rectify a business practice and/or a contractual

term. In jurisdiction where the enforcement is obtained through court injunctions, the authority may lack the power to negotiate undertakings, since it has only investigative powers. In case of Ireland, however, the CCPC has the capacity to negotiate undertakings with a trader outside the scope of court proceedings. Similarly, in Finland, the voluntarily undertaking is a result of a negotiation between the Consumer Ombudsman and the trader who is willing to abandon illegal measures voluntarily. In Austria, the undertaking may be obtained without court involvement, if the trader signs a cease and desist order secured by a reasonable penalty issued by the competent authority

In Luxembourg, the undertaking may be obtained during the court proceedings in application of the general principle of court settlements.

In Estonia, the Consumer Protection Board has the power to issue precepts. In Sweden, the Consumer Ombudsman may, in some limited circumstances, take own action and issue order and injunctions and subject to the acceptance of the trader (immediately or within a certain period). This orders and injunctions which require to be accepted by the trader in order to be binding are the closest power to the undertakings.

Article 4(6)(g) of the CPC Regulation

Article 4(6)(g) provides the possibility for the competent national authorities, “to require the losing defendants to make payments into the public purse (...) in the event of failure to comply with the decision”. There are no shortcomings related to this power, since all the Member States provide for sanctions in case of non-compliance with an order, however, the reliance on criminal sanctions by certain Member States, such as the case of Ireland, may create some concerns with the regard to the effectivity in the use of this tool. The use of administrative fines or criminal penalties depends on the constitutional doctrine of separation of powers where the role of formally determining if a violation has occurred and the appropriate legal sanction to be imposed lies with the courts. Administrative sanctions are perceived as an essential tool for the competent national authorities to address violation of the legislation. As indicated by the 2006 OECD Report, reliance on the criminal or civil justice processes for the imposition of penalties may result in insufficient deterrence for traders. This is a consequence of the fact that not many cases reach this stage because the costs of these processes are typically high. “Viewed ex ante, traders will therefore perceive the probability of a criminal or civil penalty to be low. To compensate, the courts might impose a relatively large penalty, but as the case-studies reveal, although courts generally have the power to do this, in practice they are very reluctant to do so for minor trading offences⁵.

⁵ OECD, Best practices for consumer policy : report on effectiveness of enforcement regimes, DSTI/CP(2006)21/FINAL

- *Additional powers to address intra-Community infringements granted to enforcement authorities under national law.*

Article 8(2) provides that, in order to obtain the cessation of the intra-Community infringement, “the requested authority shall exercise the powers set out under Article 4(6) and any additional powers granted to it under national law”.

In order to identify the additional powers that the enforcement authorities may use in order to ensure the cessation of the unfair commercial practice, the list of powers in Annex II has been researched. In particular, the majority of the Member States provide for the possibility to start the investigation ex-officio, but they do not make express reference to the possibility to tackle past infringements. Only Austria, Denmark, Ireland, Malta and Sweden provide expressly for this power, however, within the national statute of limitations. With regard to mystery shopping, only Slovenia provides for the power of the inspectors to carry out mystery shopping. Concerning the possibility to carry out test purchases, no legislation provides for this power, however Bulgaria, Croatia, Greece, Malta provide for the power of the inspectors, to take samples during the investigations. In Sweden, samples may only be asked to the trader.

Interim measures may be adopted by all the national competent authorities or imposed by the courts where the enforcement is carried out through civil proceedings. Only Greece does not expressly provide for the power of the authority to adopt interim measures. All the Member States have the powers to sanction the infringer, but only the Netherlands and Malta have introduced the possibility for the national competent authority to impose compensation upon the infringer at the advantage of the damaged consumers. In Ireland and Sweden, the national competent authorities have the power to represent consumers before the competent courts or bodies in order to obtain damages.

ABSTRAIT

La portée de l'étude est de recueillir des informations sur la mise en œuvre des pouvoirs minimaux d'enquête et d'exécution introduite par l'article 4 (6) du Règlement 2006/2004/CE (ci-après " le règlement CPC). Le règlement CPC prévoit que tous les États membres doivent veiller à ce que les autorités compétentes disposent d'un ensemble de pouvoirs minimaux afin d'être en mesure de remplir efficacement leurs tâches d'exécution et de décharger les obligations d'assistance mutuelle prévue par le règlement. L'exercice de ces pouvoirs se déroule en conformité avec les règles de procédure nationales. Les pouvoirs communs d'enquête et d'exécution ont été mis en œuvre au niveau national en tenant compte du cadre institutionnel national. Cela peut donner lieu à certaines questions liées à la mise en œuvre correcte des pouvoirs communs d'enquête et d'exécution et la manière dont ces pouvoirs sont utilisés par les autorités nationales compétentes. L'étude vise à vérifier s'il y a des lacunes dans la façon dont les dispositions ont été mises en œuvre et appliquées, et si il y en a, évaluer si il y a une justification valable sur la base du système légal national.

RÉSUMÉ

La portée de l'«Étude sur les pouvoirs des autorités d'exécution dans l'application du règlement 2006/2004/CE sur la coopération sur la protection des consommateurs " (ci-après «l'étude») est de recueillir des informations sur la mise en œuvre des pouvoirs d'enquête et d'application minimaux introduites par l'article 4 (6) du règlement CPC.

La présente étude a pour but de compléter l'«Étude sur l'exécution des pouvoirs des autorités et des règles de procédure nationales dans l'application du règlement 2006/2004/CE relative à la coopération dans la protection des consommateurs » du 2014. L'étude couvre les États membres qui n'ont pas été couverts par l'étude précédente, à savoir l'Autriche, la Bulgarie, la Croatie, Chypre, la Danemark, l'Estonie, la Finlande, la Grèce, la Hongrie, l'Irlande, la Lituanie, le Luxembourg, Malte, les Pays-Bas, le Portugal, la Roumanie, la Slovénie, et la Suède.

L'étude portera sur certains actes législatifs contenus dans l'annexe du règlement CPC. Selon les spécifications techniques, les actes à couvrir sont:

- la directive 2005/29/CE sur les pratiques commerciales déloyales ;
- la directive 2000/31/CE sur le commerce électronique;
- directive 93/13/CEE concernant les clauses abusives dans les contrats ;
- Directive 2011/83/UE relative aux droits des consommateurs ;
- Directive 2006/114/CE en ce qui concerne les dispositions applicables à la publicité comparative (article 1, les articles 2 c) et l'article 4 à 8).

Le règlement CPC vise à renforcer la protection des consommateurs contre les infractions intracommunautaires en établissant un réseau d'autorités publiques dans la Communauté avec un ensemble minimum des pouvoirs commun d'enquête et d'exécution de la législation, afin d'appliquer le règlement CPC « de manière efficace et de dissuader les vendeurs ou les fournisseurs de commettre des infractions intracommunautaires" (considérant 6 du règlement CPC).

Il y a deux conditions principales pour le fonctionnement du réseau d'autorités nationales compétentes pour la protection des consommateurs: qu'une autorité publique nationale soit désignée comme étant compétente dans chaque État membre et que cette autorité ait les pouvoirs d'enquête et d'exécution minimale prévue par l'article 4 (6) du règlement CPC. Selon l'article 3 (c) du règlement CPC l'autorité compétente est toute autorité publique établie au niveau national, régional ou local et dotée de compétences spécifiques pour assurer le respect des lois protégeant les intérêts des consommateurs" Toutefois, chaque État membre peut, si nécessaire, afin de remplir ses obligations, désigner d'autres autorités publiques. Les États membres peuvent aussi désigner des organismes ayant un intérêt légitime à voir cesser ou interdire les infractions intracommunautaires conformément à l'article 8 (3) du règlement CPC.

Les pouvoirs minimaux d'investigation et d'exécution sont décrits à l'article 4 (6) du règlement CPC. Ils comprennent le pouvoir: a) d'accéder à tout document pertinent, sous quelque forme que ce soit, ayant trait à l'infraction intracommunautaire; b) d'exiger de toute personne qu'elle communique des informations utiles relatives à l'infraction intracommunautaire; c) de mener les inspections nécessaires sur place; d) de demander par écrit que le vendeur ou le fournisseur concerné mette fin à l'infraction intracommunautaire; e) d'obtenir du vendeur ou du fournisseur responsable de l'infraction intracommunautaire l'engagement de mettre fin à l'infraction et, le cas échéant, de rendre public cet engagement; f) d'exiger la cessation ou l'interdiction de toute infraction intracommunautaire et, le cas échéant, de rendre publiques les décisions qui en découlent; g) d'exiger de la partie perdante qu'elle dédommage l'État ou le bénéficiaire désigné ou celui prévu par la législation nationale, en cas de non-exécution de la décision.

L'étude a couvert également les pouvoirs supplémentaires qui ne sont pas spécifiquement couverts par l'article 4 (6) du règlement CPC, mais qui sont confiés aux autorités nationales compétentes dans l'exercice de leur compétence, y compris la possibilité d'ouvrir des enquêtes d'office ou le pouvoir de poursuivre les infractions passées.

- *Méthodologie*

L'étude couvre deux livrables requis par le cahier des charges. Le livrable 1 nécessite la réalisation d'un examen complet et précis de la législation nationale qui constitue la base des pouvoirs que le règlement CPC lui confère. Ces pouvoirs se rapportent aux mesures nécessaires pour supprimer les infractions intracommunautaires aux règles de protection des consommateurs prévues dans les actes législatifs mentionnés dans les spécifications techniques d'enquête et d'application de la loi. Les pouvoirs additionnels ont été décrits dans une table séparée.

Le livrable 2 nécessite l'analyse d'éventuelles lacunes dans la disponibilité et l'exercice des pouvoirs minimaux en vertu de l'article 4 (6) du règlement CPC, mettant l'accent sur l'existence d'une justification valable sur la base de la façon dont un système national est mis en place.

- *L'approche à l'exécution*

L'exécution est une question de déployer une stratégie ou un mélange de stratégies destinées à garantir les résultats escomptés sur le terrain. Les mesures d'exécutions révèlent les types de violation sur lesquelles l'autorité se concentre, et peuvent stimuler les entreprises à coopérer avec les politiques concernées.

L'exécution de la protection des consommateurs semble être inspiré de l'« approche réactive », dans lequel «les régulateurs imposent en premier lieu des stratégies de conformité, mais ils appliquent les réponses de dissuasion plus punitives lorsque les entreprises réglementées ne parviennent pas à se comporter comme souhaité». Les outils de réglementation et d'exécution sont généralement organisés selon la pyramide réglementaire et d'exécution créée par Ayres et Braithwaite⁶, avec une gamme de sanctions de l'application allant de la persuasion, à sa base, à l'avertissement et des sanctions civiles jusqu'à des sanctions pénales, y inclus la suspension du permis/révocation. Cependant, les régulateurs doivent répondre non seulement à la performance de la conformité du sujet réglementé, mais ils doivent tenir compte des cadres d'exploitation et des capacités cognitives des entreprises (les paramètres comportementaux); de l'environnement institutionnel qui est plus large du régime de réglementation; des différentes logiques d'outils et de stratégies de réglementation; du régime propre de la performance; et de l'évolution de chacun de ces éléments.

- *Etat des lieux dans les États membres analysés*

En ce qui concerne les pouvoirs d'investigation et d'exécution des autorités nationales compétentes, la diversité des procédures existante entre les États membres a été mise en exergue. Sur la base des principes d'autonomie procédurale et de neutralité institutionnelle, les

⁶ I. Ayres and J. Braithwaite, *Responsive Regulation*, quoted above.

États membres ont bénéficié d'une marge de manœuvre considérable pour l'adaptation du règlement CPC à leurs propres systèmes juridiques. Lors de l'application du règlement CPC, les États membres appliquent leurs règles nationales de procédure, aussi pour les pouvoir d'investigation, et imposent des recours et des sanctions qui sont disponibles dans leurs systèmes juridiques respectifs.

Conformément à l'article 4 du règlement CPC, chaque État membre doit clairement désigner une autorité publique compétente responsable de l'application du règlement CPC, et peut en établir les détails. Ces autorités peuvent exercer leurs pouvoirs en vertu de leur propre autorité ou sous la supervision des autorités judiciaires ou en s'adressant aux autorités judiciaires. La diversité de l'approche institutionnelle entre les différentes autorités compétentes de l'UE est basée sur les traditions et héritages institutionnels propres à chaque pays. Le règlement CPC prévoit que tous les États membres doivent veiller à ce que les autorités compétentes disposent d'un ensemble de pouvoirs minimales afin de remplir efficacement leurs tâches d'exécution et de décharger les obligations d'assistance mutuelle de la réglementation. L'exercice de ces pouvoirs s'effectue en conformité avec les règles de procédure nationales.

Parmi les États membres analysés, nous avons identifié deux cadres de supervision et d'implémentation au niveau intra-communautaire : 1) une autorité unique en charge de la protection des consommateurs et 2) un modèle de surveillance multiple où des différentes autorités appliquent des différents actes couverts par l'étude. Dans les cas où un organisme d'application unique existe, les infractions dans des secteurs spécifiques, tels que le commerce électronique ou les services financiers, relèvent de la compétence des autorités de surveillance du secteur. En particulier en ce qui concerne la directive 2000/31/CE, certains États membres notamment, Estonie, Lituanie, Portugal, Roumanie et Slovaquie, ont décidé de laisser l'investigation et application à l'autorité nationale compétente pour la société de l'information, principalement en raison du niveau de complexité et de la technicité de cette application. En Bulgarie et en Hongrie, la publicité trompeuse a été mise en œuvre en vertu de la législation sur la concurrence déloyale et les pouvoirs d'exécution du règlement CPC ont été octroyés à l'autorité nationale de la concurrence. Cependant, en Bulgarie, l'autorité de protection des consommateurs reste compétente pour les affaires concernant la publicité comparative et trompeuse pour les consommateurs, lorsqu'il s'agit d'une pratique déloyale ou trompeuse est réalisée grâce à la publicité.

Des autorités compétentes multiples existent aussi dans les procédures administratives/civiles mixtes où les enquêtes sont menées par les autorités administratives et les ordonnances de cessation ainsi que les amendes administratives sont imposées par le tribunal sur demande de l'autorité compétente. Tel est le cas de l'Autriche, le Danemark, l'Estonie, la Finlande, l'Irlande, la Lituanie, le Luxembourg, la Roumanie et la Suède.

La mise en œuvre du règlement CPC dans le système juridique national a apporté une nouvelle approche dans les États membres, comme l'Autriche et le Luxembourg qui, précédemment, reposait uniquement sur l'application privée de la protection des consommateurs.

En général, le choix des responsables de l'exécution et, éventuellement, la forme de l'exécution mise en place sont affectés par les différences entre les remèdes divisibles et indivisibles (dommages et injonctions). Lorsque les indemnités et compensations sont l'objectif principal du recours, l'exécution de droit privée est souvent la stratégie dominante. La dissuasion est principalement associée à l'exécution publique. Un compromis intéressant semble avoir été trouvé aux Pays-Bas où l'autorité nationale compétente peut imposer au contrevenant l'obligation d'indemniser les sujets endommagés. Ceci est dû au fait que les consommateurs pouvaient recourir seulement à l'exécution privée avant la mise en œuvre du règlement CPC. En Irlande et en Suède, les autorités nationales compétentes peuvent agir devant les juridictions compétentes au nom des consommateurs d'obtenir des dommages-intérêts. Un aspect particulier des pays nordiques est qu'ils conçoivent le droit des consommateurs comme une loi autonome de comportement du marché et les autorités nationales compétentes en matière de protection des consommateurs jouent un rôle important dans la préparation de lignes directrices pour les entreprises afin de prévenir le comportement déloyal à l'envers des consommateurs. En cas d'infraction, ils essaient principalement de résoudre les conflits avec la coopération en recherchant le redressement volontaire par l'opérateur.

Parmi les États membres examinés, l'Autriche a émergé comme le seul système qui peut compter sur des organisations nationales de consommateurs pour l'application de la législation publique des consommateurs, conformément à l'article 8 (3) du règlement CPC. Toutefois, les tiers délégués n'ont pas le droit de prendre des mesures d'enquête telles que les inspections dans les locaux des entreprises, mais seulement de présenter un recours devant la juridiction compétente. Seulement le Procureur Fédéral ou l'autorité de la concurrence, chaque un dans son domaine de compétence, peuvent effectuer les investigations.

- *Recherche des possibles lacunes dans la mise en œuvre de l'article 4 (6) du règlement CPC*

Comme expliqué ci-dessus, le règlement CPC doit être mis en œuvre et appliqué par les États membres en tenant compte non seulement de la répartition constitutionnelle des pouvoirs entre les États membres, mais aussi de leurs traditions juridiques. Dans ce contexte, certaines lacunes peuvent être « apparentes », dans le sens que les pouvoirs d'exécution ne sont pas absents en raison du manquement dans la mise en œuvre du règlement CPC, mais parce que l'architecture

constitutionnelle et institutionnelle de l'État membre concerné ne permet pas l'exercice de certaines compétences en dehors des tribunaux, telles que les ordonnances de cessation et les sanctions⁷.

De façon générale, on peut observer que tous les États membres examinés ont mis en œuvre les pouvoirs d'enquête et d'exécution dans une certaine mesure. Toutes les autorités nationales compétentes disposent des pouvoirs d'obtenir des documents, des informations et d'effectuer des inspections, à la fois sur leurs propres initiatives ou après avoir été accordés par un mandat d'un tribunal. Certaines questions se posent en ce qui concerne les pouvoirs d'exécution. Alors que dans certaines circonstances, on ne peut pas identifier expressément une lacune, certaines difficultés émergent concernant le contenu exact du pouvoir d'avertissement ou d'émettre une décision ou une injonction de cessation.

Article 4 (6) (d) du règlement CPC

L'article 4 (6) (d) prévoit la possibilité de demander par écrit que le vendeur ou le fournisseur concerné cesse l'infraction intracommunautaire. Cet outil d'exécution semble correspondre à la notion de « lettres d'avertissement ». Les lettres d'avertissement sont considérées comme un instrument d'exécution important et rentable pour lutter contre les pratiques commerciales trompeuses.

Cependant, les lettres d'avertissement, dans le cadre du régime de la pyramide de l'application, sont un niveau au-dessus et deux étapes dessous des ordonnances de cesser et de renoncer ou d'injonctions. En Autriche, Chypre, la Hongrie, l'Irlande, la Lituanie et Malte, le pouvoir de l'article 4 (6) (d) du règlement CPC semble être très correctement décrit et en ligne avec la portée du règlement CPC. Dans d'autres États membres, il semble y avoir un chevauchement entre les ordonnances provisoires ou d'urgence, comme en Finlande, au Portugal et en Roumanie. Dans les autres restants États membres, il semble y avoir un chevauchement avec le pouvoir fourni par l'article 4 (6) (f), à savoir le pouvoir d'exiger la cessation ou l'interdiction de toute infraction intracommunautaire par une décision formelle. Au Luxembourg, où l'injonction de cesser l'infraction est délivrée par le tribunal, l'autorité nationale compétente n'a pas le pouvoir d'émettre un avertissement.

Article 4 (6) (e) du règlement CPC

⁷ Ce le cas des Etat membres qui ont un système dualiste d'execution, notamment l'Autriche, la Danemark, l'Estonie, la Finlande, l'Irlande, la Lituanie, Le Luxembourg, la Roumanie et la Suède.

Cette disposition donne à l'autorité nationale compétente la possibilité d'obtenir du vendeur ou du fournisseur responsable de l'infraction intracommunautaire l'engagement de mettre fin à l'infraction. Un engagement exécutoire est un accord juridiquement contraignant dans lequel le commerçant ou l'entreprise accepte de faire certaines choses afin de se conformer à la loi.

Comme examiné dans l'étude de 2014, les engagements sont inclus dans les catégories de décisions "positives", qui commandent aux entreprises de modifier ou de corriger une pratique commerciale et /ou une clause contractuelle.

Dans la juridiction où l'exécution est obtenue au moyen d'injonctions judiciaires, l'autorité n'a pas le pouvoir de négocier des engagements, car il dispose seulement des pouvoirs d'enquête. L'engagement peut être obtenu au cours de la procédure judiciaire en l'application du principe général des transactions judiciaires, comme dans le cas du Luxembourg. Dans le cas de l'Irlande, cependant, l'autorité a la capacité de négocier des engagements avec une entreprise en dehors du champ d'application de la procédure judiciaire. De même, en Finlande, l'engagement volontaire est le résultat d'une négociation entre l'autorité et l'entreprise qui est prêt à abandonner volontairement des mesures illégales. En Autriche, l'engagement peut être obtenue sans l'intervention du tribunal, si le commerçant signe une ordonnance de cesser et de se désister garanti par une pénalité raisonnable délivrée par l'autorité compétente.

En Estonie, l'Office de protection du consommateur a le pouvoir d'émettre des percepts. En Suède, l'autorité compétent peut, dans certaines circonstances limitées, prendre propre action et l'ordre d'émission et des injonctions et sous réserve de l'acceptation de l'entreprise (immédiatement ou dans un certain délai). Ces ordres et injonctions doivent être acceptés par l'opérateur afin d'être obligatoire sont le pouvoir le plus proche des entreprises.

Article 4 (6) (g) du règlement CPC

L'article 4 (6)(g) prévoit la possibilité, pour les autorités nationales compétentes, "d'exiger de la partie perdante qu'elle dédommage l'État ou le bénéficiaire désigné ou prévu par la législation nationale, en cas de non-exécution de la décision ». Il n'y a pas de lacunes liées à ce pouvoir, puisque chaque État membre prévoit une sanction en cas de non-respect d'une ordonnance ; toutefois, le recours à des sanctions pénales, comme dans le cas de l'Irlande, peut créer certains problèmes par rapport à l'effectivité de l'utilisation de cet outil. L'utilisation des amendes administratives ou pénales découle de la doctrine constitutionnelle de la séparation des pouvoirs où les tribunaux ont la compétence exclusive de déterminer formellement si une infraction a été commise et la sanction juridique est appropriée. Les sanctions administratives sont perçues comme un outil essentiel pour les autorités nationales compétentes afin de répondre aux violation

de la législation. Comme indiqué par le rapport de l'OCDE 2006, le recours à des régimes de justice pénale ou civile afin d'imposer de sanctions peut entraîner une dissuasion insuffisante pour les entreprises. Ceci est une conséquence du fait que, les coûts de ces processus étant généralement élevés, il n'y a pas suffisamment de cas qui atteignent ce stade. *"Vu ex ante, les entreprises perçoivent la probabilité faible d'une sanction pénale ou civile. Pour compenser, les tribunaux pourraient imposer une pénalité relativement importante, mais comme les études ont révélé en ce cas, bien que les tribunaux ont généralement le pouvoir de le faire, dans la pratique, ils sont très réticents à le faire pour des infractions commerciales mineures"*⁸.

- *Pouvoirs supplémentaires pour faire face aux infractions intracommunautaires accordées aux autorités d'application en vertu du droit national.*

L'Article 8(2) du règlement CPC établit que « Afin de remplir les obligations qui lui incombent en vertu du paragraphe 1, l'autorité requise exerce les pouvoirs visés à l'article 4, paragraphe 6, et tout autre pouvoir qui lui est reconnu en vertu de la législation nationale ».

Afin d'identifier les pouvoirs supplémentaires que les autorités de contrôle peuvent utiliser afin d'assurer la cessation de la pratique commerciale déloyale, la liste des pouvoirs nationaux, en Annexe II, a été examinée. En particulier, la majorité des États membres prévoient la possibilité de commencer l'enquête d'office, mais ils ne font pas expressément référence à la possibilité de rechercher et sanctionner les infractions passées. Seule l'Autriche, le Danemark, l'Irlande, Malte et la Suède prévoient expressément ce pouvoir, mais avec certaines limitations. En ce qui concerne les achats mystère, seule la Slovénie prévoit le pouvoir des inspecteurs d'effectuer des achats mystère. En ce qui concerne la possibilité d'effectuer des test-achat, aucune loi prévoit ce pouvoir, mais la Bulgarie, la Croatie, la Grèce, Malte prévoient le pouvoir des inspecteurs, lors de l'inspections, de prélever des échantillons. En Suède, les échantillons doivent être demandés à l'entreprise.

Des mesures provisoires peuvent être adoptées par toutes les autorités nationales compétentes ou imposées par les tribunaux dans le cas où le pouvoir d'exécution est mis en place par voie judiciaire. Seule la Grèce ne prévoit expressément le pouvoir de l'autorité d'adopter des mesures provisoires. Tous les États membres ont le pouvoir de sanctionner le contrevenant, mais seulement aux Pays-Bas et Malte est prévue l'autorité nationale compétente d'imposer une compensation sur le contrevenant à l'avantage des consommateurs endommagés. En Irlande et Suède, les autorités nationales compétentes ont le pouvoir de représenter les consommateurs devant les tribunaux ou les instances compétentes afin d'obtenir des dommages-intérêts.

⁸ OECD, Best practices for consumer policy : report on effectiveness of enforcement regimes, DSTI/CP(2006)21/FINAL

INTRODUCTION

1.1 SCOPE OF THE STUDY

The scope of the “Study on enforcement authorities’ power in the application of Regulation 2006/2004/EC on Consumer Protection Cooperation” (hereinafter “the Study”) is to gather information on the implementation of the minimum investigative and enforcement powers as introduced by Article 4(6) of Regulation 2006/2004/EC (hereinafter “the CPC Regulation”). The Study will cover the Member States that were not covered in the previous Study completed by Grimaldi in 2014⁹ and it will complement it.

The Study covers certain legislative acts contained in the Annex to the CPC Regulation. According to the Technical Specifications, the acts to be covered are:

- Directive 2005/29/EC on Unfair Commercial Practices;
- Directive 2000/31/EC on electronic commerce;
- Directive 93/13/EEC on unfair contract terms;
- Directive 2011/83/EU on consumer rights; and
- Directive 2006/114/EC in relation to provisions applying to comparative advertising (Article 1, Articles 2 c) and Article 4 to 8).

Article 4(6) of the CPC Regulation

Under Article 4 of the CPC Regulation, “Each Member State shall designate the competent authorities”. Competent authorities are defined in Article 3(c) as “any public authority established either at national, regional or local level with specific responsibilities to enforce the laws that protect consumers' interests”.

Under these Articles, each Member State had a clear obligation to designate a public authority responsible for the application of the CPC Regulation; however, the details were left to the Member States themselves. These authorities could be administrative or judicial. The diversity of institutional design among competent authorities across the EU is based on country-specific institutional traditions and legacies. The majority of Member States have entrusted the task of

⁹ Study on Enforcement of Authorities’ Powers and National procedural Rules in the Application of Regulation 2006/2004/EC on Consumer Protection Cooperation, (Contract 2013 8601 CHAFEA) July 2014.

tackling cross-border infringements to their national competent authority for consumer protection, which are now in charge of both domestic and cross-border enforcement, while others have opted for different solutions, such as a different authority or department of a Ministry. In some cases, different authorities may be competent depending on the violated provision.

The CPC Regulation provides that all the Member States must ensure that competent authorities have a set of minimum powers in order to be able to effectively carry out their enforcement tasks and discharge the Regulation's mutual assistance obligations. The exercise of these powers takes place in accordance with the national procedural rules.

Minimum investigation and enforcement powers are described by Article 4(6) of the CPC Regulation and include: *“(a) to have access to any relevant document, in any form, related to the intra-Community infringement; (b) to require the supply by any person of relevant information related to the intra-Community infringement; (c) to carry out necessary on-site inspections; (d) to request in writing that the seller or supplier concerned cease the intra-Community infringement; (e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking; (f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions; (g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.”*

In terms of enforcers' approach, public enforcement may be active, where the enforcement primarily relies on the initiative of the public authority (ex officio procedures) and its monitoring activity, and/or reactive, where the public authority starts investigation on the basis of consumers' complaints. In terms of procedural enforcement models, it may take place in the framework of criminal and/or administrative regulations with different institutional implications: the former is administered primarily by courts; the latter is primarily managed by governmental agencies and entities with an increasing involvement of private actors. Competent consumer authorities may also resort to civil law actions.

1.2 METHODOLOGY

Deliverable 1 required carrying out a comprehensive and accurate review of national legislation that constitutes the basis of mandated powers under the CPC Regulation. These powers refer to investigation and enforcement measures necessary to remove intra-Community infringements to consumer protection rules laid down in the legislative acts indicated in the Technical Specifications and mentioned above.

Deliverable 2 required the analysis of possible shortcomings in the availability and exercise of the minimum powers under Article 4(6) of the CPC Regulation, focusing on whether there is a valid justification on the basis of the way a national system is set up.

The Member States covered by the Study are: Austria, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia and Sweden which were not covered by the 2014 Study.

1.2.1 DELIVERABLE 1

In order to fulfil Deliverable 1, for each of the legislative acts covered by the Study, a synthetic table was prepared comparing the powers introduced by the CPC Regulation with those existing in the national law and conferred to the relevant competent authority. In Member States where one single authority is competent for all the relevant acts, the tables have been consolidated into one single grid. The same has been done for the Member States where different authorities are competent to enforce the consumer protection legislation, but they all apply the same set of rules.

The introduction to the table includes a short description of the enforcement powers in the Member States table indicating what kind of authority (public authority and/or private bodies) is entrusted with enforcement powers outlining the legal framework of the enforcement powers for each analysed Member State.

Annex II contains the national tables covering the list of additional powers as provided by Article 8(2) of the CPC Regulation.

1.2.2 DELIVERABLE 2

On the basis of the tables prepared for Deliverable 1, an assessment has been made for each examined Member State on the powers. The assessment evaluates if the implementing measures have conferred effective powers to the authorities and, in case of lack of implementation, which are the powers that are missing.

2. STATE OF PLAY

With regard to the powers of the competent national authorities, a procedural diversity among Member States emerged. On the basis of the principles of procedural autonomy and institutional neutrality, the Member States were given considerable leeway in adapting the CPC Regulation to

their own legal systems. When applying the CPC Regulation, the Member States implement their national procedural rules and impose remedies and sanctions that are available in their respective legal systems.

Under Article 4 of the CPC Regulation, "Each Member State shall designate the competent authorities". Competent authorities are defined in Article 3(c) as "any public authority established either at national, regional or local level with specific responsibilities to enforce the laws that protect consumers' interests".

Under these Articles, each Member State had a clear obligation to designate a competent public authority responsible for the application of the CPC Regulation; however the details were left to the Member States themselves. These authorities could exercise their powers under their own authority or under the supervision of judicial authorities or by application to courts. The diversity of institutional design among competent authorities across the EU is based on country-specific institutional traditions and legacies. The CPC Regulation provides that all the Member States must ensure that competent authorities have a set of minimum powers in order to be able to effectively carry out their investigation and enforcement tasks and discharge the Regulation's mutual assistance obligations. The exercise of these powers takes place in accordance with the national procedural rules.

2.2. MINIMUM POWERS IN COVERED COUNTRIES

In general, all the examined Member States have implemented the investigative and enforcement powers provided by Article 4(6) of the CPC Regulation. Some authorities already had the provided powers under their statute and/or under the general administrative law provisions. Other Member States have added some new powers to those already existing. It must be noted that, in certain Member States such as Luxembourg, the implementation of the Directive 2011/83/EU has given the opportunity to review the general framework for the consumer protection and the enforcement powers. In Ireland, recent changes were due to the reorganisation of the previous national consumer authority, which has been merged with the national competition authority.

Differences mainly relate to the different models of enforcement, whereas it relies only on the powers of the administrative authorities or the competent authorities exercise their powers by application to the courts, which are competent to grant the decisions. Where a specific court is competent, such as in Ireland, the relevant act indicates the competent court (High court or District Court), otherwise, it follows the general rules of territorial competence for administrative acts and for the appeal against a decision of first instance.

Some Member States, such as Malta, combines both approaches, with the competent authority vested with the full range of investigative and enforcement powers, but violations of certain

provisions not specifically covered by this Study, such as the price indication, are criminal offences under the Maltese law and they may be prosecuted before the criminal courts.

2.2.1 AUSTRIA

Austria relies on a system which involves different competent authorities with investigative powers, and civil proceedings in order to obtain an injunction against the trader. Before the introduction of the CPC Regulation, Austria did not have a specific public authority in charge of the consumer protection enforcement, since at national level, in nearly most of the consumer protection infringements, national courts are responsible for enforcing consumer protection legislation. Depending from the violated provision, a claim for injunction may be filed by certain bodies such as the Verein für Konsumenteninformation (VKI, a consumer organisation), Federal Chamber of Labour, the Federal Economic Chamber, the Presidential Conference of the Austrian Chambers of Agriculture or the Austrian Trade Union Federation, the Federal Competition Authority, the Austrian Council of Senior Citizens, the Austrian Medical Chamber, the Austrian Chamber of Pharmacists and the the Association of the Austrian Pharmaceutical Industry.

Since the CPC Regulation requires that the competent authority must be a public authority, the Consumer Authorities Cooperation Act - VBKG has distributed the powers among different existing authorities. For the directives covered by the Study, which have been implemented into the Austrian law system by the Federal Act Against Unfair Competition – UWG, the Federal Act governing certain legal aspects of electronic commercial and legal transactions (E-Commerce-Act – ECG), the Federal Act establishing provisions for the protection of consumers (Consumer Protection Act – KSchG) and the Federal Act governing distance and off-premises contracts - FAGG, the two investigative and enforcement authorities are the Federal Cartel Prosecutor and the Federal Competition Authority. The Federal Cartel Prosecutor is only competent in the case of intra-community infringements and for cooperation under the CPC Regulation, since for infringements at national level, only private enforcement is possible. The Federal Competition Authority has also the competence to file an injunction to court under § 14 (1) UWG (Unfair Commercial Practices Law) in the case of national infringements.

The respective competences are allocated by the annexes of the VBKG: acts covered by Annex Z1 are competence of the Federal Cartel Prosecutor (Directive 2011/83/EU repealing Directive 97/7/EC; Directive 93/13/EC; Directive 2000/31/EC), acts covered by Annex Z3 are of competence of the Federal Cartel Authority (Directive 2006/114/EC; Directive 2005/29/EC).

The investigative powers are regulated by the VBKG and are common to all the competent authorities with the exception of the Austrian Communications Authority and the four Telecommunications Offices. These four competent authorities are directly granted their own power according to the respective administrative laws. The investigative powers of the VBKG include powers to obtain documents of any kind and form (including electronic data carriers), to obtain information and to have access and to inspect the premises. The authority may require the assistance of the police in order to carry out the inspection.

When the competent authority, after the investigation, considers that an infringement has been committed, will issue a written warning to the trader to ask to cease the intra-community infringement. If the trader signs the cease and desist statement secured by a reasonable penalty, it is considered that the intra-Community infringement has ceased. The authority may decide to publish the cease-and-desist statement in the manner it considers appropriate.

The warnings are the most used powers by the competent authorities to obtain compliance, because - as clarified by § 5 (1) VBKG -the competent authority must choose, among the powers at its disposal, those that will grant swift and effective cessation of the intra-Community infringement while interfering as little less as possible with the rights of traders and other affected people, and take into consideration the circumstances of the infringement.

In case of non-compliance with the warning, or if the circumstances require so, the competent authority has the power to file an injunction before the court. Before doing so the competent authority has to give to the trader the possibility to see the results of the investigation and make comments, insofar this does not jeopardise the purpose of the procedure. The VBKG does not expressly provide for the power to accept undertakings, however, in the context of the § 7 VBKG it is possible for the trader to remove the infringement and sign the cease and desist order secured by a reasonable penalty with the purpose to avoid the injunction before the court.

Once the injunction has been filed before the competent court, the legal proceedings follow the rules set out in the Austrian Non Contentious Proceedings Act (*Außerstreitgesetz*, "AußStrG"), which also allows for shortened judgements. Sect. 39 (4) of Austrian Non-Contentious Proceedings Act provides for some kind of settlement during the court proceeding providing that a "judgement can be without grounds in case the parties concerned agree on the outcome". There is, therefore, a certain degree of flexibility, which allows the competent authority to obtain the voluntary removal of the infringement by the trader.

The competent court is the territorially competent Regional Court; in Vienna this is the Commercial Court of Vienna. The competent authority has the right to stand before court and has the right to

publish the decision of the restrictive injunction procedure in the manner it considers appropriate. The court will define the sanctions applicable, including monetary penalties.

Additionally, Austria has implemented the possibility of Article 8(3) and 8(4) of the CPC Regulation providing to the competent authority the right to entrust certain bodies, designated in accordance with § 12 (2) VBKG; giving them the powers to start an injunction procedure on behalf of the public authority. However, the delegated third parties do not have the right to take investigative measures such as inspections in the premises. The delegated third parties receive the information and results of the investigation from the competent authority and they are bound to a strict confidentiality. Prerequisites for delegating the enforcement powers are that the body agrees to take over this task and that this body has already filed a judicial or extrajudicial action for an injunction against this seller or supplier that relates to the intra-community infringement. The designated bodies are for example the Verein für Konsumenteninformation (VKI, a consumer organisation), the Federal Chamber of Labour and the Federal Economic Chamber according to § 29 KSchG (Austrian Consumer Protection Law) and to § 14 UWG (Unfair Commercial Practices Law) and the Austrian Chamber of Pharmacists according to § 85a AMG (Austrian Medicines Law).

The Austrian implementation of the investigative and enforcement powers under the CPC Regulation does not contain any shortcoming. The implementation has required a specific act assigning, mainly to the existing competition authorities, which already have large investigative and enforcement powers as well as experience in international cooperation, the powers to investigate and tackle intra-Community infringements.

2.2.2 BULGARIA

The Bulgarian institutional framework for the implementation of the CPC Regulation has been influenced by the specific programme under the Accession Partnership to strengthen, among others, the institutional structure in the field of consumer protection.¹⁰ The main competent authority competent for the acts covered by the Study is the Commission for Consumer Protection (CCP), which is a specialized State body implementing the legislation for consumer protection in Bulgaria and applying administrative control over the entire domestic market. The CCP is competent to enforce the Consumer Protection Act, which has implemented the majority of the acts included in the Annex to the CPC Regulation including Directive 2011/83/EU, and the Law on Electronic Commerce (ECA) implementing Directive 2000/31/EC.

¹⁰ Phare Support for the elaboration and effective implementation of the consumer protection legislation and for the strengthening of the institutional structure in the field of consumer protection.

The CCP has a wide range of statutory powers and duties, including the power to access to all the documents directly or indirectly relevant regardless of the form of the document; to order any person to provide information on a breach of the relevant legislation that he knows of; and to carry out on-site inspections. The Chairman of the CCP has the power to order the infringer to discontinue the act and publish the discontinuance order; to issue a cease and desist order; and to impose fines.

The Commission for the Protection of Competition, which is the national competition authority, is in charge of the enforcement of Directive 2004/116/EC. The provisions on comparative and misleading advertising have been repealed from CPA by SG No. 64/2007 and moved in the Protection of Competition Act (PCA), which holds regulations on misleading and comparative advertising as a part of the Bulgarian unfair competition rules. The PCA prohibits misleading advertising and lists the requirements which comparative advertising should meet in order to be permitted. In this regard PCA transposes Directive 2006/114/EC. However, Article 68 (k) of the CPA provides that in case of an unfair commercial practice as defined by Article 68(d), which includes also misleading and aggressive practices, *“where the unfair practice arises from activities related to advertising, notwithstanding the pecuniary penalty, the Chairperson of the Commission for Consumer Protection may direct the advertiser and/or the advertising agency to publish, at their own expense and in an appropriate form, the written statement ascertaining the violation, as well as the duly corrected advertisement”*. Therefore, *when comparative and misleading advertising is directed to consumer and constitutes unfair, misleading and aggressive practices, the CCP remains competent for the enforcement.*

2.2.3 CROATIA

The consumer protection legislation has been consolidated in a single act, the “Consumer Protection Act” (CPA), which entered into force in 2003. The enforcement has been centralized within a single bod, the State Inspectorate. The State Inspectorate is an independent body of the State administration, founded in 1997, and directly responsible to the Government of the Republic of Croatia. The State Inspectorate Act (Official Gazette of the Republic of Croatia no. 116/08) regulates the inspection activities of the State Inspectorate, its organizational units, rights, obligations and powers of inspectors.

In order to implement the CPC Regulation, in 2006 a specific department of the State Inspectorate, the “Department of consumer protection” in charge of the investigations for consumer legislation infringements, was created. The State Inspectorate has all the investigative and enforcement powers provided by the CPC Regulation. In performing inspectional supervision, it may issue a

temporary decision prohibiting the trader from selling products and providing services until the established irregularities are eliminated, whereby the trader may also be fined. The trader may also be banned from carrying out his or her business practice until these irregularities are removed.

CPA provides for the “voluntary control” upon the trader by the organization or body to which the trader belongs for the same violations that give rise to the action of the State Inspectorate. In case of a violation of the Consumer Protection Act by a trader belonging to a traders' chamber or association, this chamber may initiate a voluntary control procedure, including control of unfair business practice by the drafter of a code. The legislation provides for a self (soft) regulation for those traders that belong to associations with a code of conduct. The procedure for voluntary control does not constitute a waiver of the right to initiate proceedings by the State Inspectorate. Therefore, the CPA provides for mix of soft and hard law (e.g. a code of conduct coupled with the possibility of imposing administrative sanctions by the State Authority).

2.2.4 CYPRUS

The Competition and Consumer Protection Service (“the CCP Service”) under the Ministry of Commerce, Industry and Tourism of Cyprus, is the main competent enforcement body for consumer protection.

Law 133 (I)/2013 on consumers' rights implementing Directive 2011/83/EU and repealing the Directive 97/7/EC introduced extensive investigative powers. The legislation expressly delegates investigative and enforcement powers to the CCP Service, in order to enforce consumer rights.

The CCP Service has extensive investigative powers provided to its Director by the legislation implementing the relevant Directives:

Law 103(I) of 2007 Unfair Business to Consumer Commercial Practices Law, implementing Directive 2005/29/EC and the CPC Regulation; Law 92(I)2000 as amended in 2007, implementing Directive 2006/114/EC; Law 93(I)1996 with Amending Act No 69(I) of 1999 implementing; Directive no. 93/13/EEC. For all these acts, the CCP Service is the investigative and enforcement authority.

The CCP Service may carry out inspections, obtain documents and information, obtain and accept undertaking from the trader as well as issue an order to cease the infringement. The CCP may also impose administrative fines with regard to the transgressions of consumer protection legislations. Where the CCP Service considers that there is a law transgression it may, if deemed necessary, apply to the District Court for the issue of a prohibitory or mandatory order against any physical or legal person.

The Promotion of Services and Electronic Commerce Section of the Trade Service of the Ministry of Commerce, Industry and Tourism is responsible for the electronic commerce under Law 156(I)/2004, which has implemented Directive 2000/31/EC. The trade service has certain enforcement powers, such as to require information, to require in writing to the trader to cease the infringement, to accept undertakings and to petition the court in order to obtain a cease and desist order. The Trade Service seems to lack the investigative powers to carry on inspections and obtain documents. However, when electronic commerce involves unfair commercial practices or issues related to distance contracts covered by Directive 2011/83/EU, the competent body to prosecute the infringement is the CCP Service, which has all the investigative powers provided by the CPC Regulation. Therefore, no particular shortcomings have been identified.

2.2.5 DENMARK

The CPC Regulation has been implemented into the Danish legal system in the Danish Marketing Practices Act. The Danish Consumer Ombudsman (DCO), is an independent public authority appointed as the central enforcement authority and as the national liaison office under the CPC Regulation. The DCO has extensive investigative and enforcement powers covering all the legislative acts included in the Annex to the CPC Regulation, including the E-commerce Act, which has implemented Directive 2000/31/EC

The DCO is responsible for all the acts covered by the Study. In order to carry out all the investigative and enforcement activities, the DCO has the power to carry out inspections under a court warrant, have access to and obtain relevant documents.

The DCO may negotiate and obtain undertakings with a trader or seek to influence the trader to act in accordance with the principles of good marketing practice. Moreover, an important role of the DCO is that it negotiates and consults with the relevant sectors wide in order to produce sector-wide guidelines.

In case the negotiations with the trader are unsuccessful, the DCO may impose injunctions and, in case of non-compliance with the injunction, the DCO may apply before the court to obtain an injunction. The DCO has also the power to impose administrative fines. When the injunction order is issued by the court, in case of non-compliance, a penalty or imprisonment up to four months may be imposed.

The DCO has all the powers provided by the Article 4(6) of the CPC Regulation and an important role in order to elaborate soft-law (guidelines) for the relevant sectors, in order to exercise a preventive action against any unfair commercial practice.

2.2.6 ESTONIA

The Consumer Protection Board (CPB), which falls under the jurisdiction of the Ministry of Economic Affairs and Communications, is the national competent authority for the enforcement of the consumer protection rules, enacted in the Consumer Protection Act (CPA).

The last version of the CPA has been adopted in December 2015 and entered into force in March 2016 and includes all the relevant acts covered by the Study. For the enforcement of Directive 2000/31/EC, a dualistic system is provided where the competence is shared between CPB and the Technical Surveillance Authority (TSA).

The CPB's investigative powers are regulated by the Law Enforcement Act (LEA). The LEA grants large investigative powers to the CPB similar to those of the police force. It may obtain information and documents, carry out inspection in the business premises. For inspections, a warrant must be obtained from the court. In case of urgency, the inspection may be carried out without a warrant, which shall then be required after the inspection.

The Director General of the CPB or an official authorised by him/her may issue precepts or the Consumer Protection Board may file an action with a county court on behalf of the Republic of Estonia to require termination of or refraining from activities harmful to the collective interests of consumers. However, when there is the need for the examination of the premises according to the LEA the following procedure should be followed „The examination of a dwelling in the possession of a person and the examination of business premises outside business hours is only permitted with the prior permission of the administrative court of the location of the dwelling or business premises to be examined. If the permission of the administrative court is not possible to be requested due to the need to counter an immediate serious threat, a law enforcement agency may examine the premises without the permission of the administrative court. In such a case, the law enforcement agency shall be required to request the permission afterwards. The judge shall decide on the grant of permission for the examination of the premises or extension thereof pursuant to the procedure provided for in the Code of Administrative Court Procedure for the grant of a permission to take an administrative measure. If the court refuses to grant the permission, the law enforcement agency shall be required to terminate the examination of the premises immediately

However, before filing an action, the CPB must notify its intention to the trader in order to give him the opportunity to express his position. Penalties may be imposed by the CPB. The possibility given to the trader to submit his position before the filing of an injunction, is used by the CPB in order to obtain the removal of the infringement. Informal negotiations are widely used, however, undertakings are binding only if obtained in the court during an injunctions proceedings.

CPB and TSA are competent in case of infringement of national provisions implementing Directive 2000/31/EC and under the CPC Regulation. The CPB has no powers to apply direct coercion in contrast to the police. On the basis of and pursuant to the procedure for the provision of professional assistance prescribed in the Administrative Cooperation Act, the police render assistance to another law enforcement agency in the execution of an administrative act within state supervision if the execution constitutes application of direct coercion. If the enforcement of a precept by the means provided for in the Substitutive Enforcement and Penalty Payment Act is impossible or ineffective, and the compliance with the precept can be achieved by direct coercion, direct coercion may be applied to the enforcement of the precept on the basis of and pursuant to the procedure provided by law.

However, In case of violation of consumer legislation, such as the unfair commercial practices and consumer rights protected by Directive 2011/83/EU as well as for electronic commerce, the CPB is competent and may carry out inspection under the LEA provisions. Both authorities can impose the cessation of the infringement and file an action before the court. Fines may be imposed on the service provider.

No particular shortcomings are detected in Estonia with reference to the investigative and enforcement powers introduced by the CPC Regulation.

2.2.7 FINLAND

The national competent authority for public enforcement of consumer legislation is the Finnish Consumer Ombudsman (FCO), who is part of the Finnish Competition and Consumer Authority. The FCO has been given various powers to enforce consumer protection law, in particular to require information and to adopt temporary warnings. The majority of EU consumer legislation included in the Annex to the CPC Regulation have been implemented as amendment to the Consumer Protection Act 1978, which is a general consumer law covering many areas of marketing law as well as consumer law. The investigative and enforcement powers under Article 4(6) of the CPC Regulation were introduced by the Act on Finnish Competition and Consumer Agency (661/2012). Depending from the violated act, especially for Directive 2005/29/EC, different authorities are competent. However, if those authorities do not have the investigative powers required by the CPC Regulation, they may submit a request to the FCO to carry out the

investigation on their behalf. Consequently, the Consumer Ombudsman could be considered the main investigative authority in the context of consumer protection, since it can step in in case of lack of powers of the other competent authorities.

With regard to the ability to require the cessation of an intra-Community infringement, the Consumer Ombudsman may only impose a temporary order and it has to refer to the Market Court for a final injunction order. In fact, in case the trader refuses to cease the infringement after being notified, the FCO may issue an interim order, which is a temporary measure.

However, the trader may negotiate a deal. The deals are not formally included in the enforcement powers under the Act, but the authority, after its notification of findings to the trader, shall request the trader to clarify and to cease the illegal measures. If the trader is willing to correct their illegal conduct, the Consumer Ombudsman enquires the trader to give an undertaking to refrain from taking these illegal actions in future. However, if the trader takes the undertaking but fails to correct its conduct, the FCO, may impose an injunction to cease the infringement. The trader can overturn the prohibition by the Consumer Ombudsman just by replying the FCO that it opposes the injunction. As a consequence, the FCO may, however, take the case to the Market Court. The Market Court will review the case again and decide whether the trader shall cease its marketing (or other) conduct or not.

Other sectoral competent authorities (Evira, Fime, Valvira) may impose final orders. All the authorities may require payments to the public purse.

No shortcomings have been detected with regard to the investigative and enforcement powers of the Finnish authorities.

2.2.8 GREECE

The CPC Regulation has been implemented in Greece through a Joint Ministerial Decision Z1-827/09.08.2006 which provides that all the powers of the CPC Regulation are added to the consolidated competences of the relevant competent authorities. The Consumer Protection Directorate (CPD), which belongs to the General Directorate for Consumer Affairs and Market Surveillance of the Ministry of Economy, Development and Tourism (formerly the General Secretariat for Consumer Affairs), is competent for the enforcement of the acts covered by the Study.

The CPD is divided into different units, which are competent for different sectors (consumers' products, financial services, general and special services). The Law 4177/2013 on the Rules for Product Market Regulation and Provision of Services provided to the General Directorate extensive

investigative and enforcement powers, extending to the General Directorate, the investigative powers provided by Article 39 (1) of the Law 3959/2011 for the protection of free competition. Article 18 of Law 4177/2013 provides that the powers listed in Article 39 of the Law 3959/2011 apply to the General Directorate.

With regard to the enforcement powers, the General Directorate may issue a recommendation for compliance within a specified period, cessation of the infringement and prohibition from repeating it in the future. The power of obtaining undertakings is not expressly regulated, however, undertakings may be informally negotiated in the request for compliance. The power to negotiate undertakings is not officially provided, however, in case that the consumer is withdrawing his/her complaint, the General Directorate is archiving the complaint with no further action.

The procedure of investigating and sanctioning of the General Directorate may be described as follows:

1. The respective unit of the CPD is inviting the alleged infringer asking for his/her/its aspects with regards to the alleged infringement.
 - 1a. in case of the absence of any reply of the alleged infringer, CPD is entitled to proceed to a recommendation for compliance within a specific time frame escorted with a fine imposition warning or to impose a fine amounting to five hundred (500) euros up to five thousand (5.000) euros. In case of a repeated absence of reply, a fine amounting to five thousand (5.000) euros up to fifty thousand (50.000) euros may be imposed.
2. Following the above and in case that the unit in question is not satisfied with the preliminary aspects of the invited (eventually submitted), it is officially inviting the alleged infringer to submit a memo with his/her/its arguments on the case, not earlier than, at least, five (5) full days as of receipt of the invitation. In the unit's invitation document, CPD is extensively presenting its position along with the applicable legislation with regards to the alleged violation.
3. In case that the arguments submitted are not proven satisfactory, CPD is proceeding to impose a sanction per clause 13a of the Law 2251/1994.

The Minister of Economy, Development and Tourism can order via a relevant decision, due to public interest reasons, the immediate cessation of an intra-Community infringement. If the infringer does not comply with this decision, he can be sanctioned. The enforcement of Directive 2000/31/EC by the General Directorate is based on the Presidential Decree 131/2003 but the enforcement powers are the same. No shortcomings have been found with regard to the investigative and enforcement powers.

2.2.9 HUNGARY

The Hungarian enforcement system provides for the competence of the Hungarian Consumer Protection Authority (HCPA), Hungarian Competition Authority, the Hungarian National Bank, the Media Infocommunication Authority. Apart from the enforcement powers provided by the national legislation implementing the relevant acts, the general investigative powers, common to all the enforcement authorities are provided by the general rules for Administrative Proceedings and Services (the Administrative Act). These powers include the possibility to request information, access to relevant documents and on-site inspections.

The Hungarian Consumer Protection Authority (HCPA) is the administrative authority responsible (beside many other fields like product safety and many kind of services) for the national implementation of the Directive 93/13/EC, Directive 2000/31/EC, Directive 2011/83/EU. It is also competent for the provisions in the Directive 2006/114/EC that do not pertain to the Hungarian Competition Authority or to any other sectoral authority.

The Hungarian Competition Authority is competent for the enforcement of Article 4 of Directive 2006/114/EC and it is also competent for Directive 2005/29/EC, Directive 2000/31/EC and Directive 93/13/EEC when a violation not only affects consumer protection but also competition.

With regard to Article 4 of Directive 2006/114/EC, Hungarian Competition Authority (HCA) is competent for the enforcement of Article 4 (a)-(c) and (e) of Directive no. 2006/114/EC. Violations of these provisions are assessed according to the rules of the supervision competition proceedings and of the administrative act.

Violation of Article 4 (d) and (f)-(h) of Directive no. 2006/114/EC must be referred before the Court and the Competition Authority does not have the power to adopt a decision through the supervision competition proceedings. In the context of the legal proceedings it is expressly provided that the authority may ask to the court to obtain an undertaking from the party.

The Hungarian National Bank is competent for infringements to Directive 2005/29/EC and Directive 93/13/CEE when unfair commercial practices and unfair terms affect financial sector. The National Media and Infocommunication Authority is competent for intra-Community infringements of Article 7 of the Directive 2000/31/EC covering unsolicited electronic communications.

All the authorities have the powers to obtain information, have access to documents, and carry out on-site inspections. All the authorities have the statutory power to accept undertakings. The HCPA, instead of adopting a resolute order for the cessation of the infringements, may enter into an administrative agreement in order to compel the trader to comply with the consumer protection regulations. The authorities have the powers to issue administrative decisions to order the

cessation of the infringement and to impose fines, also with regard to the sphere and the gravity of the infringement, the duration of the illegal conducts and the recidivism of subjects where applicable.

No shortcomings have been detected with reference to the enforcement powers of the relevant competent authorities.

2.2.10 IRELAND

In 2014, the Competition Authority and the National Consumer Agency were merged to form the Competition and Consumer Protection Commission ("CCPC"). The CCPC has the full range of consumer and competition powers of the Competition Authority and the National Consumer Agency. While creating the new CCPC, Competition and Consumer Protection Act 2014 carries forward the enforcement powers that were provided to the National Consumer Agency in the Consumer Protection Act 2007. The only new power conferred by the 2014 Act is the power to compel persons to respond to written requests for information. This supplements the preexisting power to compel persons to appear before it and/or produced documents (the definition of which includes electronic data).

The CCPC consumer enforcement tools range from summary and indictable prosecutions, prohibition orders, and compliance notices for some offences and fixed payment notices (EUR 300 fine) for breaches of certain enactments. The CCPC may also negotiate undertakings as enforcement tools to "change behaviour where appropriate"¹¹

The powers related to prosecution (civil and criminal), prohibition orders, compliance notices, and undertakings remain regulated by the Consumer Protection Act 2007. If the prohibited act or practice under the Consumer Protection Act 2007 does not include a contravention in respect to price display regulations, the CCPC may serve a compliance notice to the person committing the infringement, directing them to remedy the contravention or the matters occasioning that notice. Unless the notice is appealed to and cancelled or varied by the District Court, the notice is deemed accepted and the trader must comply with it. Failure to comply, without reasonable excuse, with a compliance direction or requirement specified in a Compliance Notice is an offence that is liable on summary conviction to the fines and/or penalties set out in Section 79 of the Consumer Protection Act 2007 (up to EUR 3000 fine and/or 6 months imprisonment on first conviction).

¹¹ Strategy Statement of the CCPC 2015 – 2018,
http://ccpc.ie/sites/default/files/CCPC%20Strategy%20Statement%20Final_0.pdf

An important civil remedy that is available to the CCPC is the prohibition order. In order to secure a prohibition order the CCPC can apply to the Circuit Court or the High Court. This is available, with a limited exception, to address most prohibited acts or practices as defined in the Consumer Protection Act 2007.

In case the offence relates to the violation of the price display legislation or breach of certain provisions of the consumer rights directive, the CCPC may issue a fixed payment notice to the trader imposing a fixed penalty of EUR 300 as an alternative to criminal prosecution. In case of non-payment of the fine within the statutory 28 day timeframe, the CCPC may start a criminal proceeding for the original offence.

No shortcomings have been detected with regard to the investigative and enforcement powers of the CCPC.

2.2.11 LITHUANIA

The CPC Regulation has been implemented by the 2007 Law on Consumer Protection (LCP), which has given to the State Consumer Rights Protection Authority the competence over Directive 2005/29/EC, Directive 93/13/CEE, Directive 2011/83/EU and Directive 2006/114/EC with the exclusion of Articles 5 and 6 which are of competence of the Competition Council. Other sectorial authorities (State Food and Veterinary Services, Department for Cultural Heritage under the Ministry of Culture) are competent when the violations of LCP affect the areas of their competence.

The LCP contains the investigative and enforcement powers available to the competent authorities when enforcing the LCP provisions in the sector of their competence. These powers are integrated by the general powers provided by the Administrative Code to the national administrative authorities.

The competent authorities have the powers to obtain information, documents from the commercial entities, take samples, carry out on-site inspections. In order to enforce the consumer protection, the authority may ask to the trader to cease the practice within 14 days from receiving the warning. In case of non-compliance, the authority may file a petition to the court in order to obtain an injunction order. If the trader decides to comply with the warning, he must inform, in written form and within the statutory time, the authority of the practices adopted to remedy or remove the infringement. The competent authority, after having checked that the infringement has been effectively removed, will issue a public notice. In case the infringement has not ceased, the authority will have the power to apply to the court in order to obtain an injunction.

Directive 2000/31/EC was implemented through the Law on Information Society Services (LISS) and the competent authority for enforcement is the Information Society Development Committee. The Committee has all the investigative powers required by the CPC and may order the service provider to cease the infringement and impose a fine.

With regard to undertakings, the relevant legislation does not expressly provide for undertakings. However, the possibility to obtain a commitment for the removal of the infringement is included in the procedure under Article 32 LPC and Article 21 LISS, according to which the authority has the power to request the trader (service provider) to remove the infringement within a deadline and the trader has to submit to the authority a written reply describing the implemented actions. The authority may publish a notice on the implemented actions.

Therefore, no shortcomings have been detected with regard to investigative and enforcement powers.

2.2.12 LUXEMBOURG

Luxembourg undergone an extensive legislative revision during the implementation of Directive 2011/83/UE which amended the Consumer Code entered into force in 2011. The competent enforcement authority is the Ministry having consumer protection "within its competence". This means that there is more than one authority competent, depending on the substantive provision, which has been infringed. However, for the legislative acts covered by the Study, the Ministry of Economy is the competent authority for investigation and enforcement. While before the adoption of the CPC Regulation consumer protection in Luxembourg was based only on a system of private law, the current system is based on a combination of administrative powers for investigation and court enforcement. The competent authority carries out the investigations but the cease and desist order is issued by the competent court upon request of the administrative authority. The penalties may only be imposed by the court. Since the authority competent for the investigation cannot issue decisions nor impose fines, it does not have the power to obtain undertakings. In order to obtain the cessation of the infringement, the Ministry has to file an action before the President of the competent commercial court. The President decides on the merit but on summary proceedings. The expedite proceeding leaves few options for the undertakings. However, the Minister may ask the President to take action according to the Ministry's needs, which may include also the trader submitting undertakings in order to remove the infringement.

Due to the separation between the investigative and enforcement powers, no particular shortcomings have been identified.

2.2.13 MALTA

The CPC Regulation has been implemented into Maltese law by Part II of the Consumer Affairs Act (Cap. 378). The competent authority for the acts covered by the Study is the Director General (Consumer Affairs) within the Malta Competition and Consumer Affairs Authority (MCCAA), with the exception of the Directive 2000/31/EC, for which the competent authority is the Malta Communications Authority.

The Director General (Consumer Affairs) who heads the Office for Consumer Affairs within the Malta Competition and Consumer Affairs Authority has extensive powers of investigation and he may issue a Public Warning Statement, caution the trader and seek an undertaking, impose a temporary order or a cease and desist order. He also has the power to impose administrative fines. Interim measures may be imposed in case of urgency before the investigation is closed.

The undertaking may provide to refrain from a practice or a conduct for a period that does not exceed three years and it may include a compensation for the affected consumers. A register of undertakings is kept by the Director General. Publication of the undertaking is imposed where appropriate. The limited time validity of the undertakings does not allow the trader to engage in the same practices/conduct even after the expiry of the prescribed period of the undertaking since the prohibition of acts and omissions that breach the law stands. Other enforcement measures under the Act will then apply, including the initiation of new administrative proceedings with regard to new infringements where the trader would be imposed higher sanctions for relapsing. It must be noted that the Maltese systems provide a wide range of administrative investigative and enforcement powers combined with the possibility for the Director General to issue compliance orders together with or separate from an administrative decision. . In addition Article 13 of Cap. 378 gives the Director General the power to institute criminal proceedings when investigations relate to an offence under the Act.

The investigative powers for the Malta Communications Authority have all the administrative powers provided by the Malta Communications Authority Act and the enforcement powers provided by Legal Notice 251/2006 which implements Directive 2000/31/EC. No shortcomings have been detected with reference to the powers of Article 4(6) of the CPC Regulation.

2.2.14 THE NETHERLANDS

The CPC Regulation has been implemented in the Dutch law through the Act for the Enforcement of Consumer Protection Regulation. Until the implementation of the CPC Regulation, the Netherlands relied primarily on self-regulatory arrangements and on the enforcement of private rights. In this context, a public authority (the Consumentautoriteit) was created in 2007 and, in 2013, it became part of the Market and Consumer Authority (ACM) which is now the competent authority for the enforcement of all the acts included in the annex to the CPC Regulation.

The ACM can access business premises, obtain information and documents. The administrative powers cover the whole spectrum, ranging from pure warnings, to negotiation of undertakings, to fines. The relevant legislation foresees a specific procedure for the presentation and approval of undertakings. If the trader submits undertakings before the ACM adopts an injunction, the ACM adopt a decision on the undertaking which may also include a period during which may include a period of validity of the decision and of the undertakings. The period of duration may also be extended or the decision on the undertaking repealed in case of material changes or changes on the facts upon which the undertaking is based.

With regard to the possibility to impose fines, besides the general power to impose the payment to the public purse, the ACM has the power to make a contract with the infringer and to impose the obligation to pay damages to the other parties who have suffered from the infringement.

2.2.15 PORTUGAL

Portugal presents a complex situation both in respect of the competent authorities and of the applicable legislation. The Food and Economic Safety Authority (ASAE) is competent for most of the acts in Annex to the CPC Regulation, including Directive 2005/29/EC, and Directive 2011/83/EU. The *Banco de Portugal*, the *Comissão do Mercado de Valores Mobiliários* and the *Instituto de Seguros de Portugal* are competent with regard to unfair practices in financial services. These are independent authorities.

The Directorate General for Consumer Affairs (DGC) within the Ministry of the Economy is competent for misleading advertising. These authorities are vested with the investigative and enforcement powers provided by the Decree Law 57/2008, which has implemented the Directive 2005/29/EC, Directive 2006/114/EC and the CPC Regulation, and by Decree Law 38/2012, which has implemented the Directive 2011/83/EU.

The Authority for the telecommunications (ANACOM) is competent for Directive 2000/31/EC implemented by Decree Law 7/2004.

The above-mentioned authorities hold also the investigative and enforcement powers provided by the legislation on administrative offences (Decree Law 433/82). In fact, the relevant legislation indicates the infringements as administrative offences to which the general regime is applicable. ASAE has also the powers to prosecute certain offences to consumer legislation (Decree Law 28/84 related to non-economic infringements to public health, and Decree Law 213/2004 on offences related to the wine sector) and to apply before the courts for criminal proceedings. The officials of the ASAE have the powers of the criminal police.

The authorities have the powers to start an investigation and adopt any act, which is necessary to prove the infringements, including on-site inspections and seizures of objects, to issue warnings, to adopt ad interim measures and to order the cessation of the infringements. The authorities may also impose fines. The power to obtain undertaking is not expressly provided, however, the relevant legislation clarifies that the relevant authorities may perform any act that they consider pursuant to the removal of the infringement. The general regime for administrative offences provides that the attempt to commit an infringement is not punishable "if the perpetrator voluntarily gives up the continuation of the offense or prevents its consummation, or, notwithstanding the consummation, prevents the verification of the results or the committed infringement is not included in any typology of offense".

With regard to Directive 93/13/EC, any relevant party, including the authority, must apply to the court for the removal of the term.

2.2.16 ROMANIA

The CPC Regulation was implemented in 2007, through the Government Decision No. 244/2007. The National Authority for Consumers Protection (NACP) is the main competent authority. For certain acts, however, it shares competence with other competent authorities. The NACP has the powers provided by Article 4(6) of the CPC Regulation. The power to obtain undertakings seems to be included in the powers to impose a decision upon the infringer, without a particular distinction.

For the consumer protection under Directive 2000/31/EC, the Ministry of Information Society and the Ministry of Internal Affairs are competent. However, the relevant legislation does not foresee the powers of inspections and the powers to obtain undertakings. The cease and desist order requires an action before the court.

Directive 93/13/EEC on unfair terms is enforced by the NACP on the basis of Law No. 296/2004, which provides for certain enforcement powers, i.e. to have access to documents, to obtain

information, to carry out inspections, but not the powers to impose a decision or to obtain undertakings. The cease and desist order and/or the removal of the unfair terms requires a court order.

Directive 97/7/EC and Directive 2011/83/UE are enforced by the NAPC and by the National Regulatory Authority for Communications and Information Technology (NRACIT). The authorities have relevant enforcement powers, including the possibility to issue different orders or injunctions, including temporary ones, for infringement and to obtain from the provider undertakings to redress the situation. NACP is competent for the enforcement of Directive 2006/11/4EC. The relevant legislation shows no shortcomings in the enforcement powers provided.

2.2.17 SLOVENIA

The Slovenian Consumer Protection Act (CPA) implements the CPC Regulation and covers the Directive 2005/29/EC, Directive 93/13/ECC, Directive 2011/83/EC, and Directive 2006/114/EC. The Market Inspectorate, a constituent body of the Ministry of the Economy, is responsible for surveillance of execution of Slovenian legislation pertaining to consumer protection, product safety, trade, catering, crafts, services, pricing, tourism, competition protection and copyrights. The Inspection Act regulates the investigative and enforcement powers of the Market Inspectorate, including the powers to obtain information, access documents, carry on on-site inspections and seize documents or other objects. In case of irregularities or minor offences detected during the investigation, the officials of the market inspectorate may issue warnings requiring the trader to remove the irregularity within a deadline or else requesting the cessation of the infringement by means of a decision. The CPA provides for the fines that may be imposed by the Market Inspectorate for violations of consumer legislation. Undertakings are not expressly regulated by the CPA or by the Inspection Act; however the General Administrative Procedure Act (GAPA), revised in 2011, provides that when two parties have opposite claims in an administrative proceedings, the agency which conduct the proceedings must try to achieve settlement between the parties. The obligation to settle in the context of an administrative proceeding is the basis for power to obtain undertakings. The GAPA provides that a settlement obtained has the force of an executable decision reached in an administrative procedure.

Directive 2000/31/EC has been implemented by the CPA and the Electronic Commerce Law. The enforcement authority is the Market Inspectorate, which powers are regulated by the Inspectorate Act and by the GAPA 2011. No shortcomings have been detected with reference to the investigative and enforcement powers.

2.2.18 SWEDEN

Article 4(6) of the CPC Regulation has been implemented into the Swedish law by virtue of Ordinance (2009:607) containing instructions for the Consumer Agency, adopted on 28 May 2009. The competent authority for investigation and enforcement is the Consumer Agency, which is a government agency. The Swedish Consumer Agency is headed by a Director General who is also the Consumer Ombudsman (Konsumentombudsman, KO). The KO can represent consumer interests in relations with businesses and pursue legal action in court. The Marketing Act gives investigative powers and the powers to issue prohibition orders and injunction in cases of minor importance.

The KO may use its investigative powers in relation to prohibition and information orders. According to Market Act, the KO may issue those orders in case of minor importance or when there is an established practice or the law is clear. These orders are subject to a conditional financial penalty. Once the order has been accepted, it applies as a final judgement without appeal options. If the orders are violated the KO may start proceedings in the district court or Stockholm court specifically for the imposition of the fine as prosecutor (criminal case).

Legal action is taken primarily if the trader does not want to accept an order, when a precedent case is required or if there is a question of evidence. The Market Act provides for disruption charges which may be requested by the KO to the Market Court if a trader intentionally or negligently contravenes the provisions of the MA.

The KO may also represent a consumer or a group of consumer in civil cases before the court or the National Board for Consumer Dispute for damage claims.

No shortcoming is detected with regard to investigative and enforcement powers.

3. GENERAL OBSERVATIONS

The CPC Regulation leaves flexibility to Member States for the design of their enforcement regimes; therefore Member States have taken different approaches towards enforcement. Under Article 4(4) of the CPC Regulation, the competent authorities may exercise the mandated powers in conformity with national law either: (a) directly under their own authority or under the supervision of the judicial authorities; or (b) by application to courts competent to grant the necessary decision.

Broadly, we main distinguish three main types of public enforcement regimes:

- Self-managed administrative proceedings: the national competent authority starts and conducts the investigation and takes enforcement measures such as banning certain types of practices or imposing penalties;
- Civil proceedings: the national competent authority starts and conducts the investigation; based on the investigation's outcome it requests a civil court to issue an injunction or a cease and desist order; and
- Criminal proceedings: the national competent authority starts and conducts the investigation and, where the infringement constitutes a criminal offence or where the trader refuses to comply with a previous court or administrative decision (cease and desist order), refers the case to the prosecutor/investigating judge for an action under criminal law. Criminal sanctions may include imprisonment, ban of activities for a specified period of time, or else fines.

The specificities of each enforcement system have immediate repercussions on the means for enforcement (e.g. powers and procedures).

The diversity of institutional design across EU Member States is based on country specific institutional and legal backgrounds.

Certain Member States rely primarily on public enforcement in the form of self-managed administrative proceedings (although this does not preclude the parallel possibility of civil or criminal proceedings), i.e. Bulgaria, Croatia, Cyprus, Denmark, Estonia, Greece, Hungary, Malta, the Netherlands, Portugal, Romania and Slovenia.

Other Member States relying primarily on civil proceedings for public enforcement (although this does not preclude the possibility of parallel administrative and criminal proceedings) are Austria, Finland, Ireland, Lithuania, Luxembourg, and Sweden¹².

In list, the countries concerned criminal proceedings can be used to sanction violations of consumer legislation. Ireland and Malta may rely on criminal proceedings to sanction a violation of consumer law that constitutes a criminal offence. Criminal prosecutions may also be carried out when the trader has refused to comply with a previous injunction order. However, the criminal proceeding is only allowed where the infringement is expressly qualified by the legislation as a

¹² The Swedish system, although is very close to a civil proceedings system has specific features. The KO may act in relation to trader in various ways: it can use internal fining powers it has in accordance with the MA (but limited to case of minor importance or when there is an established practice or the law is clear), bring legal action before the Market Court, or for mass damage suits, before the district court or National Board for Consumer Dispute.

criminal offence (such as the pyramidal schemes in Ireland). In Austria, the competent authorities have the possibility to report fraud or fraudulent practices also in connection with infringement of consumer law to the criminal prosecutor.

Austria is also relying on private enforcement for domestic and some cross-border infringements. In this jurisdiction it is up to the consumers (aided by voluntary or publicly funded consumer associations) to enforce their consumer rights in national courts. This possibility is also foreseen in the CPC Regulation¹³. However, in case of a request under Article 8 of the CPC Regulation, the competent authority may under certain prerequisites - laid down in § 12 VBKG transfer the file to the consumer association in order to obtain an injunction before the Court.

The table below presents an illustrative summary of different enforcement system.

Decentralisation	Type of public enforcement			Private enforcement
AT, BG, DK, FI, HR, HU, IE, LT, MT, NL, PT, RO, SE	Admin	Civil	Criminal	AT, IE
	AT, BG, CY, DK, EE HR, EL, HU, MT, NL,PT, RO, SI, IE	AT, FI, IE, LT, LU, ATSE	AT, IE, MT	

It has to be noted that distinctions between the regimes, in certain Member States, is not so clear. For instance, the national competent authority in Finland and Sweden, after the investigations and before applying to the court for a civil relief, may issue compliance orders and interim injunctions. The national consumer authorities, in case of Finland and Sweden, have competence for cases of “minor importance”. Therefore, a bulk of consumer protections infringements are dealt with through administrative procedure without the need to apply to the courts.

¹³ According to Article 8(3), competent authorities may instruct bodies having a legitimate interest in the protection of consumer rights to take all necessary enforcement measures available to them under national law to stop intra-Community infringements.

3.1 Consumer Enforcement Toolkit

Enforcement is a matter of deploying a strategy, or a mixture of strategies, for securing the desired results on the ground. Enforcement actions signal on what types of violation the authority is focusing and may provide additional incentives for firms to cooperate with the policies concerned.

Regulatory enforcement tools and strategies are often applied so to achieve a number of purposes (detection, information gathering as well as compliance seeking) and are based on different standpoints. Since the early nineties, the development of the theory of responsive regulation has moved the public enforcement from the polarization *deterrence versus compliance* towards the responsive approach “*in which regulators enforce in the first instance by compliance strategies but applies more punitive deterrent responses when the regulated firms fail to behave as desired*”¹⁴. However, this approach concerns not only enforcement but also the regulatory strategy. Enforcement strategies reflect the pyramid of regulatory strategies for regulating different areas of social and economic activity. Government should seek, and offer, self-regulatory solutions to industries in the first instance but that, if appropriate goals are not met, the state should escalate its approach and move on through enforced self-regulation to command regulation with discretionary punishment and finally to command regulation with non-discretionary punishment¹⁵.

The regulatory and enforcement tools are generally organised according to the Ayres and Braithwaite's regulatory and enforcement pyramid¹⁶, starting from the lowest and wider area:

- persuasion;
- warning letters;
- civil penalties;
- cease and desist orders, bans, licence's suspension/revocation;
- criminal sanctions.

Regulatory approaches would begin at the bottom of the pyramid and escalate in response to compliance failures. There would be a presumption that regulation would start at the bottom of the pyramid.

The described enforcement tools may rank differently according to the context and the regulation. Responsive regulation ranks enforcement tools in terms of punitive severity, where the enforcement pyramid can be seen as a severity pyramid. According to the 2010 OECD Study¹⁷, the

¹⁴ R. Baldwin, J. Black, *Really Responsive Regulation*, London, LSE Law, Society and Economy Working Papers 15/2007.

¹⁵ R. Baldwin, J. Black, *Really Responsive Regulation*, above, p. 5.

¹⁶ I. Ayres and J. Braithwaite, *Responsive Regulation*, quoted above, 1992.

¹⁷ OECD, *Consumer policy toolkit*, 2010, p. 104.

type of sanctions available to enforcement authorities and the prioritized use that they will make of them varies across jurisdictions but the general observation is that enforcement authorities need a wide range of credible sanctions to secure compliance. These range from persuasion to severe penalties such as criminal prosecutions and licenses revocation. It is important that the regulators may escalate the sanctions imposed if a firm continues the violation.

As noted by the doctrine¹⁸, regulators should consider not only the compliance performance of the regulated subject, but they should take into account the firms' own operating and cognitive frameworks (the attitudinal settings); the broader institutional environment of the regulatory regime; the different logics of regulatory tools and strategies; the regime own performance; and the changes in each of these elements.

At European level, the CPC Regulation introduced the minimum common investigation and enforcement powers in order to apply the EU legislation effectively and to deter sellers or suppliers from committing intra-Community infringements. However, the minimum common investigative and enforcement powers are responsive to the national institutional framework and the enforcement objectives of the national regulators.

3.2 Single Authority vs. Multiple Authorities

From the Member States analysed, we can identify two enforcement frameworks at intra-Community level: 1) a single authority in charge of consumer protection and 2) the multiple supervisory model where different authorities are in charge of enforcement of different acts covered by the Study. Where a single enforcement agency exists, infringements in specific sectors, such as electronic commerce and financial services, fall within the jurisdiction of specialized sector supervisors.

In particular, with regard to Directive 2000/31/EC, the choice was to assign enforcement to the national competent authority for information society, mainly due to the complex level of technicality of the enforcement of this legislation, such as Estonia, Lithuania, Portugal, Romania and Slovenia.

In Bulgaria and Hungary, the Directive 2006/114/EC has been implemented through the Unfair Competition Act. In Bulgaria, however the Protection of Competition Act foresees that when an unfair business practice leads to misleading advertising, the consumer protection authority may impose remedies on the advertiser. Therefore, the consumer protection authority remains competent for issues regarding consumer misleading advertising. In case of Hungary, the Competition authority is competent for Article 4 (a),(c) and (e) of the Directive. The other points of

¹⁸ R. Baldwin, J. Black, *Really Responsive Regulation*, above, p. 8.

the Article require an application before the court in order to obtain enforcement. For the other articles of the Directive, enforcement is up to the national consumer authority and the other sectorial authorities.

Austria and Hungary put in place a complex multiple authorities' system, which involves various competent authorities, including national competition authorities, depending on the violated acts. However, in Hungary the national competition authority is competent for violation of the relevant acts covered by the Study when they affect not only the consumers' interests but also competition. Plus, different sectorial authorities are competent for when the infringement is an unfair commercial practice in a regulated sector.

In Austria, the allocation of the competences between the various authorities is more rigid and based on the list included the annexes to the relevant law. In Finland, the Finnish Ombudsman is competent for the intra-Community enforcement except for when the unfair commercial practice falls within the jurisdiction of one of the sectorial authorities. In Portugal, ASAE is competent to tackle intra-Community unfair commercial practice except for when the unfair commercial practice concerns financial issues. In that case, financial supervisory authorities are competent for the enforcement.

Multiple competent authorities also exist where investigations are carried out by administrative authorities and the cease and desist orders as well as the administrative fines are imposed by the court.. In these countries, cease and desist orders are modelled upon the injunctions covered by the Injunction Directive. This is the case of Austria, Finland, Ireland and Luxembourg. In Ireland, the CCPC is best seen as a horizontal regulator with a wide remit. CCPC shares its competency with other sectoral regulators for particular Directives as they impact a particular sector. The CCPC may apply to the Circuit Court for an order to either cease or desist.

In Sweden, the Consumer Ombudsman has to file an action before the court in order to obtain a cease and desist order only when the infringement is of particular significance. Consumer Ombudsman may issue orders and injunctions in case of minor importance, when there is an established practice or the law is clear.

A 2005 Study on inspection and enforcement showed that, when regulatory regimes are complex and enforcement responsibilities are spread across different regulators, responsive regulation may result weak due to the confusion or interference stemming from the message of regulators¹⁹.

¹⁹ R. Baldiwn, J.Black, G. O'Leary, *Defra Review of Enforcement 2005-6*, London, LSE Law, 2006.

3.3 Public vs. Private Enforcement Bodies

Traditionally, the national approaches to enforcement diverge: some jurisdictions rely on enforcement by private consumer organisations, while others emphasize the role of public authorities, or the criminal justice system. The Nordic Countries conceive consumer law as an autonomous market behaviour law and enforcement is dominated by central agencies which primarily resolve conflicts through cooperation.

Among the Member States examined, Austria has emerged as the only country, which may rely upon national consumer organisations for the enforcement of consumer legislation, according to Article 8(3) of the CPC Regulation. However, the delegated third parties do not have the right to undertake investigative measures such as inspections at companies' premises. In these cases, the investigation is carried out by the national competent authorities, which then transfer the file to the delegated third party for the enforcement actions. As prerequisites for the delegation of enforcement powers, the body must agree to take over this task and have already filed a judicial or extrajudicial action for an injunction against the seller or supplier that relates to the intra-Community infringement.

Croatia has a peculiar provision similar to the system of the delegated third parties. In case of unfair commercial practices, or unfair terms, the consumers' association may initiate appropriate proceedings before the independent organisations against those members of such organisations. If the trader was obliged to respect a code, the proceedings may be initiated before the body responsible for drafting the code.

As already discussed in the 2014 Study, both public and private enforcement have their positive and negative consequences and they respond to different objectives. In general, the enforcers' choice and, eventually, the form of enforcement implemented are affected by the differences between divisible and indivisible remedies (damages and injunctions). When the remedy is damages and compensation is the primary goal, private enforcement is often the dominant strategy²⁰. Deterrence is mainly associated with public enforcement, since public enforcement has deterrence as its goal.

An interesting compromise was found in the Netherlands, where the national competent authority may impose on the infringer the obligation to compensate the damaged subjects. Similarly,

²⁰ F. CAFAGGI, *The Great Transformation: Administrative and Judicial Enforcement in Consumer Protection: A Remedial Perspective*, id. above, p. 510.

undertakings accepted under the Maltese legislation may include compensation for the damaged parties.

The discussion on what model of enforcement is to be preferred goes beyond the scope of the Study, which focuses on the state of play of minimum powers of competent enforcement powers. However, when the enforcement is fragmented among various authorities, some problems may arise from the use of private law and thus private enforcement with regard to consumer protection, especially under CPC Regulation. When competence is scattered across different authorities, some problems may arise during cooperation in order to identify the relevant competent authority for the enforcement. In case of enforcement to be carried out by delegated third parties, the injunction must be requested to a court, and some issues may arise with regard to the standard and the burden of proof that have to be met, which may be higher than before an administrative authority.

3.4 Research of possible shortcomings with regard to the minimum enforcement powers under Article 4(6)

According to the analysis' results, no particular shortcomings have emerged with regard to investigative and enforcement powers. The different judicial frameworks in which the CPC Regulation operates may render difficult, in certain circumstances, to identify the relevant powers. However, the relevant powers are not missing but they have to be derived from other legislative acts or from the combination with other powers. Some issues arose concerning the exact scope of the powers of the interested authority. Below we report on the powers of the CPC Regulation and the Member States which have required a deeper analysis.

- *Article 4(6)(c) of the CPC Regulation: power to carry out on-site inspections*

The main difference among the examined Member States is related to the possibility to carry out inspections without a court warrant. Among the examined Member States, **in Cyprus, Denmark, Ireland, and the Netherlands**, a court warrant is required. In all the other Member States, the relevant authorities have the power to inspect the premises of their own accord..

In **Austria** the competent authorities have the powers to carry out inspections, however they need a court warrant if the trader refuses access to premises, or if there are reasonable grounds that a request of the competent authority would jeopardize the purpose of the inspection.. In Finland, the inspection of private dwellings is never possible, even under court warrant.

In **Estonia**, the Technical Surveillance Authority, competent for the enforcement of Directive 2000/31/EC may only carry out inspections under the misdemeanor proceedings. However, when the infringement constitutes an unfair commercial practice, the Consumer Protection Board which is competent for Directive 2005/29/EC, is entitled to perform the inspections while assisting the Technical Surveillance Board.

In **Sweden**, the authority needs the traders' agreement in order to carry out the inspections: Consumer Ombudsman may request the trader to make available for inspection such premises or corresponding locations where the business activities are conducted. In case of non-compliance with a request, an order to comply may be issued subject to a financial penalty.

- *Article 4(6) (d) of the CPC Regulation: power to request in writing that the seller or supplier concerned ceases the intra-Community infringement*

This enforcement tool should correspond to the concept of "warning letters". Warning letters are considered an important and cost-effective enforcement tool to combat deceptive market practices.

However, in the context of the CPC Regulation implementation, it has emerged that in some Member States, this power seems to overlap with that provided by Article 4(6)(f), i.e. the power to impose the cessation of the intra-Community infringement with a formal decision.

In **Denmark**, the Danish Consumer Ombudsman has the power to negotiate with the trader in order to remove the infringement and it may impose an injunction order to obtain the cessation of the infringement. The power to issue a written warning is not explicitly provided by the Danish Market Act but it is included in the possibility for the authority to try to influence the trader in order to obtain compliance. Similarly, in **Estonia**, where the Consumer Protection Board has extensive powers to carry out negotiations with the trader in order to obtain undertakings or voluntary compliance, or else it may issue a decision imposing a fine.

The distinction between these two different enforcement tools is clearer in Member States that have different jurisdictional competence for the two enforcement tools, e.g. where the formal decision to cease the intra-Community infringement takes the form of a court injunction, such as in Austria and Ireland. In these cases, the national competent authority is entrusted with the power to make a request to cease the intra-Community or national infringement, and the court is in charge of the cease-and-desist order.

In **Austria**, the competent authorities (the Federal Cartel Prosecutor and the Federal Competition Authority) may request the trader to stop the infringement.

In **Ireland** the CCPC is required to engage with the trader first and must request the trader to cease the infringement first. If such an engagement does not halt the infringement then the CCPC can make an application to the Circuit Court for an injunction.

Similarly, the **Lithuanian** State Authority has a detailed procedure for a written request to the seller or supplier concerning the end of the intra-Community infringement. The State Authority writes to the seller requiring him to cease the infringement within 14 days from the receipt of the proposal, informing him of the power to apply to the court in case of non-compliance with the request. The trader or supplier has to reply within 14 days notifying the authority that he has ceased the infringement. The State Authority, having checked that the infringement has ceased, makes a publication on its website.

In **Malta**, the Director General (Consumer Affairs) may issue a compliance order requiring the person to refrain from a commercial practice or adopt the measures included in the compliance notice within the deadline set by the compliance notice.

In **the Netherlands**, a binding order is issued by the Dutch ACM only when there is an infringement.

In **Hungary**, the Consumer Protection Act refers directly to the CPC Regulation for intra-Community infringement, providing that, when the national competent authority is carrying out its functions under the CPC Regulation and there is reasonable ground to suspect an infringement, it has the power to require to the infringer, to terminate the infringement within the timeline imposed by the authority. This power must be exerted before the opening of the self-administrative procedure. In case of non-compliance, the procedure escalates to a cease and desist order.

In **Ireland**, the Competition and Consumer Protection Commission (CCPC) may impose both prohibitions orders and compliance notices. Compliance notices are written direction to cease and remedy a problematic behavior.. As noted by the Law Society of Ireland the CCPC often addressed unfair commercial practices with this enforcement mechanism, which “*seems to provide a useful and relatively rapid means to ensure appropriate enforcement of consumer protection rules*”²¹. The Consumer Protection Act 2007 provides for a detailed procedure and criteria for the compliance notice. The compliance notice must respect certain criteria with regard to its content, including the statement of the alleged contravention, the opinion of the authority and the reasons

²¹ Law Society of Ireland, Competition and Consumer Protection Commission (CCPC) Strategy Statement 2015 – 2017
DEPARTMENT OF JOBS, ENTERPRISE & INNOVATION MARCH 2015
<http://ccpc.ie/sites/default/files/The%20Law%20Society.pdf>

for that opinion, the request to remedy to the contravention within a set deadline. The compliance notice may be appealed before the competent District court within 14 days. In determining the appeal, the court may confirm, vary or cancel the compliance notice.

In **Slovenia** the warning is issued orally during the inspection and registered in the minutes of the inspections. The inspectors provide both a timeline and a deadline to the trader to stop the infringement.

The **Finnish Ombudsman** may only impose a temporary order, and within three days, must ask the court to obtain a definitive order. It may only issue injunctions in matters which are not significant from the viewpoint of application of law or other aspects, after having sought an undertaking from the consumer. Otherwise it has to take the trader before the Court.

Similarly, the **Portuguese** national competent authority may only issue a “precautionary” order. In **Romania**, the power under Article 4(6)(d) is covered by the emergency procedure for the cessation of the infringement. In **Sweden**, the Consumer Ombudsman may only issue injunctions for cases of minor importance. In more serious cases, it must bring the case before the court.

In **Luxembourg**, the national competent authority has to demand the competent court for a warning or a request for cessation to be issued. This is justified by the constitutional architecture which does not allow the competent authority, which is a ministerial department, to adopt and enforce decisions against the trader.

In **Austria, Hungary, Ireland, Lithuania and Malta**, the power under Article 4(6)(d) of the CPC Regulation seems to be very well described and compliant with the intended scope of the CPC Regulation. In the other Member States, there seem to be an overlapping between the interim or emergency orders and/or with the cease and desist order.

- *Article 4 (6)(e) of the CPC Regulation: power to negotiate, obtain and accept the undertakings from the infringing trader and, where appropriate, to publish the resulting undertaking*

An enforceable undertaking is a legally binding agreement where the trader or business agrees to do certain things in order to comply with the law.

As examined in the 2014 Study, the undertakings fall within the categories of “affirmative” decisions, which require businesses to change or rectify a business practice and/or a contractual term. Among the examined Member States, the large majority of the national competent authority

has the power to negotiate with the infringer in order to obtain compliance. In general, powers to reach administrative settlements with the parties are general statutory powers provided to the administrative authorities. In fact, use of administrative settlement is considered is the quicker and more cost effective mechanism for resolving non-compliance.

In jurisdictions where the enforcement is obtained through court injunctions, the authority may lack the powers to obtain undertakings, since it is only appointed investigative powers. This is the case of Austria and Luxembourg.

In **Austria**, if the competent authority considers that an infringement has been committed, it will issue a written warning to the trader to cease the intra-community infringement. If the trader signs the cease and desist statement secured by a reasonable penalty, it is considered that the intra-community infringement has ceased and an out of court settlement has reached. Sect. 39 (4) of the Austrian Non-Contentious Proceedings Act ("Außerstreitgesetz", "AußStrG"), which is the applicable legislation for intra-Community infringements of consumer law before the court, contains a general provision following which a judgement can be without grounds in case the parties concerned agree on the outcome. This is considered the basis for settlement during injunction proceedings.

In **Luxembourg**, the competent authority, which is the Ministry having the consumer protection under its competences, has not the powers to accept undertakings or issue injunctions. The power to order the cessation of the infringement and to impose fines belongs to the court. Article 70 of the Luxembourg Code of civil procedure, applicable in proceedings before the commercial court, provides for the tentative of conciliation of the parties at the beginning of the proceedings. However, injunction application, as provided by Article L 320-1 and following of the Consumer Code are treated through an accelerated and summary procedure (*procédure de tribunal des référés*.) which is an oral and accelerated procedure. This would allow for a short time to negotiate an undertaking but in principle the party may voluntarily commit at the hearing to remove the infringement. The minute of the hearings would take place of the written agreement. The summary procedure does not prevent the possibility that an ordinary procedure to assess the existence and responsibility of the infringements will be open in parallel.

In **Portugal**, the power of the relevant authority to obtain undertakings is not expressly provided by the legislation on consumer protection. However, for the administrative infringements, (to which consumers' infringements belong) the general legislative framework applicable to administrative infringements provides that the offender is not punishable if he/she voluntarily desists from the continuation of the offence or prevents the verifications of the results of the committed infringement.

In **Ireland**, where there is a dualist enforcement model with the competence of the court to issue injunctions and where the competent authority retains the power to negotiate undertakings.

In **the Netherlands**, a specific procedure is provided for the presentation and approval of undertakings. Article 12h of the Basic Act provides for the obligation of the trader or economic organization to submit an application for undertakings before the ACM decides for the cease and desist order or else the administrative fine. Its application suspends the statute of limitation for the cease and desist order. The ACM has the power to determine the period for which the undertaking applies and it may amend or repeal in case of material changes on the facts on which the decision is based or if the trader breaches the undertaking.

The **Hungarian** competent authority has the power to enter an administrative agreement with the trader. The Consumer Protection Act provides for specific content of the undertakings when they are adopted under the CPC Regulation and the obligation of their publication on the authority website. In **Malta**, the duration of the accepted undertakings may not exceed three years. The national competent authority keeps a register of all the undertakings entered with the traders. Under the Maltese regimes, undertakings may include compensation for the damaged parties.

With regard to the power to obtain undertakings in the enforcement of consumer protection under Directive 2000/31/EC, in **Estonia** the sectoral authority may informally negotiate such undertakings. However, in order to be binding the negotiation outcome must be backed by a court decision.

As mentioned above, undertakings and commitments are considered a form of responsive regulation and a superior alternative to infringement proceedings since the authority may achieve earlier results in a more cost-effective manner. The firm under investigation avoids a variety of supplementary costs such as fines, follow-on damages and reputational stain²².

Therefore, it emerges that the power to negotiate and obtain undertakings, with some differences, is well established across different legal context.

- *Article 4(6)(g) of the CPC Regulation: payments into the public purse.*

Article 4(6)(g) provides the possibility, for the competent national authorities, “to require the losing defendants to make payments into the public purse (...) in the event of failure to comply with the decision”.

²² A. Gautier, N.Petit, *Optimal Enforcement of Competition Policy, The Commitments Procedure under uncertainty*, to be published, April 2015.

Administrative fines or criminal sanctions for intra-Community infringements of consumer protection do exist in all the covered Member States. The kind and range of penalties varies depending from the procedure in place. Administrative fines are perceived as an essential tool for the competent national authority to address the violation of legislation. All the examined Member States provide for the possibility to impose administrative fines in case of failure to comply with the adopted decision. The fines may be imposed by the national competent authority or by the Court. Austria and Ireland also provide for criminal sanctions, including imprisonment.

Hungary provides for administrative fines to be imposed both for sanctioning the infringement as well as for the non-compliance with the national competent authority decision.

Sweden provides for penalties in case of violation of orders or injunctions adopted by the Consumer Ombudsman. In this case the Consumer Ombudsman can start proceedings in the district court or Stockholm court specifically for the imposition of the fine as prosecutor (criminal case).

A similar power is given to the **Dutch** national competent authority, ACM. The ACM may enter into a contract with the infringer in order to agree a compensation for the damaged parties. The ACM negotiate the compensation between the subjects who have committed the intra-Community infringement and who have agreed to provide compensation for the damage. The agreement is binding for the parties. **Ireland** has a system of criminal sanctions in place, due to the fact that the national competent authority, CCP, may initiate the criminal proceedings if the trader does not comply with the undertakings or with the compliance notice.

The use of administrative fines or criminal penalties depends on the constitutional doctrine of separation of powers where the role of formally determining if a violation has occurred and the appropriate legal sanction to be imposed lies with the courts. Administrative sanctions are perceived as an essential tool for the competent national authorities to address violation of the legislation. As indicated by the 2006 OECD Report²³, reliance on the criminal or civil justice processes for the imposition of penalties may result in insufficient deterrence for traders. This is a consequence of the fact that, the costs of these processes typically being high, not many cases reach this stage. *“Viewed ex ante, traders will therefore perceive the probability of a criminal or civil penalty to be low. To compensate, the courts might impose a relatively large penalty, but as the case-studies reveal, although courts generally have the power to do this, in practice they are very reluctant to do so for minor trading offences”.*

²³ OECD, *Report on the Effectiveness of the Enforcement Regime*, 2006.

- *Additional powers to address intra-Community infringements granted to the enforcement authorities under national law*

Article 8(2) of the CPC Regulation provides that, in order to obtain the cessation of the intra-Community infringement, “the requested authority shall exercise the powers set out under Article 4(6) and any additional powers granted to it under national law”.

In order to identify the additional powers that the enforcement authorities may use in order to ensure the cessation of the unfair commercial practice, Annex II presents a table for each of the analysed Member State.

Start investigation ex officio. All the Member States provide national competent authorities with the power to start investigation ex-officio. **Finland, Luxembourg, the Netherlands**, do not expressly refer to the start of investigation ex officio or upon consumer complaint.

Tackle past infringements. The majority of the Member States do not make specific references to past or on-going infringements. However, in **Austria**, the relevant acts on the establishment of the competent authorities provide that, when the infringement is ceased, the authorities have the power to make an application for the a declaration stating that the infringement took place. In **Denmark**, the legislation does not make any distinction but, in some cases, the Danish Consumer Ombudsman has tackled past infringements. However, in Denmark the statute of limitation is two years regarding criminal violation and three years regarding other (civil) violation of the legislation in general. In Ireland, the legislation provides for the possibility to prosecute any offence under the Consumer Protection Act 2007, at any time within 3 years after the date of the alleged commission of the offence. In **Malta**, Article 108 of Cap 378 states that administrative proceedings shall be prescribed after three years from the date on which the offence or infringement is alleged to have been committed. In **Sweden**, the action may be filed within the five years Statue of limitation.

Mystery Shopping. No Member State, with the exception of **Slovenia**, expressly provides to its national competent authority the power to carry out mystery shopping. In **Estonia**, the Consumer Protection Board can only make purchases in order to monitor compliance. In **Slovenia**, the Inspection Act 2007 grants to the inspector the power to perform mystery shopping and then identify himself with the official identification card, if he/she detected an offence.

Test purchase. No legislation provides its national competent authority with the expressed power of to carry out test purchase. However, in **Bulgaria** the authority has the power to check the products place on the markets and take samples. Similarly, in **Croatia and Greece**, the competent authorities may take samples during the inspections. In **Hungary**, the authority is entitled to conclude trial transactions in the interests of ascertaining the relevant facts of a case. In **Malta**, the Director General may conduct any test in discharging the functions under the Consumer Affairs Act. In

Sweden, in case the Consumer Ombudsman takes samples during the inspections, it may be asked to pay compensation.

Interim measures. In **Austria, Bulgaria, Cyprus; Estonia, Ireland, Luxembourg, Romania, Sweden**, where the national competent authorities have to apply to the court for an injunction order, the interim measure is imposed by the court. In **Croatia, Denmark, Finland, Hungary, Lithuania, Malta, the Netherlands, Portugal, Slovenia**, the national competent authorities for consumer protection have been expressly granted the power to adopt interim measures. In **Greece**, where there is a self-administrative proceedings, the authority has not been expressly vested with the power to adopt interim measures.

Naming of infringing traders. **The Netherlands** provide expressly for the possibility to name the infringer, except for when the interest of the publication does not outweigh the interest of the data protection. The other Member States only provide for the publication of the decision or injunction against the trader when ordered by the authority or by the court. In **Sweden** the complaints are public. In **Ireland**, Section 86 of the Consumer Protection Act 2007 permits the CCPC to publish a consumer protection list which may comprise of the names and addresses, together with a description of their trade, business or profession and the particulars of the cited breach of.

Take down websites/domains. Only in **Portugal**, the ANACOM, the authority in charge of the electronic commerce, has the power to suspend the activity of the service provider for serious infringements or for urgency reasons. Member States relying on the dualistic model combining administrative authority and civil proceedings (or criminal), competent authorities may ask the court to impose such a measure. However, this is not possible in **Sweden**. **Withdraw/Suspend trade activity.** **Bulgaria, Cyprus, Greece, Malta, the Netherlands, Portugal, Romania, Slovenia** may impose or request to the court the withdrawal of the licences or authorisation. In **Greece**, the authority may impose the shutdown of the undertaking or part of it, for a period between three months and one year, if more than one decision has been issued against the undertaking.

To sanction the infringer. All the Member States foresee sanctions against the infringer, which may be imposed by the administrative authority or by the courts.

Facilitate/Order consumer compensation. **Bulgaria** provides that the Minister of the Economy, Energy and Tourism shall establish a conciliation committee to assist in dispute between consumers and traders. In **Malta**, Article 14(4) of Consumer Act provides that the court, when attesting the violation of the Act, may impose a compensation order. In **the Netherlands**, the Authority for Consumers and Markets may arrange an agreement on compensation between the traders, who have undertaken the commitment to compensate the damages, and the parties who have claimed damages against the traders. In **Sweden**, the Consumer Ombudsman may represent

a consumer or a group of consumer and bring legal action before the Market Court, or for mass damage suits, before the district court or National Board for Consumer Dispute.

In the remaining Member States, the legislation makes no mention of similar provisions. In **Ireland**, the CCPC may seek an order of compensation on behalf of a consumer against a trader from the court following conviction for an offence under the Consumer Protection Act 2007. The CCPC may also accept an undertaking from a trader that makes provision for compensation of certain consumers or a class of consumers. Such undertakings must be consented to by both parties. Damages may also be sought by consumers in separate actions before the court.

MEMBER STATE: AUSTRIA

LEGAL FRAMEWORK

The CPC Regulation has been implemented into the Austrian system by the Cooperation of Consumer Protection Authorities Act (“Verbraucherbehörden-Kooperationsgesetz”, VBKG; BGBl. I No 148/2006), published in the Austrian Federal Law Gazette BGBl. I No. 148/2006, last amended by the Austrian Federal Law Gazette BGBl. I No. 105/2015. The VBKG indicates the competent authorities for the enforcement of the acts covered by the Annex of the CPC Regulation and the single liaison office.

The single liaison office is the Federal Minister for Social Security, Generations and Consumer Protection (§ 2 of the VBKG). The single liaison office is responsible to forward requests for information and enforcement from the “applicant authority” according to Article 3 (f) of the CPC Regulation to the competent authority according to § 9 VBKG. The other competent authorities are designated in accordance with § 3 VBKG, and each of them is competent for the enforcement of the acts included in Annex of the CPC Regulation according to the distribution list included in the Annex to the VBKG.

In their particular area of responsibility, each authority (with the exception of the Austrian Communications Authority and the four Telecommunications Offices (see § 4 (2) VBKG) – their powers are defined in the respective administrative acts) has the same set of powers according to Art 4 (6) of the Regulation and to §§ 5 - 8 VBKG: ranging from investigation powers to the right to apply for an injunction. If more than one authority is competent to take actions because of a suspected intra-community infringement, the authorities have to keep each other informed about the adopted measures and they have to agree on further procedures.

§ 8 VBKG provide for the power of the competent authorities to start a legal proceeding against the trader in order to obtain a court’s injunction. The legal proceeding follows the rules set out in the Austrian Non Contentious Proceedings Act. The competent court is the territorially competent Regional Court; in Vienna this is the Commercial Court of Vienna. The competent authority has the right to represent itself in the proceeding before the court and has the right to publish the decision of the restrictive injunction procedure in an appropriate manner. According to § 8 paragraph 4, in these court proceedings apply also the

rules for preliminary injunction under § 24 of the Federal Act Against Unfair Competition – UWG, for publication under § 25 UWG and for exclusion of the public under § 26 UWG.

The following recital shows, which authority is competent for supervising the compliance with the provisions of which concrete directives / regulations:

1. Federal Cartel Prosecutor (*Bundeskartellanwalt*)

The Federal Cartel Prosecutor is responsible for the provisions for the implementation of the following directives (Annex I; figure 1):

- a) Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC
- b) Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (Official Journal of the European Union 22.5.2008, L 133/66), as far as this directive does not relate to figure 3 lit b).
- c) Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (Official Journal of the European Union 23.6.1990, L 158), as far as this directive does not relate to figure 3 lit c).
- d) **Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts** (Official Journal of the European Union 21.4.1993, L 095)
- e) **Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts** (Official Journal of the European Union 3.2.2009, L 33/10)
- f) *(repealed)*
- g) **Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees** (Official Journal of the European Union 7.7.1999, L 171)
- h) **Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')** (Official Journal of the European Union 17.7.2000, L 178)
- i) **Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directive 98/27/EC** (Official Journal of the European Union 9.10.2002, L 271)
- j) Article 13 of the Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on the online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC

k.) Article 14 of the Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on the online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC

2. **Agency for the rights of passengers** (*Agentur für Passagier- und Fahrgastrechte*)

The Agency for the rights of passengers is responsible for the following regulations and for the national regulations enacted by implementing those EU-regulations (Annex I; figure 2):

- a) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Official Journal of the European Union 17.2.2004, L 046)
- b) Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (Official Journal of the European Union 17.12.2010, L 334)
- c) Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (Official Journal of the European Union 28.2.2011, L 55/1)

3. **Federal Competition Authority** (*Bundswettbewerbsbehörde*)

The Federal Competition Authority is responsible for the national regulations enacted by implementing the following directive (Annex I; figure 3):

- a) Article 1, 2 lit c, 4, 5, 6, 7 and 8 of the Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (Official Journal of the European Union 27.12.2006, L 376/21)
- b) Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (Official Journal of the European Union 22.5.2008, L 133/66)
- c) Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (Official Journal of the European Union 23.6.1990, L 158)
- d) (*repealed*)
- e) **Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers** (Official Journal of the European Union 18.3.1998, L 80)

- f) **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 and amending Council Directive 84/450/EEC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (Official Journal of the European Union 11.6.2005, L 149/22)**

4. Austrian Communications Authority (*Kommunikationsbehörde Austria "KommAustria"*)

The Austrian Communications Authority is responsible for the national regulations enacted by implementing the following directive (Annex I; figure 4):

- Article 9-11 and 19-26 of the Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (Official Journal of the European Union 15.4.2010, L 95/1)

5. Federal Office for Safety in Health Care (*Bundesamt für Sicherheit im Gesundheitswesen*)

The Federal Office for Safety in Health Care is responsible for the national regulations enacted by implementing the following directive (Annex I; figure 5):

- Article 86-100 of the Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (Official Journal of the European Union 28.11.2001, L 311), last amended by Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 (Official Journal of the European Union 30.4.2004, L 136/34).

6. Telecommunication Offices mentioned in Article 113 (2) of the Austrian Telecommunications Act (*Fernmeldebüros*)

The Telecommunication Offices are responsible for the regulation enacted by implementing the following directive (Annex I; figure 6):

- Article 13 of the Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (Official Journal of the European Union 31.7.2002, L 201).

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:	§ 6 (1) VBKG	§ 6 (1) VBKG Where there is a reasonable suspicion of an intra-Community infringement, the competent authority may request that – within a reasonable period –
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	§ 6 (1) 1 VBKG	§ 6 (1) 1. the trader provides all documents of any kind and form (including electronic data carriers) that are relevant and directly related to the suspected intra-Community infringement and allows to make copies and extracts of the documents and print-outs of the electronically saved data.
(b) to require the supply by any person of relevant information related to the intra-Community	§ 6 (1) 2 VBKG	§ 6 (1) 2. the trader and other persons provide information related to the suspected intra-Community infringement and

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
infringement;		
(c) to carry out necessary on-site inspections;	§ 6 (1) 3., (2), (3), (4), (5) VBKG	<p>§ 6 (1) 3. the trader grants access and on-site inspection of the company's permanent rooms during the opening times or business hours (official inspection by the competent authority).</p> <p>§6 (2) If the authorities request according to § 6 (1) – in the light of the circumstances of the individual case – could possibly endanger the purpose of the investigation or if the authorities request is not complied with, the court may, at the request of the competent authority, by means of a court order (in compliance with § 5 (1) and (2)*), oblige the seller or supplier, or in the event of § 6 (1) 2, even the other person, to enable the competent authority to perform the investigations mentioned in § 6 (1). If it is necessary for the purpose of the investigation, the court may, upon application by the competent authority, temporarily declare such a court order binding and enforceable.</p> <p>*) principles of proportionality</p> <p>§ 6 (3) The seller or supplier, at which the investigation is to be conducted, shall be informed about it just before the</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		investigation starts. § 6 (4) Upon the competent authorities request, members of the public security services have to provide assistance within their statutory scope for the competent authority in "official inspections" as referred to in § 6 (2). § 6 (5) The competent authority may use the results of the investigations only for the purpose pursued by the investigations. § 84*) of the Austrian Code of Criminal Procedure ("CCP"), published in the Austrian Federal Law Gazette I No. 631/1975, and existing powers to prosecute criminal acts or omissions remain unaffected. *) § 84 CCP lays down the rules for obligations of authorities to notify criminal activities to the Criminal Prosecutor and to the public security authorities.
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	§7 (2) first sentence of VBGK	§ 7 (2) first sentence There is no more risk of a subsequent intra-Community infringement in case when, after a warning notice has been issued to the seller or supplier concerned, the seller or supplier signs a cease-and-desist statement secured by a reasonable penalty (§ 1336 of the Austrian Civil Code) within a reasonable period of time.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		(This provision requires that the competent authority may request in writing that the seller or supplier concerned ceases the intra-Community infringement.)
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	§ 7 (1) and (2) VBKG	See above
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish	§ 7 (1), (2) and (3) VBKG	§ 7 (1) In case of a suspected intra-Community infringement the competent authority has the right to file an action for a restrictive injunction against the seller or supplier. § 7 (2)

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
resulting decisions;		There is no more risk of a subsequent intra-Community infringement, when after a warning notice has been served on the seller or supplier concerned, the seller or supplier signs a cease-and-desist statement secured by a reasonable penalty (§ 1336 of the Austrian Civil Code) within a reasonable period of time. The competent authority has the right to publish the cease-and-desist declaration in an appropriate manner. § 7 (3) Before an injunction is filed to court, the competent authority has to give the seller or supplier the opportunity to review the results of the investigations and to comment on them as long as it does not endanger the purpose of the proceeding.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with	§ 7 (1) and (2) VBKG	§ 7 (2) There is no more risk of a subsequent intra-Community infringement, when after a warning notice has been served on the seller or supplier concerned, the seller or supplier signs a cease-and-desist statement secured with a reasonable penalty (§ 1336 of the Austrian Civil Code) within a reasonable period of time. The competent authority has the right to publish the cease-and-desist declaration in an appropriate manner.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
the decision.		

Article 8(3) of the CPC Regulation

Article 8(3) and (4) of CPC Regulation have been implemented by § 12 VBKG. Therefore the competent authority has the right to engage certain bodies designated in accordance with Article 4 (2) CPC Regulation to start an injunction procedure. However, the delegated parties do not have the right to take investigative measures such as inspections in the premises. Prerequisites for delegating the enforcement powers are that the body agrees to take over this task and that this body has already filed a judicial or extrajudicial action for an injunction against this seller or supplier that relates to the intra-community infringement. The designated bodies are listed in Article 14 Unfair Commercial Practices Law, Article 29 Consumer Protection Law and Article 85a Medicines Law and includes the chamber of commerce (Article 14 Unfair Commercial Practices Law), the Consumer Information Association (Article 29 Austrian Consumer Protection Law) and the Austrian Chamber of Pharmacists (Article 85a Austrian Medicines Law).

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;		
(b) to require the supply by any person of relevant information related to the intra-Community infringement;		
(c) to carry out necessary on-		

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
site inspections;		
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;		
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	§12 VB GK	<p>§ 12. (1) The competent authority may in accordance with Art. 8 para. 3 and 4 of Regulation (EC) on cooperation in consumer protection and with the principle of proportionality in accordance with § 5 a in § 14 UWG 1984, in § 29 Consumer Protection Act or in § 85a Medicines Act, BGBl. No. 185/1983, instruct a body, which agrees to do so, to obtain injunctive relief against a suspected intra-Community infringement in the sense of § 7, that this body has already filed a judicial or extrajudicial action for an injunction against this trader that relates to the intra-community infringement. (2) The competent authority may provide the authorized body only information available that are necessary to enforce the claim for injunctive relief. The delegated body may also use this information only in so far.</p> <p>(3) The delegated body is bound to secrecy about all their information made available and shall ensure the confidentiality of such information</p> <p>The competent authority has – in compliance with Article 8(3) and (4) of Regulation (EC) No 2006/2004 and the</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		principles of proportionality set out in § 5 VBGK– the right to engage certain bodies designated in accordance with the second sentence of Article 4(2) of Regulation (EC) No 2006/2004 with enforcing an injunctive relief in terms of § 7 VBGK. Prerequisites for delegating the enforcement powers are that the body agrees to take over this task and that this body has already filed a judicial or extrajudicial action for an injunction against this seller or supplier that relates to the intra-community infringement.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;		
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the		

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
event of failure to comply with the decision.		

MEMBER STATE: BULGARIA

LEGAL FRAMEWORK

The main legislative Bulgarian act regulating consumer protection is the Consumer Protection Act (S.G. 99/2005) ("CPA"), entered into force on June 2006, and was recently amended in 2014 in order to implement Directive 2011/83/EU. The CPA covers all the European legislation on consumer protection, except Directive 2006/114/EC which is covered by the Protection of Competition Act. According to the CPA, The Commission for Consumer Protection (CCP) is the main enforcement authority having a wide range of statutory powers and duties extended. The CCP was designated to be the control authority responsible for the enforcement of 12 directives that are included in CPC Regulation and at the same time it will act as a single liaison office for the Republic of Bulgaria. The Bulgarian Drug Agency is the competent authority under one directive, the Directorate General "Civil Aviation Administration" is the competent authority under one regulation and the Council for Electronic Media is the competent authority under one directive. The CCP also acts as responsible for Directive 2001/95/EC on General Product Safety and as RAPEX national contact point, sending and reacting to notifications for dangerous products. The CCP is also competent for the enforcement of Directive 2000/31/EC which was implemented by means of the Electronic Commerce Act (ECA) 2006.

The Commission for the Protection of Competition, which is the national competent authority, is competent for the enforcement of Directive 2004/116/EC. The provisions on comparative and misleading advertising was repealed from CPA by SG No. 64/2007 and moved in the Protection of Competition Act (PCA) as a part of the Bulgarian unfair competition rules. PCA prohibits misleading advertising and lists the criteria, according to which comparative advertising may be allowed. In this regard PCA transposes Directive 2006/114/EC. However, Article 68K of the CPA provides the where there is an unfair commercial practices as defined by Article 68d, which includes also misleading and aggressive practices "*where the unfair practice arises from activities related to advertising, notwithstanding the pecuniary penalty, the Chairperson of the Commission for Consumer Protection may direct the advertiser and/or the advertising agency to publish, at their own expense and in an appropriate form, the written statement ascertaining the violation, as well as the duly corrected advertisement*". Therefore, when comparative and misleading advertising is directed to consumer and constitutes an unfair, misleading and aggressive practice, the CCP is competent for the enforcement.

The enforcement powers available to the CCP are included in Chapter 10 and 11 of the CPA. Article 68a CPA (SG No. 53/2006, effective 1.01.2007) prohibits “any act or omission, which contradicts the consumer interests’ protection legislation, indicated in Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws of European Union Member States”.

The CCP’s most relevant powers include: (i) The issue of regulations and acts establishing violation of consumer protection legislation; (ii) the verification of consumer complaints with regard to the violation of their rights and unfair contract terms; (iii) price indications’ control; (iv) mystery shopping and other test; (v) business documents inspection; (vi) prohibit (banning, withdrawing) or limit the marketing of goods and services, especially of those posing risks to consumer’s health and safety; (vii) law enforcement supervision in the matter of general product safety and unfair commercial practices; (viii) necessary measures in case of legislation infringement; (ix) initiating court actions for the protection of collective interests of consumers. At local level, there are Consumer Protection Units functioning as local authorities, competent both in the field of enforcing the Law on Consumer Protection (with regard to price indication, product labeling, consumer claims settlement) and in providing information and advice to consumers.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISELADING AND COMAPRATIVE ADVERSTING DIRECTIVE 2011/83 ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW(ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in		

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLADING AND COMAPRATIVE ADVERSTING DIRECTIVE 2011/83 ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 192 CPA Article 192a CPA (SG No. 105/2006)	Article 192. Officials of the control authorities included in Article 191 (Consumer Protection Commission) herein shall be entitled to: (...) <ol style="list-style-type: none"> 2. require any documents needed in connection with the control exercised thereby; (...) Article 192a. (New, SG No. 105/2006) (1) The officials of the Commission for Consumer Protection shall also be entitled to: <ol style="list-style-type: none"> 1. access to all the documents directly or indirectly relevant to a breach of this Act, regardless of the form of the document 2. (...)

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLADING AND COMAPRATIVE ADVERSTING DIRECTIVE 2011/83 ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Article 20(2)(1) ECA (SG No. 105/2006)	The Commission for Consumer Protection shall exercise comprehensive control over the observance of this act and the regulation referred to in Article 6, paragraph (2). (2) (New - SG No. 105/2006) While performing their office duties, the officials of the Commission for Consumer Protection shall be entitled to: <ol style="list-style-type: none"> (1) access to all the documents directly or indirectly relevant to a breach of this Act or of the legislation of the EU Member States transposing the requirements of Directive 2000/31/EC of the European Parliament and of the Council on Electronic Commerce, regardless of the form of the document;
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 192a CPA(SG No. 105/2006) Article 20(2)(2) ECA (, SG No. 105/2006)	(1) The officials of the Commission for Consumer Protection shall also be entitled to (...) <ol style="list-style-type: none"> 2. order any person to provide information on a breach of this Act that he knows of; (...) Article 20 ECA (...) <ol style="list-style-type: none"> 2. order any person to provide information on a breach as per Item 1, that he knows of;

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(c) to carry out necessary on-site inspections;	Article 192a CPA (SG No. 105/2006) Article 20(2)(3) ECA (SG No. 105/2006)	Article 192. Officials of the control authorities covered by Article 191 herein shall be entitled to: <ol style="list-style-type: none"> 1. unimpeded access to production facilities and business premises; (...) Article 192a. (New, SG No. 105/2006) (1) The officials of the Commission for Consumer Protection shall also be entitled to: <ol style="list-style-type: none"> (...) 3. carry out on-site inspections. Article 20 ECA <ol style="list-style-type: none"> (...) 3. carry out on-site inspections.
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 192a CPA (SG No. 105/2006) Article 28 Administrative Violations and Sanctions Act	(2) The Chairperson of the Commission for Consumer Protection shall have the right to: <ol style="list-style-type: none"> 1. order the offender in writing to discontinue the breach under this Act; Article 28 In the event of minor administrative violations the penalizing authority shall have the right: a) to commute the

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	Article 20(4) ECA , (SG No. 105/2006)	imposition of a sanction to an oral or written admonition to the offender, warning him or her that a repeat violation shall cause the imposition of an administrative sanction. Article 20(4) (4) The Chairperson of the Commission for Consumer Protection shall have the right to: 1. order the offender in writing to discontinue the breach as per Item 1 of Paragraph 2;
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 192a CPA (SG No. 105/2006) Article 20(4) (2) ECA (SG No. 105/2006)	(2) The Chairperson of the Commission for Consumer Protection shall have the right to: (...) 2. require from the offender to make a statement that he will discontinue the breach under this Act and, if necessary, oblige him to disclose the statement in the public domain; Article 20(2)ECA 2. require from the offender to make a statement that he will discontinue the breach as per Item 1 of Paragraph 2 and, if necessary, oblige him to disclose the statement in the public domain;
(f) to require the cessation or prohibition of any intra-	Article 192a CPA (SG No. 105/2006)	(2) The Chairperson of the Commission for Consumer Protection shall have the right to: (...)

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Community infringement and, where appropriate, to publish resulting decisions;	Article 20(4)(3) ECA (SG No. 105/2006)	2. order the termination or prohibition of any breach of this Act and, if necessary, disclose the order for termination or prohibition of the breach in the public domain. Article 20 ECA 3. order the termination or prohibition of any breach as per Item 1 of Paragraph 1 and, if necessary, disclose the order for termination or prohibition of the breach in the public domain
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article 226 CPA (SG No. 105/2006) Article 230 CPA (SG No. 105/2006)	Article 226. (1) Any natural person, who fails to fulfil a court order to take measures under Article 189 herein for cessation of infringements or who, in defiance of a court order, continues to engage in an unlawful commercial practice or to offer contracts with unfair terms to consumers, shall be liable to a fine, and any such sole trader and legal person shall be liable to a pecuniary penalty, of BGN 5,000 or exceeding this amount but not exceeding BGN 25,000. (2) (Amended, SG No. 64/2007, effective 11.08.2007) The fine or pecuniary penalty shall be imposed according to the procedure established by Article 405 of the Judiciary System Act. Article 230. Any natural person, who fails to execute a mandatory prescription by a consumer protection control authority for elimination of non-conformities and violations of the law, outside the cases under Article 215 herein, shall be liable to a fine, and any such sole trader and legal person shall be liable to a pecuniary penalty, of BGN 200 or exceeding this amount but not exceeding BGN 1,000.

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	Article 24 ^a ECA (New, SG No. 105/2006)	Article 24a. (1) In case of a failure to execute an order as per Article 20, Paragraph 2, Item 2 and Paragraph 4, the culpable persons shall be sanctioned to pay a fine in the amount of BGN 250 to 1,000, while sole traders and legal persons shall be sanctioned to make a penalty payment in the amount of BGN 500 to 2,000. (2) In case of a repeat offence under Paragraph 1, the culpable persons shall be sanctioned to pay a fine, while sole traders and legal persons shall be sanctioned to make a penalty payment in a double amount

MEMBER STATE: CROATIA

LEGAL FRAMEWORK

Consumer protection is realized in Croatia through the National Consumer Protection Program. The National Consumer Protection Program is approved by the Croatian Parliament upon the proposal of the Government of the Republic of Croatia for the period of four years. The piece of legislation regulating the status and protection of consumers being natural persons in the Republic of Croatia is the “Consumer Protection Act” (CPA) entered into force in 2003.

In Croatia, the competent authority under Regulation 2006/2004 is the State inspectorate (“SI”). The SI is a central state administration body tasked with investigative power that was established exclusively to perform inspection activities. The SI is made of 520 market inspectors within their respective organisations’ units throughout the country (head office, 5 regional units and 38 branch offices (sub-units)) perform inspection activities, especially in the trade of goods’ field, quality control of products, crafts, trade, services, catering and tourism. Market inspectors carry out regular inspection as well as those based on consumer complaints across the entire Croatian territory.

The work of market surveillance authorities is regulated by the Law on the Scope and Organization of Ministries and State Administrative Organizations and the Law on State Inspectorate (Official Gazette No. 76/99, 96/03, 151/03, 160/04, 174/04, 33/05, 48/05, 129/05 and 140/05). The main responsibility for market-related inspection duties falls on the inspectors of the State Inspectorate, but there are certain inspections that fall within the competence of other ministries such as: (i) Ministry of health – Sanitary inspection;(ii) Ministry of Agriculture, Forestry and Water –Management – Veterinary inspection.

Art. 105 CPA provides that “*Supervision over the enforcement of this Act shall be performed by the authorised inspector of the State Inspectorate, as well as other authorised inspectors (hereinafter referred to as: inspector), in accordance with the authority established by law*”. In order to strengthen its legal and administrative capacity and ensure an effective alignment of Croatian market surveillance system with those of the European Union, in May 2005, the Government of the Republic of Croatia adopted a new Regulation on the internal organization of the State Inspectorate (N° 66/05, 42/06), creating, among others, a “Department of consumer protection” in charge of the investigations for consumer legislation infringements.

Certain independent organizations, such as business organizations, may carry out voluntary control on the unfair practices of the trader and adopt a decisions concerning such practices. This does not prevent the consumers associations or other persons from filing a request before the court for an injunction order.

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6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:	Article 136(1) of the Consumer Protection Act (Official Gazette No 41/14)	While applying the provisions of the Regulation 2006/2004, the market inspector is entitled to do the following things:
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 136(1)(1) of the Consumer Protection Act (Official Gazette No 41/14)	to have access to any relevant document, in any form, related to the infringement of consumer rights within the European Union
(b) to require the supply by any person of relevant	Article 136(1)(2) of the Consumer Protection Act (Official Gazette No 41/14)	to require from trader any relevant information related to the of consumer rights within the European Union

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information related to the intra-Community infringement;		
(c) to carry out necessary on-site inspections;	Article 136(1)(3) of the Consumer Protection Act (Official Gazette No 41/14)	to carry out necessary inspections in line with the national rules on trade inspection
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 136(1)(4) of the Consumer Protection Act (Official Gazette No 41/14)	to request from trader to cease the infringement of consumer rights within the European Union and, if needed, to publicly publish that;
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 136(1)(5) of the Consumer Protection Act (Official Gazette No 41/14)	to obtain from the trader responsible for the breach of consumer rights within the European Union an undertaking that the trader will stop with the infringement and, if needed, to publish that undertaking to the public
(f) to require the cessation or	Article 136(1)(4) of the Consumer Protection	Article 136(1)(4)

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prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Act Article 137 of the Consumer Protection Act Article 147(2) (3) (4) (5) of the Consumer Protection Act	(1) Where the competent inspector during inspectional supervision establishes that a person against whom the proceedings are conducted has acted contrary to the provisions of this Act and other regulations listed in Article 131 of this Act, he or she shall issue a decision ordering that person to cease with such conduct and to eliminate established irregularities, stipulating in the same time the period within which the irregularities must be eliminated. (2) Where proceedings from Article 131 of this Act are conducted due to the violation of Articles 107 to 115 of this Act and a person against whom the proceedings are conducted has not yet commenced certain business practice, but the commencement of that business practice is imminent, the competent inspector shall, if he or she establishes that this business practice is unfair within the meaning of the provisions of Part III of this Act, issue a decision prohibiting the person against whom the proceedings are conducted to use this business practice. (3) Where proceedings from Article 131 of this Act are conducted due to the violation of Articles 400 to 429 of the Civil Obligations Act, the competent inspector shall issue a decision ordering the person against whom the proceedings are conducted to fulfil its obligation to the consumer only if, based upon the circumstances of the specific case, it is indisputable that the consumer is in the specific case entitled to the rights provided in these provisions. Article 137

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		<p>Where the competent inspector orders by a decision the cessation of a conduct which is contrary to the provisions of this Act and other regulations, listed in Article 131 of this Act, or if he or she prohibits such conduct, he or she shall order the person against whom the proceedings are conducted to publicise that decision or a corrective statement at its own expense, if the infringement consisted of publication of misleading information.</p> <p>Article 147</p> <p>(2) The competent inspector shall issue a decision prohibiting a business practice deemed unfair within the meaning of Part III of this Act.</p> <p>(3) The responsible inspector shall issue a decision ordering a trader to eliminate established irregularities by determining a period within which that irregularity must be eliminated, if he or she finds during the inspectional supervision that the trader: - has not fulfilled the contract concluded with the consumer without a justifiable reason (Article 5, paragraph 1) - has failed to replace a nonconforming product with a new one or reimburse the consumer for the price paid for that product or charged a lower price for it or, subject to the consumer's consent, eliminate the nonconformity of the product, where being obliged to do so (Article 5, paragraph 2), - in case of nonconformity of the service rendered, did not refund the amount paid by the consumer for that service, or reduce the price or eliminate the nonconformity, where being obliged to do so (Article 5, paragraph 3), - did not repair a product sold to the consumer with a guarantee in a timely manner or else replaced the product with a correct one (Article 5, paragraph 6), - has failed to present the consumer with the documents accompanying the</p>

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		<p>products (Article 13) stipulated by this Act, - - did not deliver the product intended for the prize to the consumer (Article 15), - requires or expressly makes the purchase of the product or the provision of the service conditional upon advance payment in whole or in part and delivers the product or renders the service after receiving such advance payment, and does not to pay interest to the consumer upon delivery of the product or provision of the service at the interest rate granted for three month time deposits by the trader's commercial bank, if the time of delivery was longer than one month (Article 29), - has failed to provide prior information according to Articles 32, 43, 44, 57 and 62 of this Act, - the consumer credit agreement does not contain all data according to Article 74 of this Act, - has failed to notify the consumer according to Article 77 of this Act, - advertising is not indicated as required under the provisions of Article 78 of this Act, - in case of credit repayment before maturity, acts in contravention of the provisions of Article 79 of this Act, - has failed to notify the consumer as required under the provisions of Articles 85, 86 and 89 of this Act, - the agreement does not contain data according to Article 90 of this Act.</p> <p>(4) The responsible inspector shall issue a decision ordering the trader to: - return to the consumer the amount charged in excess if found that the trader has not observed the prescribed or established prices and the terms of sale (Article 12, paragraph 3), - return the whole payment increased by interest on arrears, if found that the trader has not returned in due time the whole amount paid by the consumer based on the agreement, increased by interest on arrears as provided in Article 35, paragraph 3, Article 48, paragraph 3 and Article 52, paragraph 3.</p> <p>(5) An appeal against the decision referred to in paragraphs 3 and 4 of this Article does not defer enforcement.</p>

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(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	<p>Article 116(4) of the Consumer Protection Act (Official Gazette No 41/14)</p> <p>Article 50 of the Law on Trade Inspection (Official Gazette No 14/14)</p>	<p>Consumer Protection Act provides a number of fine that the SI may impose on traders who have breached Consumer Protection Act. These fines are to be paid into a public purse and they range in the amount between 10 000 and 100 000 Croatian kunas.</p> <p>The Law on Trade Inspection, a general law that applies to all inspection, provides that legal entity which fails to comply with the decision of the trade inspector will be fined with the fine in the amount between 50 000 and 120 000 Croatian kunas.</p> <p>The responsible person in that entity will be fined with the fine in the amount between 6 000 and 20 000 Croatian kunas. If the decision of the trade inspector was issued against a physical person registered as a trader, then the fine will be in the amount between 20 000 and 80 000 Croatian kunas.</p> <p>Eventually, if the decision of the trade inspector is issued against a physical person, the fine will be in the amount between 5 000 and 20 000 Croatian kunas.</p> <p>All the money goes into the public purse of Croatia.</p>

Voluntary control by other competent bodies

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6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;		
(b) to require the supply by any person of relevant information related to the intra-Community infringement;		
(c) to carry out necessary on-		

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site inspections;		
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;		
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 141 the Consumer Protection Act	Article 141 (1) Initiating proceedings pursuant to Article 131 of this Act does not exclude the possibility of voluntary control of traders' conduct by certain independent organisations nor the possibility that persons mentioned in Article 132 of this Act initiate appropriate proceedings before these independent organisations against those members of such organisations who act contrary to the provisions of this and other laws listed in Article 131 of this Act. (2) Where proceedings referred to in Article 131 of this Act is initiated due to the violation of Articles 107 to 115 of this Act, this shall not exclude the possibility of control of unfair business practice by the drafter of a code nor does it exclude the possibility that persons or organisations mentioned in Article 132 of this Act initiate appropriate proceedings before the drafter of a code or before one of its bodies against those traders who act contrary to the code of conduct. (3) Initiating proceedings from paragraphs 1 and 2 of this Article shall in no way constitute a waiver of the right to initiate proceedings provided by Article 131 of this Act against a certain trader, a group of traders or traders' interest associations.
(f) to require the cessation or		

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prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;		
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.		

MEMBER STATE: CYPRUS

LEGAL FRAMEWORK

The Competition and Consumer Protection Service (“the CCP Service”) under the Ministry of Commerce, Industry and Tourism of Cyprus, is the main competent enforcement body for consumer protection. It has been designated as the Single Liaison Office of Cyprus as well as the competent authority responsible for the enforcement of the following twelve out of fifteen European Directives and one Regulation embodied within the CPC Regulation.

The main powers of all CCP Service are: to carry out inspections, to either to apply to the Court for the issue of a prohibitory or mandatory order, including an interim order, to impose an administrative fine with regard to transgressions of consumer protection legislations. Where the CCP Service considers that there is a law infringement, it may, if it deems to be necessary, apply to the District Court for the issue of a prohibitory or mandatory order against any physical or legal person who, according to the Court's opinion, is liable for the transgression of any legislation.

The Promotion of Services and Electronic Commerce Section of the Trade Service of the Ministry of Commerce, Industry and Tourism is responsible for the electronic commerce under Law 156(I)/2004, which has implemented Directive 2000/31/EC. The Trade Service is also the Competent Authority for Consumer Protection Cooperation with regard to the proper functioning of the Internal Market and electronic commerce between Member States. The main responsibilities of the Trade Service regarding the implementation of CPC Regulation are the following: market surveillance and investigation on information society service providers (on its own initiative or after a consumer complaint); investigation of alert cases received via the CPC System, especially when the alert involves a service provider registered in Cyprus; exchange of information with other Competent Authorities of other EU Member States in order to establish whether an intra-Community infringement has occurred. In case of non-compliance of the national legal framework by an information society service provider, the Trade Service can apply to Court for the issue of a prohibitory or mandatory order, including an interim order.

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	Article 22(c), Part V, Law 133(l)/2013	The Director shall be responsible for investigating, after submission of a complaint or ex officio, the extent to which any contractual term which is intended for general use is unfair Article 22(c) examine any data registered in mechanical, electrical or electronic data system, and any, books and documents, which are premises or other space or means of transport, for which they have reasonable cause to believe they contain any information or registration regarding a possible violation and obtain copies, or extracts thereof,
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 9(3), Part V of the Unfair Commercial Practices Business to Consumers Act of 2007	(3) The owner and manager of any premises, other place or means of transport and the owner of any product being investigated for breach and the person offering or providing a service being investigated for breach and any person employed at the premises, other place or means of transport entered by a member of the Authorised Service under indent (1) shall each be obliged to provide the member of the Authorised Service with any information held by them and all assistance which the member of the Authorised Service may reasonably request and the member of the Authorised Service shall be empowered to require and receive any such information and assistance. (...) (5) If, under this Article, a member of the Authorized Service

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	Article 22 (3) Part V, Law 133(l)/2013 Article 10(1) and (4) Law 96(l) 1996	<p>(a) take a sample of the product, and / or (b) obtains a copy, photocopy or extract data, books or documents, and / or (c) withhold or bind the certificate of transport, or products or parts of the products, shall give to the person whose interests are affected by that act or decision, or the person who at that moment retained the objects referred to in paragraphs (a), (b) and (c), or is responsible for the areas or for the means of transport, in the case referred to in paragraph (c), as soon as possible written or otherwise according to the circumstances, the reasons on which the act or the decision is based.</p> <p>Each person has the obligation to provide to the members of the Authorised Agency any information in their possession and every facility, which members of the Authorised Service reasonably require that they should have the power to require and to receive such information and assistance.</p> <p>Article 10(1)(4) (1) For the purpose of facilitating the exercising of the powers conferred under this Act , the Director may by written notice to provide the information or to submit to him any documents defined or described in the notice. (4) If a person fails to comply with a notice under subsection (1) , the Court may, upon application by the Director , issue an appropriate decree and require to the person to comply . This decree may provide that all expenses or costs resulting from the application will be borne person or company officers or other people deemed responsible for this failure .</p>

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		(a) to enter, inspect, investigate and to carry out control of any premises or other place (except residence), having reasonable cause to believe that celebrated contravention or failure to comply with this Law. (2) Notwithstanding subsection (1), are not allowed in residence or exercise at residence of any other authority which grants the subsection (1), except upon a court order.
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 11(2)(a),(b), (c) of Part V, of the Unfair Commercial Practices Business to Consumers Act of 2007	(2) During the investigation of a complaint or investigation on own initiative cited in indent (1), if the Authorised Service ascertains a breach of this Law, is shall be empowered to take the following steps: <ul style="list-style-type: none"> a) to order or recommend that the party concerned, or any person who in its view is involved in or responsible for the breach, or any person who in its view, where an unfair commercial practice has yet to be implemented but where in the reasonable view of the Authorised Service will soon be implemented even if actual loss or damage, or deliberate acts or negligence by the trader are not proven, to terminate the breach within a set deadline and avoid repeating it in the future; b) to publish or require the perpetrator to publish its decisions in whole or in part, in the format and the manner it considers suitable; c) to require in addition that the perpetrator publish a corrective statement within a set deadline in the format and the manner it considers suitable; (...)
(e) to obtain from the seller or supplier responsible for intra-	Article 11 (3) of Part V, of the Unfair Commercial Practices Business to	(3) During the investigation of any breach pursuant to Indent (1), the Authorised Service may, where it considers this necessary, take into account any undertakings made to consumers by the perpetrator in relation to breach

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Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Consumers Act of 2007 Article 9(3) Law 96(I) 1996 Article 24(3), Part V, Law 133(I)/2013	and the prospects of how and at what time it can be redressed or removed. Article 9(3) (3) If he deems it necessary, the Director may take account of any undertaking made to him by a person or on behalf of any person as regards to the ongoing use of such terms in contracts which they conclude with consumers Article 24(3), 3) In accordance with subsection (1) during the investigation of any offense, the Authorised Service may, if it considers it appropriate to consider the any undertaking given to the consumer by or on behalf of the offender with respect to the said violation. The Authorised Agency must duly justify its decision in connection with the exercise of any of the powers provided for in subsections (3) and (4) of Article 23 and in paragraphs (d) and (e) of subsection 2) of this section
(f) to require the cessation or prohibition of any intra-Community infringement and, where	Article 11(2)(f),(g) of Part V, of the Unfair Commercial Practices Business to Consumers Act of 2007	(f) in a petition to the court lodged in accordance with the provisions of Article 13 of this Law, to request that a prohibitive decree or direct order be issued including, any interim decree, against any person who in its view is involved in the breach or is responsible for the said breach and/or; (g) to order suppliers of remote media and any persons who published or arrange for the publication of advertisements to terminate, where they are able to

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR TERMS DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
appropriate, to publish resulting decisions;	Article 13(1) Part V, of the Unfair Commercial Practices Business to Consumers Act of 2007	<p>do so, those practices which have been declared unfair commercial practices under a court ruling in line with Article 13 of this Law or commercial practices which the Authorised Service has found to be unfair commercial practices;</p> <p>(...)</p> <p>(g) to order the provider of remote media and any persons who published or arrange for the publication of advertisements to terminate, where they are able to do so, those practices which have been declared unfair commercial practices under a court ruling in line with Article 13 of this Law or when the Authorised Service has declared those to be unfair commercial practices.</p> <p>13(1). The court which hears any petition under Article 11(2)(f) and Article 17 of this Law shall be empowered, without prejudice to the provisions of the Civil Procedure Law, the Courts Law and the Civil Procedure Rules of Procedure and any other laws or regulations which amend or replace them, to issue a prohibitive decree or direct order including any interim decree which may order:</p> <ol style="list-style-type: none"> a) immediate cessation and/or non-repetition of the breach which has occurred; b) corrective measures within a deadline set, required in the view of the court to redress the unlawful situation generated by the breach; c) publication of all or part of the court ruling, or publication of a corrective notice to remove any ongoing repercussions of the breach and/or d) any other measure or action considered necessary or reasonable under the circumstances of the

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR TERMS DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Article 9(2) Law 96(l) 1996 Article 24(2), Part V, Law 133(l)/2013	specific case. (2) The decree issued pursuant to indent (1) may relate not only to specific acts, omissions or conduct of the perpetrator by to similar future acts, omission or conduct thereof as well. Article 9(2) When, after an investigation which is carried out in accordance with paragraph (1) concerning any contractual term, the Director considers that a term is unfair, he may, if he considers it desirable, request the court to issue a prohibitory order, including a temporary injunction, against any person who, in his judgment, uses or intends to use any such terms in contracts concluded with the consumer. Article 24(2) Where the Authorized Agency, in accordance with subsection (1) of this Article, investigates ex officio or upon a complaint and it finds breach of this Law, it has the authority to make the following actions: a) to order or recommend the violator or any person who, at its discretion, is involved or responsible for such infringement, where the breach has not yet done, but reasonably judged by the Authorised Service that is about to happen, even without proof of actual loss or damage or of intention or negligence on the part of the trader, directly or within a given time limit, to terminate infringement and to avoid repetition in the future;

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR TERMS DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Article 7(1) Law 92(l) of 2000 as amended	b) to publish or require the publication by the offender of the decision in whole or in part, in the form it considers appropriate; c) further to require the offender to publish, in given time limit, a corrective statement in the form and method it considers appropriate in the circumstances and in a way it deems appropriate Article 7(1) (1) Where the Director after an investigation in connection with an advertisement under Article 6 (1) consider that the advertising is misleading or it is unauthorized comparative advertising may, if necessary, by application to the Court based on the applicable procedural regulations, to apply for a restraining or peremptory order, including an interim order, against any person who believes that is involved or may be involved with the issue or publication of the advertising.
	Article 9(5) Law 92(l) of 2000 as amended	Article 9(5) 5) If it deems such action necessary to protect all interests involved and in particular the public interest , the Court may order- (A) The immediate cessation and / or repetition of misleading advertising or not unlawful comparative advertising, or (B) the prohibition if the misleading advertising or unpermitted comparative advertising has not yet been

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR TERMS DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		the offender's turnover in the immediately last year of the infringement or a fine up two hundred thousand euros (€ 200,000) e) Provided that, in relation to an institution deemed It has no turnover for the calculation of the abovementioned , the may be calculated in the , five per cent (5%) of total assets, instead of the turnover, provided further that in any case the Board a fine not exceeding two hundred thousand euros (€ 200,000) e. decide that in case of continuation of the violation will impose an administrative fine of up to one thousand Euros (€ 1000), for each day the contravention continues, depending on the severity thereof; f. submit an application to the Court in accordance with the Article 26 of this Law, to issue a prohibitive or a peremptory order, including an interim order against any person which, in its discretion, is involved in the infringement or responsible for that infringement.

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;		
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 22, first paragraph, Law 156(l)/2004	22. With due regard to section 4 and without prejudice to the legislation on the protection of secrecy and of personal data, the Competent Authority shall have the right to seek any information it deems necessary from service providers
(c) to carry out necessary on-site inspections;		
(d) to request in writing that the seller or supplier	Article 20(1) Law 156(l)/2004	21. When the Competent Authority considers that an infringement has occurred, following an examination conducted in accordance with subsection (1), it may, if it deems it appropriate, apply to the Court for an

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
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concerned cease the intra-Community infringement;		injunction, including also a temporary order, against any person who in his judgment is liable or responsible for the infringement
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 20(3) Law 156(I)/2004	(3) In the course of an examination the Competent Authority may, if it deems it appropriate, take account of any binding undertaking given to him by any person or on behalf of any person concerning the prospect of termination of the infringement which has occurred or of redress.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article 20(1) Law 156(I)/2004 Article 21 Law 156(I)/2004	(2) When the Competent Authority considers that an infringement has occurred, following an examination conducted in accordance with subsection (1), it may, if it deems it appropriate, apply to the Court for an injunction, including also a temporary order, against any person who in his judgment is liable or responsible for the infringement; (...) 21. With due regard to the provisions of the Civil Procedure Law, of the Courts Law and of the Civil Procedure Procedural Regulations, the court which hears any application pursuant to subsection (2) of section 20 shall have the power to issue an injunction, including a temporary order, requiring: a) the immediate termination and/or the non-repetition of the infringement which has occurred; and/or

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		<ul style="list-style-type: none"> b) the taking, within a specified period of time, of measures that the court deems necessary to rectify the illegal situation created by the infringement adduced in the application; and/or c) the publication of all or part of the judgment of the court, or the publication of a restitutory announcement for the purpose of eliminating any continuing effects of the infringement adduced in the application; and/or d) any other action or measure which it considers necessary or reasonable in the circumstances of the specific case.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article 22 Law 156(I)/2004	Any violation of the provisions of sections 8, 9 and 10 shall be punishable in the event of a conviction by a fine not exceeding CY5 000. The fine may be doubled for a second or third conviction

MEMBER STATE: DENMARK

LEGAL FRAMEWORK

The CPC Regulation was implemented in Denmark by means of the Danish Marketing Practices Act (currently Consolidated Act No. 1216 of 25 September 2013 with amendments) (hereinafter referred to as the "MPCA"). The provisions of the MPCA grant the Danish Consumer Ombudsman (hereinafter referred to as the "DCO") various rights and tools in respect of consumer protection, including the powers under Article 4(6) of the CPC Regulation. The DCO is a public and administrative authority and, according to Article 3 of the CPC Regulation, it fulfils both functions of "single liaison officer" and "competent authority". The DCO's powers are divided between "hard law" enforcement powers and "soft law".

Hard law enforcement powers include:

- administrative orders;
- injunction/prohibition administrative or in court;
- civil lawsuit for i.a. compensation to consumers;
- collective redress in order to supplements ADR's; criminal proceedings; and
- administrative fines

"Soft law" includes settlements and guidelines. With regard to settlements, the DCO negotiates on an individual basis with a company/relevant companies while for guidelines, it negotiates and consults with the all sector in order to produce guidelines. In case of individual negotiation, the DCO will issue a warning stating that non-compliance in spite of a warning will be an aggravating circumstance. The DCO has, among other things, made guidelines targeted at the following areas:

- Airline tickets
- Young people
- Covert marketing
- Environmental and Ethical Marketing Claims

- Guidelines on gender-related advertising of 1 April 2012
- Telecommunications
- Guarantees
- Guidelines on handling of payments by payees in connection with distance selling
- The Consumer Ombudsman's guidelines on price information in marketing
- Guidelines on publication of user reviews
- ICC codes
- Internet Commerce and Marketing
- Loyalty programmes
- Price Information
- Sales Promotions
- MLM schemes etc.
- Social media marketing
- Spam
- Danish telecom operators
- The Danish Consumer Ombudsman's guidance paper on section 6 of the Danish Marketing Practices Act (unsolicited communications with specific customers)

DIRECTIVE 2005/29/EC UNFAIR BUSINESS-TO-CONSUMER COMMERCIAL PRACTICES

DIRECTIVE 2000/31/EC ELECTRONIC COMMERCE

DIRECTIVE 93/13/EEC UNFAIR TERMS IN CONSUMER CONTRACTS

DIRECTIVE 2002/65/EC DISTANCE MARKETING OF CONSUMER FINANCIAL SERVICES

DIRECTIVE 2006/114/EC MISLEADING AND COMPARATIVE ADVERTISING.

PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:	<p>The Marketing Practices Consolidation Act. Currently Consolidated Act No. 1216 of 25 September 2013 with amendments (hereinafter referred to as the "MPCA")</p>	
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Section 22(2) of the MPCA	<p>Section 22 (2) The Consumer Ombudsman may require the disclosure of all details considered necessary for his activities, including a decision as to whether a matter falls within the purview of the Act. Such disclosure may be required within a short time limit where comparative advertising is concerned or when considered necessary under the circumstances.</p>
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Section 22(2) of the MPCA	<p>Section 22 (2) The Consumer Ombudsman may require the disclosure of all details considered necessary for his activities, including a decision as to whether a matter falls within the purview of the Act. Such disclosure may be required within a short time limit where comparative advertising is concerned or when considered necessary under the circumstances.</p>
(c) to carry out necessary on-site inspections;	Section 22a of the MPCA	<p>Section 22a The Consumer Ombudsman may carry out inspections for the purpose of processing complaints forwarded from enforcement authorities in other EU countries pursuant to Regulation (EC) No 2006/2004 on consumer protection cooperation, and which concern infringements of directives for which the Consumer Ombudsman has been appointed the competent authority. (2) The Consumer Ombudsman's inspections may only take place after a court order has been obtained. (3) Access for inspections involves the Consumer Ombudsman obtaining access to a company's premises and</p>

DIRECTIVE 2005/29/EC UNFAIR BUSINESS-TO-CONSUMER COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC UNFAIR TERMS IN CONSUMER CONTRACTS DIRECTIVE 2002/65/EC DISTANCE MARKETING OF CONSUMER FINANCIAL SERVICES DIRECTIVE 2006/114/EC MISLEADING AND COMPARATIVE ADVERTISING.		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		<p>means of transport in order to familiarise himself with and make copies of all information, including marketing materials, accounts and other business records, regardless of the information medium. The Consumer Ombudsman may request oral explanations of the facts in connection with the inspection.</p> <p>(4) Where a company's information is stored at or processed by an external data processor, the Consumer Ombudsman may obtain access to the external data processor's premises in order to familiarise himself with and make copies of the information, cf. subsection (3). This access assumes that it is not possible for the Consumer Ombudsman to obtain access to the information concerned directly from the company which is the subject of the inspection.</p> <p>(5) If the company's circumstances mean it is not possible for the Consumer Ombudsman to obtain access to or make copies of the information on the same day as the inspection is carried out, cf. subsections (3) and (4), the Consumer Ombudsman may seal the relevant business premises and information for up to 72 hours.</p> <p>(6) Under the same conditions as in subsection (5), the Consumer Ombudsman may take information in order to copy it. The information taken by the Consumer Ombudsman shall, together with a set of copies of the information which the Consumer Ombudsman has taken for the purpose of a more detailed review, be returned to the company no later than three working days after the inspection.</p> <p>(7) The police provide assistance in the exercise of powers under subsections (3-6). The Minister for Economic and Business Affairs may, after negotiation with the Minister of Justice, lay down more detailed rules for this assistance.</p> <p>(8) Parts 2 and 3 of the Act on legal rights in the event of the administration's use of forced entry and disclosure</p>

DIRECTIVE 2005/29/EC UNFAIR BUSINESS-TO-CONSUMER COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC UNFAIR TERMS IN CONSUMER CONTRACTS DIRECTIVE 2002/65/EC DISTANCE MARKETING OF CONSUMER FINANCIAL SERVICES DIRECTIVE 2006/114/EC MISLEADING AND COMPARATIVE ADVERTISING.		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p>injunctions under section 20(1).</p> <p>(2) The Consumer Ombudsman may issue an injunction if an action is clearly in conflict with this Act and cannot be changed by negotiation.</p> <p>(3) A party upon whom an injunction is imposed may require that it be considered by the courts. A request to this effect shall be submitted to the Consumer Ombudsman in writing within four weeks of notification of the party concerned of the injunction. The Consumer Ombudsman shall bring the case to court under the rules governing civil administration of justice within one week of receiving the request.</p> <p>(4) A request under subsection 3 has no delaying effect, but the court may find that the party concerned may continue with the action covered by the injunction while the case is going on.</p> <p>(5) If a judgment by which an injunction is not found lawful is appealed, the court that pronounced the judgment or the court to which the case has been brought may decide that the party concerned may not practise the action covered by the injunction during the appeal case.</p> <p>(6) If a charge is preferred for infringement of this Act, the prosecution of the charge will be assigned to the Consumer Ombudsman if he so requests.</p> <p>Note: An injunction pursuant to Section 27 (2) is a permanent injunction that the DCO may only issue, if an action is clearly in conflict with MPCA and cannot be changed by negotiation. Notwithstanding the above, party upon whom an injunction is imposed may require that the DCO brings the case to be considered by the courts, cf. Section 27 (3). This permanent injunction is different than the interim injunction under Section 29, below,</p>

DIRECTIVE 2005/29/EC UNFAIR BUSINESS-TO-CONSUMER COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC UNFAIR TERMS IN CONSUMER CONTRACTS DIRECTIVE 2002/65/EC DISTANCE MARKETING OF CONSUMER FINANCIAL SERVICES DIRECTIVE 2006/114/EC MISLEADING AND COMPARATIVE ADVERTISING.		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Section 29 of the MPCA Section 2 of the Executive Order	<p>which is merely an interim measure that the DCO may take in cases where there is an obvious risk that the purpose of a prohibition as referred to in section 20(1) will be defeated, if a court decision must be awaited. Such interim injunction shall in all cases subsequently be affirmed by the courts.</p> <p>Section 29 Where there is an obvious risk that the purpose of a prohibition as referred to in section 20(1) will be defeated if a court decision must be awaited, the Consumer Ombudsman may issue an interim prohibition. A case to affirm the prohibition shall be brought not later than the next working day. The rules in section 413(1)(ii), section 414, section 430 and section 641(1)-(3) and (5) of the Administration of Justice Act apply correspondingly, and the rules in section 636, section 638 and section 422(3) apply subject to the necessary exemptions.</p> <p>Section 2 The Danish Consumer Ombudsman must keep the public informed about cases handled by the Consumer Ombudsman, the public prosecutor or the courts of general interest or of particular importance in accordance with the definition of the rules set out in the Danish Marketing Practices Act. The Consumer Ombudsman shall before publication inform the relevant business, unless the matter is specifically urgent.</p>
(g) to require the losing defendant to make payments	Section 30 of the MPCA	<p>Section 30 (1) Non-observance of a prohibition or order imposed by the court or an order imposed by the Consumer</p>

DIRECTIVE 2005/29/EC UNFAIR BUSINESS-TO-CONSUMER COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC UNFAIR TERMS IN CONSUMER CONTRACTS DIRECTIVE 2002/65/EC DISTANCE MARKETING OF CONSUMER FINANCIAL SERVICES DIRECTIVE 2006/114/EC MISLEADING AND COMPARATIVE ADVERTISING.		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
<p>into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.</p>		<p>Ombudsman under section 23(2) or section 27(2) or section 27a shall be liable to a fine or imprisonment of up to four months. However, non-observance of an order to repay a payment received does not carry a penalty.</p> <p>(2) A party who omits to disclose information required under section 22(2) or section 22 a(3), second sentence, or under circumstances covered by this Act gives the Consumer Ombudsman incorrect or misleading information, shall be liable to a fine unless a more severe penalty is prescribed under other legislation.</p> <p>(3) Infringement of the provisions of section 3(1) and (2), sections 4-6, section 8(2) and (3), section 9, section 12 a(l) and (2), section 13(1)-(4), section 14, section 14 a, section 15(3) and section 16(1)-(4) and deliberate infringement of section 18 shall be liable to a fine unless a more severe penalty is prescribed under other legislation. Infringements of section 3(2) that consist of harmful references to another trader or matters that apply in particular to the party in question, and infringement of section 5 are subject to private prosecution.</p> <p>(4) Infringement of section 19 shall be liable to a fine or imprisonment of up to eighteen months, unless a more severe penalty is prescribed under section 299a of the Danish Penal Code. Prosecution will take place only at the request of the injured party.</p> <p>(5) Regulations issued pursuant to this Act may prescribe penalties in the form of fines for infringement of such regulations.</p> <p>(6) Companies etc. (legal persons) may be subject to criminal liability under the rules of Part 5 of the Danish Penal Code.</p>

MEMBER STATE: ESTONIA

LEGAL FRAMEWORK

In Estonia, the Consumer Protection Board (CPB) is the responsible authority for enforcement of the CPC Regulation²⁴ and for consumer protection in general. The CPB is a governmental authority administrated by the Ministry for Economic Affairs and Communications.

Article 4(6) of the CPC Regulation was mainly implemented into the Estonian legal system by virtue of provisions of the Consumer Protection Act adopted in 2016 (hereinafter referred to as the "CPA").²⁵ The Consumer Protection Board (*Tarbijakaitseamet*) has been granted various tools for consumer protection based on to the provisions of the CPA, the Law Enforcement Act adopted in 2011 (hereinafter the "LEA"), Code of Misdemeanour Procedure adopted in 2002 (hereinafter "CMP") and other legal acts mentioned in this analysis (for more details please see tables below).²⁶ The legal basis for implementing supervision measure depends on whether the authority has only a doubt of an upcoming infringement in which case the authority acts under LEA. When the authority investigates a violation already committed, the powers of competent authority are laid down by CMP.²⁷ Referral to court is only needed in case the premise of the defendant is being searched in misdemeanour procedure.

In order to implement the CPC Regulation, Article 67 was added to the CPA. The competent bodies were designated by the Ministry for Economic Affairs and Communications on the basis of its Regulation No 4 of 11 January 2016.²⁸ With regard to the directives covered by this analysis, the competent authority is the Consumer Protection Board with the exception of Directive 2000/31/EC on electronic commerce. Supervision over Directive 2000/31/EC is exercised both

²⁴ Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation).

²⁵ The translation into English of the Consumer Protection Act is available here: <https://www.riigiteataja.ee/en/eli/515032016002/consolide>

²⁶ The translation into English of the Law Enforcement Act is available here: <https://www.riigiteataja.ee/en/eli/516062015011/consolide>

The translation into English of the Code of Misdemeanour Procedure is here:

<https://www.riigiteataja.ee/en/eli/503082015005/consolide>

²⁷ According to Supreme Court practice the misdemeanour procedure begins when the authority has sufficient information to suspect that a misdemeanour is committed.

²⁸ The Regulation No 4 of the Ministry of Economic Affairs and Communications (in Estonian) is available here: <https://www.riigiteataja.ee/akt/112012016018>

by the Consumer Protection Board and Technical Surveillance Authority (TSA), whereby TSA has the right to ask documents from business entities and to conduct misdemeanour procedure for the provision of services which are not conform to the requirements provided in the Information Society Services Act (powers of TSA are showed in a separate table). Within the administrative territory the supervision measures established in the CPA (e.g. requiring documents or examination of premises) can also be implemented by the rural municipality or a city government.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS (POWERS OF THE CONSUMER PROTECTION BOARD)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:	Article 67 of the Consumer Protection Act (hereinafter referred to as the "CPA"). Article 1 point 1 of the Regulation No 4 of the Ministry of Economic Affairs and Communications (adopted on 11 January 2016).	Article 67 of the CPA: § 67. Co-operation in consumer protection (1) Co-operation between the competent authorities designated as responsible for enforcement of the legislation protecting the interests of consumers in the Member States of the European Union shall be effected pursuant to Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (OJ L 364, 09.12.2004, p. 1–11). (2) The Consumer Protection Board shall be the contact authority in the implementation of the Regulation specified in subsection (1) of this section. (3) The minister responsible for the area in co-ordination with the relevant ministers shall designate the competent authorities responsible for the implementation of the Regulation specified in subsection (1) of this section. (4) The Minister of Economic Affairs and Communications shall notify the European Commission and other Member States of the competent authorities appointed as responsible for the implementation of the

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS (POWERS OF THE CONSUMER PROTECTION BOARD)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		Regulation specified in subsection (1) of this section and the single liaison office. <u>Article 1 points 1 and 3 of the Regulation No 4 of the Ministry of Economic Affairs and Communications:</u> § 1. The Competent Authorities (1) The competent authorities responsible for implementing the Regulation 2006/2004/EU on consumer protection cooperation are the following: 1) the Consumer Protection Board as concerns the directives and regulations listed in points 1, 12, 14 16 and 18-20 of the annex to the Regulation on consumer protection cooperation;
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Articles 61(1) and 62(1) of the CPA. Articles 30(1) and 31 of the Advertising Act adopted in 2008. Articles 23(3), 23(4) and article 30 of the Law Enforcement Act (hereinafter the "LEA"), Article 31(2) of the Code of Misdemeanour Procedure (hereinafter the "CMP").	<u>Article 61(1) of the CPA:</u> § 61. State supervision State supervision over the safeguarding of the rights granted to consumers on the basis of this Act and other legislation shall be exercised by the Consumer Protection Board. <u>Article 62 (1) of the CPA:</u> § 62. Special state supervision measures (1) In order to exercise state supervision provided for in this Act, the Consumer Protection Board and the Health Board may apply the special state supervision measures provided for in §§ 30, 31, 32, 49, 50, 51, 52 and 53 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS (POWERS OF THE CONSUMER PROTECTION BOARD)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		<p><u>Article 30(1) of the Advertising Act:</u> § 30. State supervision (1) State supervision over compliance with the requirements provided for in this Act and legislation established on the basis thereof, except the requirements provided for in §§ 14 and 15 and 29¹ of this Act, shall be exercised by the Consumer Protection Board.</p> <p><u>Article 31 of the Advertising Act:</u> § 31. Special state supervision measures In order to exercise state supervision provided for in this Act, a law enforcement authority may apply the special state supervision measures provided for in §§ 30 and 50 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.</p> <p><u>Article 23(3) and 23(4) of the LEA:</u> (3) A person is required to tolerate state supervision measures applied to him or her on the basis of and pursuant to the procedure provided by law. (4) For ensuring the performance of the obligation specified in subsection (3) of this section, a law enforcement agency has the right to issue a precept to a subject of supervision and apply penalty payment on the basis of and pursuant to the procedure provided by the Substitutive Enforcement and Penalty Payment Act.</p>

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		<p>Article 30 of the LEA:</p> <p>§ 30. Questioning and requiring of documents</p> <p>(1) The police or, in the cases provided by law, another law enforcement agency may stop a person and question him or her if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance²⁹ or for guaranteeing the safety of a safeguarded person or object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency conducting the questioning.</p> <p>(2) Questioning shall be recorded in a report if the person questioned requests it or if it is deemed necessary by the law enforcement agency. If the law enforcement agency deems it necessary, the person questioned may give explanations in writing autographically.</p> <p>(3) The police or, in the cases provided by law, another law enforcement agency may require a person to present his or her documents if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance or for guaranteeing the safety of a safeguarded person or object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency requiring the presentation of the documents.</p>

²⁹ Disturbance in this context includes infringements of consumer protection rules by business entities.

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		<p>(4) Requiring and receipt of documents by a law enforcement agency shall be recorded or documented pursuant to the general administration procedure of the law enforcement agency. If the documents are required and examined on site, the measure shall be recorded at the request of the person subjected to the application thereof.</p> <p>(5) Questioning and requiring the presentation of documents for the prevention of a threat is not permitted in the case of information and documents which can be obtained from a database established on the basis of the law, except in the case the information cannot be obtained from the database for reasons irrespective of the law enforcement agency. The restriction specified in this section also applies to information which the law enforcement agency can obtain free of charge from the relevant database of another Member State of the European Union or for a charge if the person confirms in a format which can be reproduced in writing that he or she will cover the costs of obtaining the said information.</p> <p><u>Article 31 of the CMP:</u> § 31. Collection of evidence and application of provisions concerning criminal procedure in performance of procedural acts.</p> <p>(2) Bodies conducting extra-judicial proceedings and courts have the right to require natural and legal persons to submit documents, things or other objects necessary for the adjudication of a misdemeanour matter.</p>

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(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Articles 61(1) and 62(1) of the CPA. Articles 30(1) and 31 of the Advertising Act. Articles 23(3), 23(4), 30 and 31 of the LEA. Article 60 of the Code of Misdemeanour Procedure ("CMP").	See above for articles 61(1) and 62(1) of the CPA, articles 30(1) and 31 of the Advertising Act and Articles 23(3), 23(4), 30 and 31 of the LEA. <u>Article 31 of the LEA.:</u> § 31. Summons and compelled attendance (1) The police or, in the cases provided by law, another law enforcement agency may summon a person to its office if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance, and the prevention, ascertainment and countering of that threat or the elimination of that disturbance is in the competence of the law enforcement agency which issued the summons. [RT I, 13.03.2014, 4 – entry into force 01.07.2014] <u>Article 60 of the CMP:</u> § 60. Summoning to body conducting extra-judicial proceedings (1) A person subject to proceedings and the witnesses shall be summoned to the body conducting the extra-judicial proceedings by a summons pursuant to the procedure provided for in §§ 40 and 41 of this Code. (2) A summons shall set out that appearance is mandatory and that compelled attendance pursuant to subsection 43 (3) of this Code may be applied with regard to a person who has been summoned but fails to appear without good reason.

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(c) to carry out necessary on-site inspections;	Articles 62(1) and 63 of the CPA. Article 51 of the LEA.. Article 35(1) of the CMP.	See above for article 62(1) of the CPA. <u>Article 63 of the CPA:</u> § 63. Making of purchases for monitoring compliance The Consumer Protection Board and the law enforcement authorities specified in subsection 61 (2) of this Act have the right to make purchases for monitoring compliance if necessary. <u>Article 51 of the LEA:</u> § 51. Examination of premises (1) The police or, in the cases provided by law, another law enforcement agency may, without the consent of the possessor, examine a fenced or marked immovable, building or room in the possession of the person, including examine an item therein and open doors and gates or eliminate other obstacles: 1) if there is reason to believe that a person who may be deprived of liberty pursuant to law or whose life, health or physical inviolability is in danger due to his or her need of assistance has entered the fenced or marked immovable, building or room; 2) for ascertaining or countering a serious threat; or 3) if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder upon ensuring the compliance with the requirements established by or on the basis of law, and the verification of the compliance with such requirements lies within the competence of the law enforcement agency examining the

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		<p>premises.</p> <p>(2) The examination of a dwelling in the possession of a person and the examination of business premises is only permitted with the prior permission of the administrative court of the location of the dwelling or business premises to be examined. If the permission of the administrative court is not possible to be requested due to the need to counter an immediate serious threat, a law enforcement agency may examine the premises without the permission of the administrative court. In such a case, the law enforcement agency shall be required to request the permission afterwards. The judge shall decide on the grant of permission for the examination of the premises or extension thereof pursuant to the procedure provided for in the Code of Administrative Court Procedure for the grant of a permission to take an administrative measure. If the court refuses to grant the permission, the law enforcement agency shall be required to terminate the examination of the premises immediately.</p> <p>(3) During the period from 11 p.m. to 7 a.m. a person's dwelling may only be examined if it is necessary for countering an immediate serious threat.</p> <p>(4) The possessor of a fenced or marked immovable, building or room shall have the right to be present at the examination of the premises. If the possessor is not present at the examination of the premises, he or she may appoint an adult who shall have the right to be present at the examination of the premises.</p> <p>(4¹) A law enforcement agency may examine premises without the presence of the persons specified in subsection (4) of this section if it is necessary for countering an immediate threat or if the said persons intentionally obstruct the lawful application of the measure provided for in this section.</p>

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		<p>(5) If the identity of the possessor can be established, he or she shall be notified of the examination of the premises at the first opportunity. If as a result of the examination of the premises a significant proprietary asset is left unsupervised on the premises, the law enforcement agency shall ensure the supervision of the premises until the arrival of the possessor or another entitled person.</p> <p>(6) Upon the examination of the premises, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.</p> <p>(61) Upon the examination of the premises, a law enforcement agency may take samples and also measurements and give or commission expert assessments as well as record the situation by means of a device which records images or audio.</p> <p>(7) It is mandatory to record in a report the measure provided for in this section.</p> <p><u>Article 35 of the CMP:</u> § 35. Specifications concerning search (1) In misdemeanour proceedings, a body conducting extra-judicial proceedings may conduct a search on the basis of a ruling which contains the permission of the county judge as the decision.</p>

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(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Articles 64 and 66 of the CPA. ³⁰ . Article 1 and article 2 points 1, 2 of the Regulation No 11 of the Ministry of Economic Affairs and Communications (adopted on 4 February 2016).	<p><u>Article 64 of the CPA:</u></p> <p>§ 64. Termination of activities harmful to collective interests of consumers</p> <p>(1) To require termination of or refraining from activities harmful to the collective interests of consumers, the Director General of the Consumer Protection Board or an official authorised by him or her may issue precepts or the Consumer Protection Board may file an action with a court on behalf of the Republic of Estonia.</p> <p>(2) Any act which prejudices the common interests of an undefined number of consumers and is in conflict with the provisions of this Act, the Law of Obligations Act or any other Act, primarily the use of or the intention to use unfair commercial practices, is an activity harmful to collective interests.</p> <p>(4) A precept shall be communicated to a trader and delivered against a signature or sent to the trader by registered mail with advice of delivery within two working days as of the day of issue of the precept.</p> <p>(5) It is mandatory for a trader to comply with a precept issued thereto by the Director General of the Consumer Protection Board or an official authorised by him or her. Contestation of the precept does not release the trader from the obligation to comply with the precept unless a court decides otherwise.</p> <p><u>Article 66 of the CPA:</u></p> <p>§ 66. Termination of cross-border activities harmful to collective interests of consumers</p> <p>(1) The provisions of this section apply if the activities of a trader operating in one of the Member States of the</p>

³⁰ Additionally, the articles of the Law of Obligations Act referred to in the CPA establish traders' obligations in concluding a contract with a consumer. The translation into English of the Law of Obligations Act is available here: <https://www.riigiteataja.ee/en/eli/516062015006/consolide>

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Article 4(6)		<p>European Union are in conflict with the provisions of a directive as transposed into the legislation applicable in that Member State and if the consequences of the infringement become apparent in another Member State.</p> <p>(2) A list of the directives specified in subsection (1) of this section shall be established by a regulation of the minister responsible for the area.</p> <p>(3) The authorities and organisations of the Member States as published in the Official Journal of the European Union have the right to apply to the Consumer Protection Board for filing an action or for issuing a precept or to file an action itself for the termination of such activities of a trader operating in Estonia as are in conflict with the provisions of a directive specified in subsection (2) of this section as transposed into the legislation applicable in Estonia and which are harmful to the collective interests of consumers in the Member State concerned.</p> <p>(4) The minister responsible for the area in co-ordination with the relevant ministers shall appoint the Estonian authorities and organisations which have the right to apply for the termination of such activities of a trader operating in a Member State of the European Union as are in conflict with the provisions of a directive specified in subsection (2) of this section as transposed into the legislation applicable in that Member State and which are harmful to the collective interests of consumers in Estonia.</p> <p><u>Article 1 of the Regulation No 11 of the Ministry of Economic Affairs and Communications:</u></p> <p>§ 1. Scope of the Regulation</p> <p>(1) This regulation shall be applied if:</p> <p>1) the activity of a trader in one Member State of the European Union violate the provisions of certain directives</p>

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		<p>as they are established in legal acts applied in the Member State and the consequences of the violation become evident in Estonia;</p> <p>2) the activity of a trader in Estonia violate the provisions of certain directives as they are established in legal acts applied in Estonia and the consequences of the violation become evident in another Member State.</p> <p><u>Article 2 points 1 and 2 of the Regulation No 11 of the Ministry of Economic Affairs and Communications:</u></p> <p>§ 2. List of Directives</p> <p>The directives referred to in section 1(1) of this regulation are the following:</p> <p>1) Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market;</p> <p>2) Directive 2011/83/EU of the European Parliament and of the Council on consumer rights.</p>
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the	Article 21 (2) points 4, 5, 6 and 8 of the CPA.	<p><u>Article 21(2) points 4, 5, 6 and 8 of the CPA:</u></p> <p>§ 17. Consumer Protection Board</p> <p>(2) The Consumer Protection Board is competent to:</p> <p>4) inform the public of the activities of a trader or producer which violate consumer rights or damage the legitimate interests of consumers;</p> <p>5) advise consumers, consumer associations and traders and to assist in increasing their awareness of consumer protection issues;</p>

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resulting undertaking		6) conduct negotiations with undertakings and business organisations, including providers of universal services in a dominant position, on issues relating to the quality of the services and reasonable prices for the consumers; 8) demand through county courts that the application of standard terms which cause unfair harm to the collective interests of consumers and unfair commercial practices be prohibited and that any other activities which violate consumer rights be terminated.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	See above regarding measures listed in Article 4(6)(d) of the CPC Regulation and Article 21 (2) points 4, 5, 6 and 8 of the CPA.	See above regarding measures described in Article 4(6)(d) of the CPC Regulation. See above for Article 21 (2) points 4, 5, 6 and 8 of the CPA.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in	Articles 8 and 10 of the Substitutive Enforcement and Penalty Payment Act (SEPPA) adopted in 2002 ³¹ . Articles 64, 66 and 68-70 of the CPA . Articles 32-35 of the Advertising Act.	See above for Articles 64, 66 of the CPA. Article 68 of the CPA: § 68. Violation of requirements for goods, sale of goods or provision of services (1) Violation by a trader of the requirements for the expiry dates, labelling or instruction manuals of goods or for

³¹ The translation into English of the act is here:

<https://www.riigiteataja.ee/en/eli/522012015001/consolide>

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the event of failure to comply with the decision.		<p>the warranty applicable to goods or services or of any other requirements for goods or services or the sale of goods is punishable by a fine of up to 200 fine units.³²</p> <p>(2) The same act, if committed by a legal person, is punishable by a fine of up to 2600 euros.</p> <p><u>Article 69 of the CPA:</u></p> <p>§ 69. Deceiving consumers</p> <p>(1) Inaccurate weighing, inaccurate measuring or miscalculation upon the sale of goods or provision of services to a consumer</p> <p>is punishable by a fine of up to 200 fine units.</p> <p>(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.</p> <p><u>Article 70 of the CPA:</u></p> <p>§ 70. Violation of prohibition on use of unfair commercial practices</p> <p>(1) Use of a misleading commercial practice specified in § 16 of this Act or an aggressive commercial practice specified in § 18 of this Act</p> <p>is punishable by a fine of up to 300 fine units.</p> <p>(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.</p>

³² One fine unit is equivalent to 4 euros.

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Article 4(6)		<p>Article 8 of the Substitutive Enforcement and Penalty Payment Act</p> <p>§ 8. Permissibility of application of coercive measures</p> <p>(1) A coercive measure may be applied if a valid precept has been communicated to the addressee and the precept is not complied with during the term indicated in a warning. Exceptions are provided for in section 12 of this Act.</p> <p>(2) The administrative authority which issued a precept may postpone the application of a coercive measure at the reasoned request of the addressee of the coercive measure, and issue a new warning where a new term is set for compliance with the precept. The term shall not be longer than two months.</p> <p>(3) A coercive measure shall not be applied if:</p> <ol style="list-style-type: none"> 1) the bases for application of coercion provided for in subsection (1) of this section have ceased to exist; 2) the provision of law which was the basis of the precept is repealed; 3) the application of the coercive measure is postponed; 4) an administrative court suspends the application of the coercive measure pursuant to the procedure prescribed by the Code of Administrative Court Procedure [RT I 23.02.2011, 3 – entry into force 01.01.2012]. <p>(4) The administrative authority which is competent to apply a coercive measure shall notify the addressee of the coercive measure immediately of a decision not to apply the coercive measure.</p> <p>Article 10 of the Substitutive Enforcement and Penalty Payment Act</p>

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Article 4(6)		<p>§ 10. Penalty payment</p> <p>(1) Penalty payment is an amount determined in a warning, payable by the addressee if the addressee fails to perform the obligation imposed by a precept within the term indicated in the warning.</p> <p>(2) The upper limit of penalty payment for each imposition thereof is provided by law.</p> <p>(3) An addressee has the right to receive a receipt certifying the delivery of penalty payment.</p> <p><u>Article 32 of the Advertising Act:</u></p> <p>§ 32. Penalty payment rate</p> <p>Upon failure to comply with a precept, the upper limit of the penalty payment imposed pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act³³ is 3200 euros.</p> <p><u>Article 33 of the Advertising Act:</u></p> <p>§ 33. Violation of general requirements for advertising</p> <p>(1) The placing, producing or publicising of advertising which violates the general requirements for advertising is punishable by a fine of up to 300 fine units.</p> <p>(2) The same act, if committed by a legal person, is punishable by a fine of up to 10 000 euros.</p> <p><u>Article 34 of the Advertising Act:</u></p>

³³ The penalty fee may be imposed repeatedly until the request of the authority has been duly fulfilled.

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		§ 34. Violation of prohibition on advertising of goods and services (1) The placing, producing or publicising of advertising which ignores the prohibition on advertising of goods and services is punishable by a fine of up to 300 fine units. (2) The same act, if committed by a legal person, is punishable by a fine of up to 10 000 euros. <u>Article 35 of the Advertising Act:</u> § 35. Violation of restrictions on and requirements for advertising of goods and services (1) The placing, producing or publicising of advertising whereby the restrictions on or requirements for advertising of goods and services are violated is punishable by a fine of up to 300 fine units. (2) The same act, if committed by a legal person, is punishable by a fine of up to 10 000 euros.
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³⁴ As concerns the Directive 2000/31/EC on Electronic Commerce, the competent authorities responsible for implementation of this directive are Consumer Protection Board and Technical Surveillance Authority. The rights granted to Consumer Protection Board in this matter are explained in the table above, whereas the following table only pertains to the competency of Technical Surveillance Authority.

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<p>6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:</p>	<p>Article 67 of the Consumer Protection Act (hereinafter referred to as the "CPA"). Article 1(1) point 1 of the Regulation No 4 of the Ministry of Economic Affairs and Communications (adopted on 11 January 2016).</p>	<p><u>Article 67 of the CPA:</u> § 67. Co-operation in consumer protection (1) Co-operation between the competent authorities designated as responsible for enforcement of the legislation protecting the interests of consumers in the Member States of the European Union shall be effected pursuant to Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (OJ L 364, 09.12.2004, p. 1–11). (2) The Consumer Protection Board shall be the contact authority in the implementation of the Regulation specified in subsection (1) of this section. (3) The minister responsible for the area in co-ordination with the relevant ministers shall designate the competent authorities responsible for the implementation of the Regulation specified in subsection (1) of this section. (4) The Minister of Economic Affairs and Communications shall notify the European Commission and other Member States of the competent authorities appointed as responsible for the implementation of the Regulation specified in subsection (1) of this section and the single liaison office.</p> <p><u>Article 1 points 1 and 3 of the Regulation No 4 of the Ministry of Economic Affairs and Communications:</u> § 1. The Competent Authorities (1) The competent authorities responsible for implementing the Regulation 2006/2004/EU on consumer protection cooperation are the following: 1) the Consumer Protection Board as concerns the directives and regulations listed in points 1 12, 14 16 and 18-20 of the annex to the Regulation on consumer protection cooperation;</p>
<p>(a) to have access to any relevant document, in any form, related to the intra-Community infringement;</p>	<p>This power belongs to the Technical Surveillance Authority under articles 30 of the LEA and 31(2) of the CMP.</p>	<p>-</p>

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(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Articles 23(3), 23(4) and 31 of the LEA.	See above for articles 23(3) and 23(4) of the LEA. <u>Article 31 of the LEA:</u> § 31. Summons and compelled attendance (1) The police or, in the cases provided by law, another law enforcement agency may summon a person to its office if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance, and the prevention, ascertainment and countering of that threat or the elimination of that disturbance is in the competence of the law enforcement agency which issued the summons. [RT I, 13.03.2014, 4 – entry into force 01.07.2014]
(c) to carry out necessary on-site inspections;	Article 51 of the LEA. In misdemeanour proceedings this power belongs to Technical Surveillance Authority.	<u>Article 51 of the LEA:</u> § 51. Examination of premises (1) The police or, in the cases provided by law, another law enforcement agency may, without the consent of the possessor, examine a fenced or marked immovable, building or room in the possession of the person, including examine an item therein and open doors and gates or eliminate other obstacles: 1) if there is reason to believe that a person who may be deprived of liberty pursuant to law or whose life, health or physical inviolability is in danger due to his or her need of assistance has entered the fenced or marked immovable, building or room; 2) for ascertaining or countering a serious threat; or 3) if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder upon ensuring

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		<p>the compliance with the requirements established by or on the basis of law , and the verification of the compliance with such requirements lies within the competence of the law enforcement agency examining the premises.</p> <p>(2) The examination of a dwelling in the possession of a person and the examination of business premises is only permitted with the prior permission of the administrative court of the location of the dwelling or business premises to be examined. If the permission of the administrative court is not possible to be requested due to the need to counter an immediate serious threat, a law enforcement agency may examine the premises without the permission of the administrative court. In such a case, the law enforcement agency shall be required to request the permission afterwards. The judge shall decide on the grant of permission for the examination of the premises or extension thereof pursuant to the procedure provided for in the Code of Administrative Court Procedure for the grant of a permission to take an administrative measure. If the court refuses to grant the permission, the law enforcement agency shall be required to terminate the examination of the premises immediately.</p> <p>(3) During the period from 11 p.m. to 7 a.m. a person's dwelling may only be examined if it is necessary for countering an immediate serious threat.</p> <p>(4) The possessor of a fenced or marked immovable, building or room shall have the right to be present at the examination of the premises. If the possessor is not present at the examination of the premises, he or she may appoint an adult who shall have the right to be present at the examination of the premises.</p> <p>(41) A law enforcement agency may examine premises without the presence of the persons specified in subsection (4) of this section if it is necessary for countering an immediate threat or if the said persons intentionally obstruct the lawful application of the measure provided for in this section.</p> <p>(5) If the identity of the possessor can be established, he or she shall be notified of the examination of the</p>

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PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
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		<p>premises at the first opportunity. If as a result of the examination of the premises a significant proprietary asset is left unsupervised on the premises, the law enforcement agency shall ensure the supervision of the premises until the arrival of the possessor or another entitled person.</p> <p>(6) Upon the examination of the premises, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.</p> <p>(61) Upon the examination of the premises, a law enforcement agency may take samples and also measurements and give or commission expert assessments as well as record the situation by means of a device which records images or audio.</p> <p>(7) It is mandatory to record in a report the measure provided for in this section.</p>
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	<p>Articles 64 and 66 of the CPA.</p> <p>Article 1 and article 2 point 10 of the Regulation No 11 of the Ministry of Economic Affairs and Communications (adopted on 4 February 2016).</p>	<p>Article 64 of the CPA:</p> <p>§ 64. Termination of activities harmful to collective interests of consumers</p> <p>(1) To require termination of or refraining from activities harmful to the collective interests of consumers, the Director General of the Consumer Protection Board or an official authorised by him or her may issue precepts or the Consumer Protection Board may file an action with a county court on behalf of the Republic of Estonia.</p> <p>(2) Any act which prejudices or may prejudice the common interests of an undefined number of consumers and is in conflict with the provisions of this Act, the Law of Obligations Act or any other Act, primarily the use of or the intention to use unfair commercial practices, is an activity harmful to collective interests.</p> <p>(3) A precept shall be communicated to a trader and delivered against a signature or sent to the trader by registered mail with advice of delivery within two business days as of the day of issue of the precept.</p> <p>(4) It is mandatory for a trader to comply with a precept issued thereto by the Director General of the Consumer Protection Board or an official authorised by him or her. Contestation of the precept does not release the trader</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE ³⁴ (POWERS OF THE CONSUMER PROTECTION BOARD)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p>from the obligation to comply with the precept unless a court decides otherwise.</p> <p><u>Article 66 of the CPA:</u> § 66. Termination of cross-border activities harmful to collective interests of consumers (1) The provisions of this section apply if the activities of a trader operating in one of the Member States of the European Union are in conflict with the provisions of a directive as transposed into the legislation applicable in that Member State and if the consequences of the infringement become apparent in another Member State. (2) A list of the directives specified in subsection (1) of this section shall be established by a regulation of the minister responsible for the area. (3) The authorities and organisations of the Member States as published in the Official Journal of the European Union have the right to apply to the Consumer Protection Board for filing an action or for issuing a precept or to file an action itself for the termination of such activities of a trader operating in Estonia as are in conflict with the provisions of a directive specified in subsection (2) of this section as transposed into the legislation applicable in Estonia and which are harmful to the collective interests of consumers in the Member State concerned. (4) The minister responsible for the area in co-ordination with the relevant ministers shall appoint the Estonian authorities and organisations which have the right to apply for the termination of such activities of a trader operating in a Member State of the European Union as are in conflict with the provisions of a directive specified in subsection (2) of this section as transposed into the legislation applicable in that Member State and which are harmful to the collective interests of consumers in Estonia.</p> <p><u>Article 1 of the Regulation No 11 of the Ministry of Economic Affairs and Communications:</u> § 1. Scope of the Regulation</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE ³⁴ (POWERS OF THE CONSUMER PROTECTION BOARD)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p>This regulation shall be applied if:</p> <ol style="list-style-type: none"> 1) the activity of a trader in one Member State of the European Union violate the provisions of certain directives as they are established in legal acts applied in the Member State and the consequences of the violation become evident in Estonia; 2) the activity of a trader in Estonia violate the provisions of certain directives as they are established in legal acts applied in Estonia and the consequences of the violation become evident in another Member State. <p><u>Article 2 point 10 of the Regulation No 11 of the Ministry of Economic Affairs and Communications:</u></p> <p>§ 2. List of Directives</p> <p>The directives referred to in section 1(1) of this regulation are the following:</p> <p>10) Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.</p> <p><u>Article 3 (1) of the Regulation No 11 of the Ministry of Economic Affairs and Communications:</u></p> <p>§ 3. Competent Authorities for Initiating the Procedure of Termination of Infringement</p> <p>(1) The competent authority for initiating the procedure of termination of infringement regarding directives listed in points 1-5 and 7-13 of article 2 of this regulation is the Consumer Protection Board.</p> <p><u>Article 14 of the Information Society Services Act:</u></p> <p>§ 14. Penalty payment rates</p> <p>Upon failure to comply with a precept, the maximum rate of the penalty payment imposed pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act is 640 euros.</p>

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PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 21(2) points 4 and 6 of the CPA.	<p><u>Article 21(2) points 4 and 6 of the CPA:</u></p> <p>§ 21. Consumer Protection Board</p> <p>(2) The Consumer Protection Board is competent to:</p> <p>4) inform the public of the activities of a trader or producer which violate consumer rights or damage the legitimate interests of consumers;</p> <p>6) conduct negotiations with undertakings and business organisations, including providers of universal services in a dominant position, on issues relating to the quality of the services and reasonable prices for the consumers.</p>
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Articles 21(2) point 4 and articles 64 (1) and 66 (3) of the CPA.	See above for Articles 21(2) point 4 and articles 64 (1) and 66 (3) of the CPA.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the	Articles 8 and 10 of the Substitutive Enforcement and Penalty Payment Act.	<p><u>Article 14 of the Information Society Services Act:</u></p> <p>§ 14. Penalty payment rates</p> <p>Upon failure to comply with a precept, the maximum rate of the penalty payment imposed pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act is 640 euros.</p> <p><u>Article 8 of the Substitutive Enforcement and Penalty Payment Act</u></p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE ³⁴ (POWERS OF THE CONSUMER PROTECTION BOARD)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
event of failure to comply with the decision.		<p>§ 8. Permissibility of application of coercive measures</p> <p>(1) A coercive measure may be applied if a valid precept has been communicated to the addressee and the precept is not complied with during the term indicated in a warning. Exceptions are provided for in section 12 of this Act.</p> <p>(2) The administrative authority which issued a precept may postpone the application of a coercive measure at the reasoned request of the addressee of the coercive measure, and issue a new warning where a new term is set for compliance with the precept. The term shall not be longer than two months.</p> <p>(3) A coercive measure shall not be applied if:</p> <ol style="list-style-type: none"> 1) the bases for application of coercion provided for in subsection (1) of this section have ceased to exist; 2) the provision of law which was the basis of the precept is repealed; 3) the application of the coercive measure is postponed; 4) an administrative court suspends the application of the coercive measure pursuant to the procedure prescribed by the Code of Administrative Court Procedure [RT I 23.02.2011, 3 – entry into force 01.01.2012]. <p>(4) The administrative authority which is competent to apply a coercive measure shall notify the addressee of the coercive measure immediately of a decision not to apply the coercive measure.</p> <p><u>Article 10 of the Substitutive Enforcement and Penalty Payment Act</u></p> <p>§ 10. Penalty payment</p> <p>(1) Penalty payment is an amount determined in a warning, payable by the addressee if the addressee fails to perform the obligation imposed by a precept within the term indicated in the warning.</p> <p>(2) The upper limit of penalty payment for each imposition thereof is provided by law.</p> <p>(3) An addressee has the right to receive a receipt certifying the delivery of penalty payment.</p>

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PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE ³⁵ (POWERS OF THE TECHNICAL SURVEILLANCE AUTHORITY)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable	Article 67 of the CPA. Article 1(1) point 3 of the Regulation No 4 of the Ministry of Economic Affairs and Communications (adopted on 11 January	Article 67 of the CPA: § 67. Co-operation in consumer protection (1) Co-operation between the competent authorities designated as responsible for enforcement of the legislation protecting the interests of consumers in the Member States of the European Union shall be effected

³⁵ As concerns the Directive 2000/31/EC on Electronic Commerce, the competent authorities responsible for implementation of this directive are Consumer Protection Board and Technical Surveillance Authority. The rights granted to Consumer Protection Board in this matter are explained in the table above, whereas the following table only pertains to the competency of Technical Surveillance Authority.

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE ³⁵ (POWERS OF THE TECHNICAL SURVEILLANCE AUTHORITY)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
suspicion of an intra-Community infringement and shall include, at least, the right:	2016).	<p>pursuant to Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (OJ L 364, 09.12.2004, p. 1–11).</p> <p>(2) The Consumer Protection Board shall be the contact authority in the implementation of the Regulation specified in subsection (1) of this section.</p> <p>(3) The minister responsible for the area in co-ordination with the relevant ministers shall designate the competent authorities responsible for the implementation of the Regulation specified in subsection (1) of this section. (4) The Minister of Economic Affairs and Communications shall notify the European Commission and other Member States of the competent authorities appointed as responsible for the implementation of the Regulation specified in subsection (1) of this section and the single liaison office.</p> <p><u>Article 1 point 3 of the Regulation No 4 of the Ministry of Economic Affairs and Communications:</u></p> <p>§ 1. The Competent Authorities</p> <p>(1) The competent authorities responsible for implementing the Regulation 2006/2004/EU on consumer protection cooperation are the following:</p> <p>3) the Technical Surveillance Authority as concerns the directives and regulations listed in points 4 and 12 of the annex to the Regulation on consumer protection cooperation;</p>
(a) to have access to any relevant document, in any form, related to the	Articles 12, 13 and 16(2) of the Information Society Services Act. ³⁶ Articles 23(3), 23(4) and article 30 of the	<u>Article 12 of the Information Society Services Act:</u> § 12. State supervision State supervision over compliance with the requirements provided for in this Act for information that must be

³⁶ The translation into English of the Information Society Services Act (adopted in 2004) is available here: <https://www.riigiteataja.ee/en/eli/513012015001/consolide>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE ³⁵ (POWERS OF THE TECHNICAL SURVEILLANCE AUTHORITY)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
intra-Community infringement;	LEA. Article 31(2) of the CMP.	<p>provided concerning service providers shall be exercised by the Technical Surveillance Authority.</p> <p><u>Article 13 of the Information Society Services Act:</u> § 13. Specific state supervision measures In order to exercise state supervision provided for in this Act, the Technical Surveillance Authority may apply the specific state supervision measure provided for in § 30 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.</p> <p><u>Article 16(2) of the Information Society Services Act</u> § 16. Proceedings (2) Extra-judicial proceedings concerning the misdemeanours provided for in § 15 of this Act shall be conducted by the Technical Surveillance Authority within the limits of its competence.</p> <p><u>Article 31 of the CMP:</u> § 31. Collection of evidence and application of provisions concerning criminal procedure in performance of procedural acts. (2) Bodies conducting extra-judicial proceedings and courts have the right to require natural and legal persons to submit documents, things or other objects necessary for the adjudication of a misdemeanour matter.</p> <p><u>Article 23(3) and 23(4) of the LEA:</u> (3) A person is required to tolerate state supervision measures applied to him or her on the basis of and pursuant to the procedure provided by law.</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE ³⁵ (POWERS OF THE TECHNICAL SURVEILLANCE AUTHORITY)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		<p>(4) For ensuring the performance of the obligation specified in subsection (3) of this section, a law enforcement agency has the right to issue a precept to a subject of supervision and apply penalty payment on the basis of and pursuant to the procedure provided by the Substitutive Enforcement and Penalty Payment Act.</p> <p><u>Article 30 of the LEA:</u></p> <p>§ 30. Questioning and requiring of documents</p> <p>(1) The police or, in the cases provided by law, another law enforcement agency may stop a person and question him or her if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance or for guaranteeing the safety of a safeguarded person or object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency conducting the questioning.</p> <p>(2) Questioning shall be recorded in a report if the person questioned requests it or if it is deemed necessary by the law enforcement agency. If the law enforcement agency deems it necessary, the person questioned may give explanations in writing autographically.</p> <p>(3) The police or, in the cases provided by law, another law enforcement agency may require a person to present his or her documents if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance or for guaranteeing the safety of a safeguarded person or object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency requiring the presentation of the documents.</p> <p>(4) Requiring and receipt of documents by a law enforcement agency shall be recorded or documented</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE ³⁵ (POWERS OF THE TECHNICAL SURVEILLANCE AUTHORITY)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		<p>pursuant to the general administration procedure of the law enforcement agency. If the documents are required and examined on site, the measure shall be recorded at the request of the person subjected to the application thereof.</p> <p>(5) Questioning and requiring the presentation of documents for the prevention of a threat is not permitted in the case of information and documents which can be obtained from a database established on the basis of the law, except in the case the information cannot be obtained from the database for reasons irrespective of the law enforcement agency. The restriction specified in this section also applies to information which the law enforcement agency can obtain free of charge from the relevant database of another Member State of the European Union or for a charge if the person confirms in a format which can be reproduced in writing that he or she will cover the costs of obtaining the said information.</p>
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Articles 23(3), 23(4) and 30 of the LEA. Article 60 of the CMP.	<p>See above for articles 23(3), 23(4) and 30 of the LEA.</p> <p><u>Article 60 of the CMP:</u> § 60. Summoning to body conducting extra-judicial proceedings</p> <p>(1) A person subject to proceedings and the witnesses shall be summoned to the body conducting the extra-judicial proceedings by a summons pursuant to the procedure provided for in §§ 40 and 41 of this Code.</p> <p>(2) A summons shall set out that appearance is mandatory and that compelled attendance pursuant to subsection 43 (3) of this Code may be applied with regard to a person who has been summoned but fails to appear without good reason.</p>
(c) to carry out necessary on-site inspections;	Article 35 of the CMP.	<p><u>Article 35 of the CMP:</u> § 35. Specifications concerning search</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE ³⁵ (POWERS OF THE TECHNICAL SURVEILLANCE AUTHORITY)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		(1) In misdemeanour proceedings, a body conducting extra-judicial proceedings may conduct a search on the basis of a ruling which contains the permission of the county judge as the decision.
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Articles 15 and 16(2) of the Information Society Services Act. The right to issue precepts for infringements belongs to the CPB.	<p><u>Article 15 of the Information Society Services Act:</u> § 15. Transmission of non-conforming information (1) The provision of information society services which do not conform to the requirements provided for in this Act for information that must be provided concerning service providers, for commercial communications or transmission thereof is punishable by a fine of up to 300 fine units. (2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.</p> <p><u>Article 16(2) of the Information Society Services Act</u> § 16. Proceedings (2) Extra-judicial proceedings concerning the misdemeanours provided for in § 15 of this Act shall be conducted by the Technical Surveillance Authority within the limits of its competence.</p>
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	This power belongs to the CPB, although Technical Surveillance Authority may conduct negotiations informally.	-

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE ³⁵ (POWERS OF THE TECHNICAL SURVEILLANCE AUTHORITY)		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Articles 15 and 16(2) of the Information Society Services Act. The right to issue precepts and publish information regarding infringements belongs to the CPB.	See above for Articles 15 and 16(2) of the Information Society Services Act.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Articles 15 and 16(2) of the Information Society Services Act.	See above for Articles 15 and 16(2) of the Information Society Services Act.

MEMBER STATE: FINLAND

LEGAL FRAMEWORK

The Finnish Consumer Ombudsman (FCO), who is part of the Finnish Competition and Consumer Authority (FCCA), is competent for the enforcement of consumer protection law. The Competition and Consumer Authority/the Consumer Ombudsman is a public and administrative authority and fulfils the function of single liaison officer and of competent authority as set by the CPC Regulation. The powers of the FCCA are provided by the Act on Finnish Competition and Consumer Authority (661/2012, hereinafter referred to as the "CCA"). The CCA provides that the FCO is competent for the inspection under the CPC Regulation and it may obtain undertaking and adopt injunction. The Directive 2005/29/EC, Directive 93/13/EEC and Directive 2011/83/EU have been implemented as amendments to the Consumer Protection Act (38/1978), which is a general consumer law covering many areas of marketing law as well as consumer law. Directive 2000/31/EC was implemented by the Act on Provision of Information Society Service (458/2002), repealed by the Information Society Code (917/2014) and the competent authority for enforcement is the Finnish Communications Regulatory Authority (Ficora).

It is important to note that the CPC Regulations powers, especially the power to conduct inspections, were given to the FCO. It should, however, be noted that the drafters of the proposal, which gave the Consumer Ombudsman this power, did not consider it necessary to empower *all* of the competent authorities responsible for the application of the CPC Regulation to carry out on-the-spot inspections through their own administrative rules. Pursuant to Section 10(1) of the Finnish Administrative Procedure Act (434/2003), the Consumer Ombudsman can assist other authorities competent at national level when this is deemed necessary for conducting on-the-spot inspections. However, if another competent authority is better or at least equally well equipped as the Consumer Ombudsman to make an official request or to carry out the required on-the-spot inspections on the basis of its own administrative rules, that authority should use those powers rather than submitting a request for assistance to the Consumer Ombudsman. On the contrary, when the competent authority does not have inspections powers, the FCO may step in and provide assistance to the competent authority by contacting the police and asking assistance for conducting inspections.

In case of infringement, the FCO may issue an injunction and a notice of a conditional fine in order to compel the trader to comply with the injunction. In case of non-compliance, the Market Court may order the payment of a conditional fine.

In addition to the Competition and Consumer Authority/the Consumer Ombudsman, the following authorities have powers for the described Directives and performs the functions of competent authorities: Finnish Food Safety Agency (Evira), Finnish Financial Supervisory Authority (Fiva), Finnish Medicines Agency (Fimea), Finnish National Supervisory Authority for Welfare and Health (Valvira), as well as Finnish Communications Regulatory Authority (Ficora). All these authorities are also public and administrative authorities.

The Food Act (23/2006) establishes Evira's powers with regard to unfair commercial practices. The Act on Credit Institutions (610/2014) includes the powers of Fiva with regard to unfair commercial practices and unfair contract terms. The Medicines Act (395/1987) contains the powers of Fimea with regard to unfair commercial practices. The Alcohol Act (1143/1994) and the Tobacco Act (693/1976) contain the powers of Valvira with regard to unfair commercial practices. The Information Society Code (917/2014) contains the powers of Ficora with regard to electronic commerce.

The enforcement powers of the authorities mentioned above for each Directive covered by this analysis are presented in details in the table below.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-		

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Section 6 (2) of the CCA.	<p>(1) An undertaking is obliged to provide the Finnish Competition and Consumer Authority with information on (...) and to provide the Consumer Ombudsman with information for the purposes of the supervisory duties referred to in section 2(2). The Finnish Competition and Consumer Authority may also order the information to be provided for Regional State Administrative Agencies.</p> <p>(2) The Finnish Competition and Consumer Authority and the Consumer Ombudsman may issue notice of a conditional fine in its enforcement of the obligation to provide information. Provisions on issuing and imposing a notice of a conditional fine are laid down in the act on notice of a conditional fine (1113/1990).</p>
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	See Section 6 of the CCA above.	See Section 6 of the CCA above.
(c) to carry out necessary on-site inspections;	Section 8 of the CCA.	<p>1) The Consumer Ombudsman has the right to conduct an inspection on the premises of an undertaking, if such an inspection is necessary in order to investigate or terminate an intra-Community infringement referred to in Regulation (EC) No. 2006/2004 of the European Parliament and of the Council on</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		<p>cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation). An inspection may not, however, be carried out on premises used as a permanent residence.</p> <p>2) The police shall provide executive assistance to the Consumer Ombudsman in order to facilitate any inspection of the type referred to in subsection</p>
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Section 9 of the CCA.	(1) As soon as the Consumer Ombudsman finds that an undertaking has undertaken an illegal measure, the Consumer Ombudsman shall seek to have the undertaking abandon such a measure voluntarily. If necessary, the Consumer Ombudsman must take any coercive measures required in the case, or refer the matter to be heard by a court of law.
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking;	See Section 9 of the CCA above.	See Section 9 of the CCA above.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish	Section 10 of the CCA.	<p>(1) If the Consumer Ombudsman has the right, under other legislation, to prohibit an illegal procedure, the injunction shall be imposed or issued on a temporary basis, as provided in this section.</p> <p>(2) The Consumer Ombudsman may also impose an injunction in a case deemed to be of less significance in terms of the application of the law or otherwise. Such an injunction will become void if the party that is subject to the injunction provides notification that it opposes the imposition of the injunction, within the provided deadline of</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
resulting decisions;	Section 65 of the Food Act (23/2006).	<p>at least eight days from the notice of the decision being served, and in writing or orally, at the Finnish Competition and Consumer Authority's office.</p> <p>(3) The Consumer Ombudsman may impose the injunction in temporary form, if there is reason to urgently prevent the procedure referred to in subsection 1, due to the broad scope of the matter or rapid impact of the procedure, or for some other, special reason. The Consumer Ombudsman must refer the order concerning a temporary injunction to the Market Court, within three days of the order being issued, under the threat of the injunction otherwise becoming void.</p> <p>(4) The Consumer Ombudsman may issue a notice of a conditional fine in order to lend force to the injunction. The Market Court will decide on ordering the payment of a conditional fine.</p> <p>According to Section 65(1) of the Food Act (23/2006), Evira may prohibit a food business operator from continuing to conduct marketing that violates the food regulations or from resuming such or similar marketing. The prohibition may also be given as temporary, in which case it remains in force until Evira has issued its final decision on the matter.</p> <p>According to Section 65(2) of the Food Act, if in the marketing of food information is given that may cause a serious health hazard or if the marketing of food is essentially incorrect or misleading, Evira may, in addition to the measures mentioned in subsection 1, take measures laid down in sections 56–58 until the marketing has been made to comply with the regulations.</p> <p>According to Section 56 of the Food Act, Evira may prohibit the primary production, manufacture, import, export, placing on the market, serving or conveyance of a foodstuff or its use in food manufacture, if the food or information about it, the food production, processing or distribution stage, food premises, a place of primary production, or the operations practised in them cause or there are reasonable grounds for suspecting that they</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Section 66 of the Food Act (23/2006).	<p>may cause, a serious health hazard and the health hazard cannot be prevented otherwise. The prohibition may be imposed temporarily for the period during which the matter is investigated or the deficiency corrected. A temporary prohibition remains in force until Evira issues its final decision on the matter. Evira shall ensure that the necessary investigations on the matter are performed without delay.</p> <p>According to Section 57 of the Food Act, Evira may order a food business operator to withdraw food from the market if the operator fails to comply with the obligation laid down in Article 19 of the General Food Regulation concerning withdrawal of any food violating food safety requirements from the market. Evira may also order food to be withdrawn from the market if the information on it violates the food regulations in an essential way. Evira may, at the expense of the food business operator, inform the public about food that violates food safety requirements if the food business operator fails to comply with the obligation to inform the consumers about the matter laid down in Article 19 of the General Food Regulation.</p> <p>According to Section 58 of the Food Act, Evira may seize a foodstuff if it causes or if there is reason to suspect that it causes a direct health hazard and the other measures laid down in the act are not to be considered sufficient. The seizure must be performed in the presence of a witness. The party from whom the food is seized shall be given an attestation of the matter, stating the amount of property seized and the grounds for the seizure. The seized property may, where necessary, be kept in food premises or at the place of primary production, appropriately marked, or in a sealed or otherwise marked storage space. Efforts shall be made to store the property for the duration of any tests necessary for determining the health hazard it causes in such a way that its quality is not affected.</p> <p>According to Section 66 of the Food Act, when imposing a prohibition under Section 65 (which is described above), Evira may oblige the food business operator on which the prohibition has been imposed to submit a</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	<p>Section 68 of the Food Act (23/2006).</p> <p>Chapter 22, Section 1 of the Act on Credit Institutions (610/2014).</p> <p>Section 93 of the Medicines Act (395/1987).</p>	<p>correction of marketing within a specified period if this is considered essential on account of the obvious harm arising from the marketing. In its decision Evira may order that the correction of marketing must be implemented to the same extent as the marketing to which the correction applies.</p> <p>According to Section 68 of the Food Act, Evira may reinforce an order or prohibition given under the act with conditional fine or a threat of performance at the defaulter's expense or a threat of suspension. Otherwise the provisions of the Act on Conditional Fines apply in matters concerning conditional fines or threats of performance and suspension.</p> <p>According to Chapter 22, Section 1 of the Act on Credit Institutions (610/2014), Fiva may prohibit a party who violates the act from continuing or repeating the measures which are contrary to the act. According to Chapter 22, Section 2 of the Act on Credit Institutions, Fiva may enhance compliance with the prohibition or order referred to in Section 1 by a conditional fine. Provisions on a conditional fine are laid down in the Act on Conditional Fines.</p> <p>According to Section 93 of the Medicines Act (395/1987), if certain sections of the act have been violated in marketing a medicinal product, Fimea may forbid continuation or renewal of the marketing. Fimea may also order a party thus forbidden to correct the marketing if this is definitely considered necessary in terms of risk to medicinal product safety. A prohibition or an order to correct marketing material can be backed up with a conditional fine. If necessary, a new conditional fine may be imposed in order to make a prohibition more effective. A Regional State Administrative Agency will order payment of the conditional fine to make the prohibition more effective.</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	<p>Section 18 of the Tobacco Act (693/1976).</p> <p>Section 19 of the Tobacco Act (693/1976).</p> <p>Section 20 of the Tobacco Act (693/1976).</p>	<p>basis of the act by imposing notice of a conditional fine or by imposing notice that the measure that has not been taken within the prescribed time will be ordered done at the expense of the defaulting party according to the provisions of the Act on Conditional Fines, unless otherwise provided by the act.</p> <p>According to Section 18 of the Tobacco Act (693/1976), on the basis of advertising of tobacco products, substitute tobacco, tobacco imitations or smoking accessories or other sales promotion contrary to the act, Valvira may forbid the commissioner of the advertising or sales promotion, the party carrying out said activity, and anyone in their employ from continuing and renewing the procedures contrary to provisions.</p> <p>According to Section 19 of the Tobacco Act, if the procedure continued or renewed as referred to in section 18 above is of such nature or significance that it needs to be urgently prevented, Valvira may issue a temporary prohibition before final settlement of the matter. The temporary prohibition order takes force immediately and may be cancelled prior to the final settlement.</p> <p>According to Section 20 of the Tobacco Act, in deciding on the prohibition referred to in Section 18 and 19, Valvira may require the party receiving the prohibition or order to carry out a rectification within a time limit and in a way set by said authority, if this is considered necessary with regard to the evident harmfulness of the procedure contrary to provisions. Valvira or a local authority may reinforce a prohibition or order issued under the provisions of the act by a conditional fine or by the threat that any action not taken within the time limit laid down will be carried out at the defaulter's expense. Unless otherwise provided in the act, what is laid down in the Act on Conditional Fines shall be applied to the conditional fines and threat of performance at the defaulter's expense imposed under the provisions of the act.</p>
(g) to require the losing	See Section 10(4) of the CCA above.	See Section 10(4) of the CCA above.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.		

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-		

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	<p>Section 6 of the CCA.</p> <p>Section 315 of the Information Society Code (917/2014).</p>	<p>An undertaking is obliged to provide the Finnish Competition and Consumer Authority with information on (...) and to provide the Consumer Ombudsman with information for the purposes of the supervisory duties referred to in section 2(2). The Finnish Competition and Consumer Authority may also order the information to be provided for Regional State Administrative Agencies.</p> <p>The Finnish Competition and Consumer Authority and the Consumer Ombudsman may issue notice of a conditional fine in its enforcement of the obligation to provide information. Provisions on issuing and imposing a notice of a conditional fine are laid down in the act on notice of a conditional fine (1113/1990).</p> <p>According to Section 315 of the Information Society Code (917/2014), Ficora is entitled to access information necessary for carrying out its duties under the Information Society Code from anyone whose rights and obligations are referred to in the act or anyone acting on their behalf. Anyone whose rights and obligations are provided under the act or anyone acting on their behalf, shall be obliged, at request, to collect and, notwithstanding secrecy provisions and other restrictions on the disclosure of information, supply to the competent authorities any information necessary for carrying out their duties. The information shall be supplied without delay, in the form requested by the public authority and without charge.</p>
(b) to require the supply by any person of relevant information related to the intra-Community	<p>See Section 6 of the CCA above.</p> <p>See Section 315 of the Information Society Code (917/2014) above.</p>	<p>See Section 6 of the CCA above.</p> <p>See Section 315 of the Information Society Code above.</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
infringement;		
(c) to carry out necessary on-site inspections;	Section 8 of the CCA.	<ol style="list-style-type: none"> 1) The Consumer Ombudsman has the right to conduct an inspection on the premises of an undertaking, if such an inspection is necessary in order to investigate or terminate an intra-Community infringement referred to in Regulation (EC) No. 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation). An inspection may not, however, be carried out on premises used as a permanent residence. 2) The police shall provide executive assistance to the Consumer Ombudsman in order to facilitate any inspection of the type referred to in subsection
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Section 9 of the CCA.	See Section 9 of the CCA above.
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking;	See Section 9 of the CCA above.	See Section 9 of the CCA above.

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	(917/2014). Section 332 of the Information Society Code (917/2014).	frequencies or order a comparable coercive measure) regardless of the time limit referred above. According to Section 332 of the Information Society Code, a conditional fine, a threat of termination or a threat of having the act done at the defaulter's expense may be imposed in support of this obligation. Provisions on conditional fines, threat of termination and threat of completion are laid down in the Act on Conditional Fines.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	See Section 10(4) of the CCA above.	See Section 10(4) of the CCA above.

DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)

Article 4(6)		
<p>6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:</p>		
<p>(a) to have access to any relevant document, in any form, related to the intra-Community infringement;</p>	<p>Section 6 of the CCA.</p>	<p>According to Section 6 of the CCA, an undertaking is obliged to provide the Consumer Ombudsman with information for the purposes of the supervisory duties. The Consumer Ombudsman may issue notice of a conditional fine in its enforcement of the obligation to provide information. Provisions on issuing and imposing a notice of a conditional fine are laid down in the Act on Conditional Fines.</p>
<p>(b) to require the supply by any person of relevant information related to the intra-Community infringement;</p>	<p>See Section 6 of the CCA above.</p>	<p>See Section 6 of the CCA above.</p>
<p>(c) to carry out necessary on-site inspections;</p>	<p>Section 8 of the CCA.</p>	<p>According to Section 8 of the CCA, the Consumer Ombudsman has the right to conduct an inspection on the premises of an undertaking, if such an inspection is necessary in order to investigate or terminate an intra-Community infringement referred to in CPC Regulation. An inspection may not, however, be carried out on premises used as a permanent residence. The police shall provide executive assistance to the Consumer Ombudsman in order to facilitate this kind of inspection.</p>
<p>(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;</p>	<p>Section 9 of the CCA.</p>	<p>According to Section 9 of the CCA, as soon as the Consumer Ombudsman finds that an undertaking has undertaken an illegal measure, the Consumer Ombudsman shall seek to have the undertaking abandon such a measure voluntarily. If necessary, the Consumer Ombudsman must take any coercive measures required in the case, or refer the matter to be heard by a court.</p>

DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	<p>See Section 9 of the CCA above.</p> <p>Section 9 and 10 of the Act on Certain Proceedings before the Market Court</p>	<p>See Section 9 of the CCA above.</p> <p>Section 9 The Market Court shall serve the petition on the business or other person at whom the demand is directed. If the petition pertains to a decision or order of an authority, the petition shall also be served on the authority to whose decision or order it pertains. (2) When serving the petition, the Market Court shall exhort the recipient to respond to the petition within a set period. The response shall contain a comment on the demand of the petitioner and the grounds for the comment. The response shall also refer to the facts and documents on which the response is based and the respondent shall mention the evidence that he or she refers to.</p> <p>Section 10 The Market Court shall serve a petition referred to in section 3(1)(3) at once on the Consumer Ombudsman. Within 30 days of having been served the petition, the Consumer Ombudsman shall notify the Market Court whether he or she will undertake measures in the case by virtue of the Consumer Protection Act or the Act on the Consumer Agency. (2) If the Consumer Ombudsman notifies that he or she will undertake measures in the case, the Market Court shall stay the preparation of the case until such time that the Consumer Ombudsman notifies that he or she has concluded the measures in the case. (3) If the Consumer Ombudsman initiates a case in the Market Court, the petition of the business or the association of businesses shall be heard jointly with it</p>

DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
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(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	<p>Section 10 of the CCA.</p> <p>Section 3 of the Act on Certain Proceedings before the Market Court</p>	<p>According to Section 10(1) of the CCA, if the Consumer Ombudsman has the right, under other legislation, to prohibit an illegal procedure, the injunction shall be imposed or issued on a temporary basis, as provided in this section.</p> <p>According to Section 10(2) of the CCA, the Consumer Ombudsman may also impose an injunction in a case deemed to be of less significance in terms of the application of the law or otherwise. Such an injunction will become void if the party that is subject to the injunction provides notification that it opposes the imposition of the injunction, within the provided deadline of at least eight days from the notice of the decision being served, and in writing or orally, at the Finnish Competition and Consumer Authority's office.</p> <p>According to Section 10(3) of the CCA, the Consumer Ombudsman may impose the injunction in temporary form, if there is reason to urgently prevent the procedure referred to in subsection 1, due to the broad scope of the matter or rapid impact of the procedure, or for some other, special reason. The Consumer Ombudsman must refer the order concerning a temporary injunction to the Market Court, within three days of the order being issued, under the threat of the injunction otherwise becoming void.</p> <p>According to Section 10(4) of the CCA, the Consumer Ombudsman may issue a notice of a conditional fine in order to lend force to the injunction. The Market Court will decide on ordering the payment of a conditional fine.</p> <p>Section 3 (1) if the case is to be heard by virtue of the Consumer Protection Act, the Act on the Consumer Agency, section</p>

DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Section 8(2), 9, 10 of the Act on Certain Proceedings before the Market Court	<p>13(1) of the Act on the Collection of Debts or the Broadcasting Act, by petition of the Consumer Ombudsman;</p> <p>Section 8(2) (2) If the case is initiated after an authority has made a decision, also that decision shall be annexed to the petition in the original or as a copy, as shall a certificate of the date of service of the document on the petitioner.</p> <p>Section 9 The Market Court shall serve the petition on the business or other person at whom the demand is directed. If the petition pertains to a decision or order of an authority, the petition shall also be served on the authority to whose decision or order it pertains. (2) When serving the petition, the Market Court shall exhort the recipient to respond to the petition within a set period. The response shall contain a comment on the demand of the petitioner and the grounds for the comment. The response shall also refer to the facts and documents on which the response is based and the respondent shall mention the evidence that he or she refers to.</p> <p>Section 10 The Market Court shall serve a petition referred to in section 3(1)(3) at once on the Consumer Ombudsman. Within 30 days of having been served the petition, the Consumer Ombudsman shall notify the Market Court whether he or she will undertake measures in the case by virtue of the Consumer Protection Act or the Act on the Consumer Agency. (2) If the Consumer Ombudsman notifies that he or she will undertake measures in the case, the Market Court shall stay the preparation of the case until such time that the Consumer Ombudsman notifies that he or she has concluded the measures in the case. (3) If the Consumer Ombudsman initiates a</p>

DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Chapter 22, Sections 1 and 2 of the Act on Credit Institutions (610/2014).	<p>case in the Market Court, the petition of the business or the association of businesses shall be heard jointly with it</p> <p>According to Chapter 22, Section 1 of the Act on Credit Institutions (610/2014), Fiva may prohibit a party who violates the act from continuing or repeating the measures which are contrary to the act. According to Chapter 22, Section 2 of the Act on Credit Institutions, the Financial Supervisory Authority may enhance compliance with the prohibition or order referred to in Section 1 by a conditional fine. Provisions on a conditional fine are laid down in the Act on Conditional Fines.</p>
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	See Section 10(4) of the CCA above.	See Section 10(4) of the CCA above.

DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EC ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Section 6 of the CCA.	According to Section 6 of the CCA, an undertaking is obliged to provide the Consumer Ombudsman with information for the purposes of the supervisory duties. The Consumer Ombudsman may issue notice of a conditional fine in its enforcement of the obligation to provide information. Provisions on issuing and imposing a notice of a conditional fine are laid down in the Act on Conditional Fines.
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	See Section 6 of the CCA above.	See Section 6 of the CCA above.
(c) to carry out necessary on-site inspections;	Section 8 of the CCA.	According to Section 8 of the CCA, the Consumer Ombudsman has the right to conduct an inspection on the premises of an undertaking, if such an inspection is necessary in order to investigate or terminate an intra-Community infringement referred to in CPC Regulation. An inspection may not, however, be carried out on

DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EC ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		premises used as a permanent residence. The police shall provide executive assistance to the Consumer Ombudsman in order to facilitate this kind of inspection.
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Section 9 of the CCA.	According to Section 9 of the CCA, as soon as the Consumer Ombudsman finds that an undertaking has undertaken an illegal measure, the Consumer Ombudsman shall seek to have the undertaking abandon such a measure voluntarily. If necessary, the Consumer Ombudsman must take any coercive measures required in the case, or refer the matter to be heard by a court.
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	See Section 9 of the CCA above.	See Section 9 of the CCA above.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish	Section 10 of the CCA.	According to Section 10(1) of the CCA, if the Consumer Ombudsman has the right, under other legislation, to prohibit an illegal procedure, the injunction shall be imposed or issued on a temporary basis, as provided in this section. According to Section 10(2) of the CCA, the Consumer Ombudsman may also impose an injunction in a case

DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EC ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
resulting decisions;		<p>deemed to be of less significance in terms of the application of the law or otherwise. Such an injunction will become void if the party that is subject to the injunction provides notification that it opposes the imposition of the injunction, within the provided deadline of at least eight days from the notice of the decision being served, and in writing or orally, at the Finnish Competition and Consumer Authority's office.</p> <p>According to Section 10(3) of the CCA, the Consumer Ombudsman may impose the injunction in temporary form, if there is reason to urgently prevent the procedure referred to in subsection 1, due to the broad scope of the matter or rapid impact of the procedure, or for some other, special reason. The Consumer Ombudsman must refer the order concerning a temporary injunction to the Market Court, within three days of the order being issued, under the threat of the injunction otherwise becoming void.</p> <p>According to Section 10(4) of the CCA, the Consumer Ombudsman may issue a notice of a conditional fine in order to lend force to the injunction. The Market Court will decide on ordering the payment of a conditional fine.</p>
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	See Section 10(4) of the CCA above.	See Section 10(4) of the CCA above.

MEMBER STATE: GREECE

LEGAL FRAMEWORK

The Joint Ministerial Decision (hereinafter JMD) Z1-827 on the adoption of supplementary measures to implement Regulation (EC) No 2006/2004 (hereinafter CPC) designated the Single Liaison Office and the Competent Greek public authorities, responsible for implementing the CPC Regulation. The Consumer Protection Directorate (Dieuthinsi Prostatias Katanaloti - hereinafter CPD) of the General Secretariat for Consumer Affairs (Geniki Grammateia Katanaloti – now called General Secretariat for Trade and Consumer Protection) of the Ministry of Economy, Development and Tourism was designated as competent authority for the adoption and execution of 11 out of 16 of the Directives included in the Annex to the CPC Regulation and and now, after the amendments of the Annex, 9 out of 19 and in particular of:

- Directive 2000/31/EC on electronic commerce as implemented into Greek law by Presidential Decree 131/2003
- Directive 93/13/EEC on unfair contract terms as implemented into Greek law by article 2 Law 2251/1994 (Greek Consumer Protection Act)
- Directive 2011/83/EU has been implemented in Greece by the Joint Ministerial Decision No Z1-891/2013 which amended the Law 2251/1994.

According to article 3 paragraph 1 of JMD: 'The powers regulated by paragraphs 3 and 6 of article 4 of the (CPC) Regulation, which are exercised according to the provisions of paragraphs 4 and 5 of the same article, are added to the consolidated competences of competent authorities'.

According to article 3 paragraph 5 of JMD: 'In the context of their competences, the competent authorities are obliged to undertake any activities for the market supervision and take all necessary measures for the application of legislation in order to cooperate seamlessly with the competent authorities of the other member states and of third countries in the context of the mutual assistance, consolidated in chapters I and II of the (CPC) Regulation'

The most recent version of the list of article 5 of the CPC Regulation repeats that the CPD remains the competent authority for the supervision of implementation of the provisions of the above mentioned Directives and additionally provides that the CPD is the competent authority also for:

- Directive 2005/29/EC on unfair commercial practices implemented into Greek law by Law 2251/1994
- Directive 2006/114/EC in relation to the provisions applying to comparative advertising implemented into Greek law by articles 9, 9d and 9e Law 2251/1994

The general competences of the CPD, which currently belongs to the General Directorate for Consumer Affairs and Market Surveillance (Geniki Dieuthinsi Prostatias tou Katanaloti kai Epopteias tis Agoras), are described in article 63 of the Presidential Decree 116/2014. According to its most relevant provisions:

'1. The main operational goals regarding the CPC Regulation of the Directorate are:

(a) The protection of consumers in the context of the implementation of Law 2251/1994 and in particular the protection of financial interests of consumers, regarding their transactions related to purchases of consumer goods and the proper operation of the market and the suppression of unfair commercial practices for the benefit of consumers as well as of fair competition between undertakings.

(b) The protection of consumers and the proper operation of the market in the context of the implementation of Law 2251/1994, as amended, on the protection of financial interests of consumers, regarding the provision of services.

2. The Consumer Protection Directorate (CPD) is divided into the following units:

(a) Consumer Products Unit

(b) General and Special Services Unit

(c) Financial Services Unit

(d) Chemical Analysis and Organoleptic Tests Unit

The Consumer Products, General and Special Services and Financial Services Units are competent for:

(aa) Receiving, from consumers or consumer unions, complaints about and reports on violation of consumer protection rules, regarding goods and products;

(bb) Investigating, after receiving a complaint or ex officio, for a violation of the above mentioned rules, regarding goods and products or transmitting the request to the competent authority in order to conduct the necessary investigation;

(cc) Imposing sanctions to violators, in cooperation with the Legal Support Unit of the Policy and Consumer Information Directorate, according to the legislation for consumer protection or transmitting the case to other competent authorities in order to impose sanctions according to the legislation, providing their competences;

(dd) Monitoring and supervising the implementation of the rules on consumer protection, mainly the provisions of Law 2251/1994 or other special provisions, which provide the Directorate's competency regarding services or goods;

(ee) Informing the Policy and Consumer Information Directorate or any other competent authority, about deficiencies of consumer protection legislation, determined during the execution of their tasks;

(ff) Cooperating with the Policy and Consumer Information Directorate in the harmonization of Greek legislation with Union Law and developing actions in order to inform and train consumers, regarding goods and services, belonging to their area of competency;

(gg) Cooperating with the regional and municipal authorities, competent for consumer protection issues, the Consumer's Ombudsman (Synigoros tou Katanaloti), the Committees for Amicable Settlement and other mediating agencies and agencies for the settlement of consumer disputes, in order to facilitate their tasks or the investigation into the validity of complaints submitted to the them;

(hh) Advising and assisting consumers, in case of damage from goods or services and taking care of solving problems of consumers, where other authorities are competent;

(ii) Participating in agencies and committees of the European Union and international institutions, dealing with issues of protection of consumers' financial interests, regarding goods and services, whenever the Policy and Consumer Information Directorate is in need of assistance to perform its tasks.

The following provisions apply in the context of the adoption and execution of all the above mentioned Directives, as implemented in Greek Law, regarding the competencies of the CPD:

Article 17 par. 1 (b) Law 4177/2013 on the Rules for Product Market Regulation and Provision of Services and other rules:

'Competent authorities for the supervision of the application of the provisions of this (Law) and the authorized ministerial decisions, excluding the provisions referring to the official food stuffs supervision, are:

...

(b) The General Secretariat for Consumer Affairs (currently General Secretariat for Trade and Consumer Protection) of the Ministry of Development and Competiveness

Article 18 par. 1 Law 4177/2013 on the Rules for Product Market Regulation and Provision of Services and other rules:

«During investigation proceedings, the competent public servants have the powers of a special investigating public servant, according to the provision of the Code of Criminal Procedure. The competences mentioned in par. 1 article 39 Law 3959/2011 apply *mutatis mutandis*».

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS,		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		<p>Article 17 par. 1 (b) Law 4177/2013: Competent authorities for the supervision of the application of the provisions of this (law) and the authorized ministerial decisions, excluding the provisions referring to the official food stuffs supervision are: (b the General Secretariat for Trade and Consumer Protection) of the Ministry of Development and Competitiveness</p> <p>Article 18 par. 1 Law 4177/2013: During investigation proceedings, the competent public servants have the powers of a special investigating public servant, according to the provision of the Code of Criminal Procedure. The competences mentioned in par. 1 article 39 Law 3959/2011 apply <i>mutatis mutandis</i>.</p>
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	<p>Article 18 par. 5 Law 4177/2013 on the Rules for Product Market Regulation and Provision of Services and other rules</p> <p>Article 39 par.1 (a), (b), (c) and (g) Law 3959/2011 on Protection of Free Competition</p>	<p>Article 18 par. 5 Law 4177/2013: The persons under investigation are obliged to assist the competent investigatory authorities during the execution of their tasks.</p> <p>Article 39 par.1 (a), (b), (c) and (g) Law 3959/2011: 1. In order to establish infringement of Articles 1, 2 and 5 to 10 and apply Article 11 herein and in order to establish infringement of Articles 101 and 102 of the Treaty on the Functioning of the European Union, the authorised servants of the Directorate-General of Competition shall exercise the powers of tax auditor and shall be authorised in particular: (a) to inspect all manner and categories of books, records and other documents of the undertaking or</p>

		<p>association of undertakings, including the business e-mails of the undertaking, the directors, the chief executive officers, the managers and the persons entrusted with the administration or management in general and of the staff of the undertaking or association of undertakings, regardless of how and where they are stored, and to take copies or extracts of them;</p> <p>(b) to seize books, documents and other records, including electronic means of storage and data transfer containing professional information;</p> <p>(c) to inspect and collect information and data from mobile terminals and portable devices and their servers, either on or off the premises of the undertaking or association of undertakings being inspected, in collaboration with the competent authorities;</p> <p>...</p> <p>(g) to take, at their discretion, sworn or unsworn witness statements, subject to the provisions of Article 212 of the Code of Criminal Procedure, and to ask any representative or member of staff of the undertaking or association of undertakings for explanations of facts or documents relating to the subject matter and purpose of the inspection and to record their answers.</p>
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	See above	See above
(c) to carry out necessary on-site inspections;	<p>Article 18 par. 3 and 4 Law 4177/2013</p> <p>Article 39 par.1 (d), (e) and (f) Law 3959/2011 on Protection of Free Competition</p>	<p><u>Article 18 par. 3 and 4 Law 4177/2013:</u></p> <p>3. Competent authorities for conducting investigations may inspect any premises where services are provided or products are produced, stored, transported, distributed in the market or, displayed, meant to be distributed to the consumers. The competent authorities' are entitled to proceed to any relevant investigation.</p> <p>4. In order to enter the premises of the persons under investigation, where the services provided or products are produced, stored, transported, distributed, the competent authorities have to produce relevant administrative or any other relevant documents of the competent supervision authorities, proving their authorization to conduct the investigation.</p> <p><u>Article 39 par.1 (d), (e) and (f) Law 3959/2011:</u></p> <p>1. In order to establish infringement of Articles 1, 2 and 5 to 10 and apply Article 11 herein and in order to establish infringement of Articles 101 and 102 of the Treaty on the Functioning of the European Union, the authorised servants of the Directorate-General of Competition shall exercise the powers of tax auditor and shall be authorised in particular:</p>

		<p>(d) to carry out inspections in the offices and other premises and means of transport of the undertaking or association of undertakings;</p> <p>(e) to seal any professional premises, books or documents for the period of and to the extent necessary for the inspection;</p> <p>(f) to carry out inspections in the residencies of the businessmen, directors, chief executive officers and persons entrusted with the management or administration in general and of the staff of the undertaking or 38 association of undertakings, where there is reasonable cause to suspect that they are keeping books or other documents pertaining to the undertaking and the purpose of the inspection</p>
<p>(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;</p>	<p>Article 9i par. 5 Law 2251/1994 on Consumer Protection</p> <p>Article 13a par. 2 (a) Law 2251/1994 on Consumer Protection</p> <p>Article 13a par. 3 (a) Law 2251/1994 on Consumer Protection</p> <p>Article 13a par. 5 Law 2251/1994 on Consumer Protection</p>	<p>Article 9i par. 5 Law 2251/1994:</p> <p>The Minister of Development can order via a relevant decision, due to public interest reasons, the immediate cessation of an unfair trade practice. In case that the violator does not comply with this decision, the sanctions of article 13a of this Law are imposed on him.</p> <p>Article 13a Law par. 2 (a) 2251/1994:</p> <p>2. Without prejudice to the provisions of the Penal Code and the Rules for Product Market Regulation and Provision of Services and the provisions of other relevant laws, against the suppliers, who violate the provisions of this law, the following sanctions may be imposed by a decision of the Minister of Development and Competitiveness after a complaint or <i>ex officio</i>:</p> <p>(a) A recommendation for compliance within a specified period, cessation of the infringement and omission from repeating it in the future.</p> <p>Article 13a par. 3 Law 2251/1994:</p> <p>3. Against the supplier, who doesn't respond to consumer's complaints according to paragraph 1, the Minister of Development can proceed with:</p> <p>(a) A recommendation for compliance within a specified period with a warning of fine imposition.</p> <p>Article 13a par. 5 Law 2251/1994:</p> <p>The Minister of Development, in case of a violation of the provisions of this law, may, taking into account the nature and seriousness of the violation, as well as its effects to the consumers, to publish via press or any other means, the sanctions imposed according to previous paragraphs 2 and 3.</p>

(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	See above	See above
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	See above	See above
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	<p>Article 13a par. 2 (b) and (c) Law 2251/1994 on Consumer Protection</p> <p>Article 13a par. 3 (b) and (c) Law 2251/1994 on Consumer Protection</p>	<p>Article 13a par. 2 (b) and (c):</p> <p>2. Without prejudice to the provisions of the Penal Code and the Rules for Product Market Regulation and Provision of Services and the provisions of other relevant laws, on the suppliers, who violate the provisions of this law, the following sanctions can be imposed by a decision of the Minister of Development and Competitiveness after a complaint or <i>ex officio</i>:</p> <p>(b) A fine ranging from one thousand (1,500) to one million (1,000,000) Euros, In case that against the same supplier more than three (3) fine imposing decisions have been issued, the maximum limit of the fine is doubled.</p> <p>(c) Temporary shutdown of the undertaking or part of it for a period of three (3) months to one (1) year in case that against the same supplier more than three (3) fine imposing decisions have been issued,</p> <p>Article 13a par. 3 (b) and (c) Law 2251/1994:</p> <p>3. On the supplier, who doesn't respond to consumer's complaint according to paragraph 1, the Minister of Development can proceed with:</p> <p>(b) The imposing of a fine ranging from five hundred (500) to five thousand (5,000) Euros.</p> <p>(c) The imposing of a fine ranging from five thousand (5,000) to fifty thousand (50,000) Euros.</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW(ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	<p>Article 18 par. 5 Law 4177/2013 on the Rules for Product Market Regulation and Provision of Services and other rules</p> <p>Article 39 par.1 (a), (b), (c) and (g) Law 3959/2011 on Protection of Free Competition</p>	<p>Article 18 par. 5 Law 4177/2013: The persons under investigation are obliged to assist the competent investigatory authorities during the execution of their tasks.</p> <p>Article 39 par.1 (a), (b), (c) and (g) Law 3959/2011: 1. In order to establish infringement of Articles 1, 2 and 5 to 10 and apply Article 11 herein and in order to establish infringement of Articles 101 and 102 of the Treaty on the Functioning of the European Union, the authorised servants of the Directorate-General of Competition shall exercise the powers of tax auditor and shall be authorised in particular: (a) to inspect all manner and categories of books, records and other documents of the undertaking or association of undertakings, including the business e-mails of the undertaking, the directors, the chief executive officers, the managers and the persons entrusted with the administration or management in general and of the staff of the undertaking or association of undertakings, regardless of how and where they are stored, and to take copies or extracts of them; (b) to seize books, documents and other records, including electronic means of storage and data transfer containing professional information;</p>

		<p>(c) to inspect and collect information and data from mobile terminals and portable devices and their servers, either on or off the premises of the undertaking or association of undertakings being inspected, in collaboration with the competent authorities;</p> <p>...</p> <p>(g) to take, at their discretion, sworn or unsworn witness statements, subject to the provisions of Article 212 of the Code of Criminal Procedure, and to ask any representative or member of staff of the undertaking or association of undertakings for explanations of facts or documents relating to the subject matter and purpose of the inspection and to record their answers.</p>
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	<p>See above</p> <p>Article 18 par. 1 Presidential Decree 131/2003</p>	<p>See above</p> <p>Article 18 par. 1 Presidential Decree 131/2003:</p> <p>1. The Ministry of Development is competent for the supervision and investigation of effective implementation of this Presidential Decree. In this context and without prejudice to the legislation for the protection of confidentiality and personal data he has the right to require the supply of any necessary information by the service provider</p>
(c) to carry out necessary on-site inspections;	<p>Article 18 par. 3 and 4 Law 4177/2013</p> <p>Article 39 par.1 (d), (e) and (f) Law 3959/2011 on Protection of Free Competition</p>	<p>Article 18 par. 3 and 4 Law 4177/2013:</p> <p>3. Competent authorities for conducting investigations may inspect any premises where services are provided or products are produced, stored, transported, distributed in the market or, displayed, meant to be distributed to the consumers. The competent authorities' are entitled to proceed to any relevant investigation.</p> <p>4. In order to enter the premises of the persons under investigation, where the services provided or products are produced, stored, transported, distributed, the competent authorities have to produce relevant administrative or any other relevant documents of the competent supervision authorities, proving their authorization to conduct the investigation.</p> <p>Article 39 par.1 (d), (e) and (f) Law 3959/2011:</p> <p>1. In order to establish infringement of Articles 1, 2 and 5 to 10 and apply Article 11 herein and in order to establish infringement of Articles 101 and 102 of the Treaty on the Functioning of the European Union, the authorised servants of the Directorate-General of Competition shall exercise the powers of tax auditor and shall be authorised in particular:</p> <p>(d) to carry out inspections in the offices and other premises and means of transport of the undertaking or association of undertakings;</p>

		<p>(e) to seal any professional premises, books or documents for the period of and to the extent necessary for the inspection;</p> <p>(f) to carry out inspections in the residencies of the businessmen, directors, chief executive officers and persons entrusted with the management or administration in general and of the staff of the undertaking or 38 association of undertakings, where there is reasonable cause to suspect that they are keeping books or other documents pertaining to the undertaking and the purpose of the inspection</p>
<p>(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;</p>	<p>Article 9i par. 5 Law 2251/1994 on Consumer Protection</p> <p>Article 13a par. 2 (a) Law 2251/1994 on Consumer Protection</p> <p>Article 13a par. 3 (a) Law 2251/1994 on Consumer Protection</p> <p>Article 13a par. 5 Law 2251/1994 on Consumer Protection</p> <p>Article 19 Presidential Decree 131/2003</p>	<p>Article 9i par. 5 Law 2251/1994: The Minister of Development can order via a relevant decision, due to public interest reasons, the immediate cessation of an unfair trade practice. In case that the violator does not comply with this decision, the sanctions of article 13a of this Law are imposed on him.</p> <p>Article 13a Law par. 2 (a) 2251/1994: 2. Without prejudice to the provisions of the Penal Code and the Rules for Product Market Regulation and Provision of Services and the provisions of other relevant laws, against the suppliers, who violate the provisions of this law, the following sanctions may be imposed by a decision of the Minister of Development and Competitiveness after a complaint or ex officio: (a) A recommendation for compliance within a specified period, cessation of the infringement and omission from repeating it in the future.</p> <p>Article 13a par. 3 Law 2251/1994: 3. Against the supplier, who doesn't respond to consumer's complaints according to paragraph 1, the Minister of Development can proceed with: (a) A recommendation for compliance within a specified period with a warning of fine imposition.</p> <p>Article 13a par. 5 Law 2251/1994: The Minister of Development, in case of a violation of the provisions of this law, may, taking into account the nature and seriousness of the violation, as well as its effects to the consumers, to publish via press or any other means, the sanctions imposed according to previous paragraphs 2 and 3.</p> <p>Article 19 Presidential Decree 131/2003 provides that the violators of the Presidential Decree will be punished</p>

		<p>according to the sanctions provided by article 14 par. 3 Law 2251/1994 and the sanctions provided by the (former) Code of Market Regulation.</p> <p>Currently the above mentioned sanctions of Law 2251/1994 are regulated in article 13a, which content has been already analyzed.</p> <p>The Code of Market Regulation has been repealed and replaced by Law 4177/2013 on the Rules for Product Market Regulation and Provision of Services and other rules.</p>
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	See above	See above
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	See above	See above
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	<p>Article 13a par. 2 (b) and 9 (c) Law 2251/1994 on Consumer Protection</p> <p>Article 13a par. 3 (b) and (c) Law 2251/1994 on Consumer Protection</p>	<p>Article 13a par. 2 (b) and 9 (c):</p> <p>2. Without prejudice to the provisions of the Penal Code and the Rules for Product Market Regulation and Provision of Services and the provisions of other relevant laws, on the suppliers, who violate the provisions of this law, the following sanctions can be imposed by a decision of the Minister of Development and Competitiveness after a complaint or <i>ex officio</i>:</p> <p>(b) A fine ranging from one thousand (1,500) to one million (1,000,000) Euros, In case that against the same supplier more than three (3) fine imposing decisions have been issued, the maximum limit of the fine is doubled.</p> <p>(c) Temporary shutdown of the undertaking or part of it for a period of three (3) months to one (1) year in case that against the same supplier more than three (3) fine imposing decisions have been issued,</p> <p>Article 13a par. 3 (b) and (c) Law 2251/1994:</p> <p>3. On the supplier, who doesn't respond to consumer's complaint according to paragraph 1, the Minister of Development can proceed with:</p> <p>(b) The imposing of a fine ranging from five hundred (500) to five thousand (5,000) Euros.</p>

	Article 19 Presidential Decree 131/2003	<p>(c) The imposing of a fine ranging from five thousand (5,000) to fifty thousand (50,000) Euros.</p> <p>Article 19 Presidential Decree 131/2003 provides that the violators of the Presidential Decree will be punished according to the sanctions provided by article 14 par. 3 Law 2251/1994 and the sanctions provided by the (former) Code of Market Regulation.</p> <p>Currently the above mentioned sanctions of Law 2251/1994 are regulated in article 13a, which content has been already analyzed.</p> <p>The Code of Market Regulation has been repealed and replaced by Law 4177/2013 on the Rules for Product Market Regulation and Provision of Services and other rules.</p>
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MEMBER STATE: HUNGARY

LEGAL FRAMEWORK

With respect to the implementation of Article 4(6) of the CPC Regulation, it is important to note that, in Hungary, many competent authorities are based on various sets of general legislation; such as the Administrative Act, as well as sector-specific legislation are responsible for the execution and maintenance of concerned article and system. Moreover, Hungary has not created a new public body exclusively in charge of the cross-border enforcement. On the level of enabled competent authorities; in accordance with Article 43/A³⁷ of Act CLV of 1997 on Consumer Protection (hereinafter referred to as the “**Consumer Protection Act**”), the National Consumer Protection Authority is the single liaison office in Hungary.

³⁷ Pursuant to Article 43/A of Consumer Protection Act (1) The consumer protection authority is vested with authority for the implementation of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws with a view to any intra-Community infringements of national laws on the transposition of the following directives:

- a) Council Directive 85/577/EEC to protect the consumer in respect of contracts negotiated away from business premises;
- b) Council Directive 87/102/EEC for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit, as amended by Council Directive 90/88/EEC and Directive 98/7/EC of the European Parliament and of the Council;
- c) Council Directive 90/314/EEC on package travel, package holidays and package tours;
- d) Council Directive 93/13/EEC on unfair terms in consumer contracts;
- e) Directive 94/47/EC of the European Parliament and of the Council on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis;
- f) Directive 97/7/EC of the European Parliament and of the Council on the protection of consumers in respect to distance contracts, as last amended by Directive 2002/65/EC of the European Parliament and of the Council;
- g) Directive 98/6/EC of the European Parliament and of the Council on consumer protection relating to the indication of the prices of products offered to consumers;
- h) Directive 1999/44/EC of the European Parliament and of the Council on certain aspects of the sale of consumer goods and associated guarantees;
- i) Articles 5, 10 and 11 of Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market;
- j) Articles 86-100 of Directive 2001/83/EC of the European Parliament and of the Council on the Community code relating to medicinal products for human use, as amended by Directive 2004/27/EC of the European Parliament and of the Council.
- k) 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.

In addition, there are associations serving the protection of consumers' interests. Among many other activities these associations assist in the enforcement of the economic interests and the rights of consumers by conducting investigative work in order to reveal consumer problems and evaluate the enforcement of consumer rights; monitor the general contractual conditions applied with regard to consumers and take action in the public interest, request proceedings, inquiries or measures in order to protect the rights and interests of consumers.

HACP

The Hungarian Authority for Consumer Protection (HACP) is entitled to carry out the basic and primary tasks related to consumer protection in Hungary. Its tasks include ensuring the protection of consumers' lives, safety and health through the active market surveillance of the distribution of non-food products, and ensure the protection of their economic interests. Therefore, the HACP carries out continuous inspections in the fields of commerce and the service sector. During these inspections, the Authority verifies compliance with legal requirements pertaining to the provision of adequate information to consumers, filters out unfair terms and conditions from contracts, and tries to prevent traders from misleading consumers or applying aggressive marketing methods.

The HACP was created by Government Decree No. 225/2007 (VIII.31.) 38, and started functioning on 1st September 2007. The creation of the HACP was provided by Government's Decision No.1033/2007 (V.23.) on government measures made necessary by the third programme of action for 2007-2010 to implement a medium-term consumer protection policy.

(2) The consumer protection authority is vested with authority for the implementation - upon consultation with the civil aviation authority if necessary - of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council with a view to any intra-Community infringements of Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or the long delay of flights.

(3) Article 64/B(4)

³⁸ Based on Article 2 and 3(2) of the Government Decree No. 225/2007 on National Consumer Protection Authority Introduction (in English language) on the Hungarian Consumer Protection Authority can be found on the website of the authority (<http://www.nfh.hu/en/node/11178> accessed 23 March 2016)

Since 1st April 2015, the HACP has been operating as a central office under the control of the ministry responsible for consumer protection as a central budgetary authority. In public administrative cases, the capital and county government offices act, at first instance, within their competence for consumer protection and market surveillance, while the Hungarian Authority for Consumer Protection, in such cases, acts at second instance³⁹. It should be noted that there are 20 local inspectorates (19 counties, supplemented with the capital) which belong to the government offices.⁴⁰

On the basis of the Government Decree No. 225/2007 (VIII.31.), the HACP performs duties as the designated single liaison office and main competent authority:

- (i) Council Directive 93/13/EEC⁴¹ on unfair terms in consumer contracts;
- (iii) Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market⁴²;
- (iv) 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.
- (v)
- (v) Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council⁴³

³⁹ <http://www.nfh.hu/en/node/11178>

⁴⁰ For further information, Biennial Report (2011-2012) of Hungary on the application of the CPC Regulation. Based on Article 3(2) of the Government Decree No. 225/2007 on National Consumer Protection Authority

⁴¹ It can be noted that the HACP (similar to National Bank based on Article 41(1) b) and the Competition Authority based on Article 91/I a) of the Competition Act is not proceed under its own authority, as a result Article 4(4) b) is applicable.

⁴² Due to the Consumer Protection Act and Act on Electronic Commerce (the concerned Articles are 5, 6, 10 and 11 of the Directive).

Moreover, due to Article 19 of the Consumer Protection Act, the conciliation board attached to the competent Budapest chamber of industry and commerce shall function as the national online dispute resolution platform provided for in Regulation (EU) No. 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending the CPC Regulation and Directive 2009/22/EC.

As provided by Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition (hereinafter referred to as “**Competition Act**”)⁴⁴ the Hungarian Competition Authority (hereinafter referred to as “**Competition Authority**”) shall be responsible for the implementation of CPC Regulation in respect of intra-Community infringements of national legislation on the transposition of the following:

- (i) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts;
- (ii) Directive 2006/114/EC of the European Parliament and of the Council;

In particular, with reference to Article 4, the Hungarian Competition Authority (HCA) is the competent authority for the enforcement of Article 4 (a)-(c) and (e) of Directive no. 2006/114/EC on comparative and misleading advertising in Hungary. The concerning legal provisions implementing the abovementioned subsections of the Directive can be found in Chapter III of Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition.

In case of the infringement of the provisions of Article 4 (d) and (f)-(h) of Directive no. 2006/114/EC of the abovementioned Section the court has competence to proceed – according to Section 86(1) of the Competition Act, upon application of the Competition Authority.

The legal basis for the Competence of the Competition Authority in case of violation of the provisions covered by the Directive 93/13/EC and Directive 2006/114/EC are included in Chapter XVII of the Competition Act.

⁴³ Please see, footnote under number 17.

⁴⁴ Competition Act, Article 91/I(1)

According to Article 91/I (1) of the Hungarian Competition Act, the Hungarian Competition Authority shall be responsible for the enforcement of Regulation (EC) No 2006/2004 of the European Parliament and of the Council in respect of infringements within the European Union violating national legislation transposing (a) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts and (b) Directive 2006/114/EC of the European Parliament and of the Council.

According to Article 91/J In any procedures for the application of Regulation (EC) No 2006/2004 of the European Parliament and of the Council the provisions of this Act shall be applied subject to the derogations set out in this Chapter. Therefore, all the investigative and enforcement powers available to the Competition Authority for

According to Article 91/K (1) If the Hungarian Competition Authority is requested to supply information pursuant to Article 6 of Regulation (EC) No 2006/2004 of the European Parliament and of the Council, a competition supervision proceeding shall be initiated for this purpose. In such cases, the proceeding may be closed by the injunction of the case handler about the transmission of the information collected. (2) If the case handler or the competition council proceeding in the case request for enforcement measures to be taken pursuant to Article 8 of Regulation (EC) No 2006/2004 of the European Parliament and of the Council, they may, with reference to this fact, decide not to initiate an investigation on the basis of an informal or a formal complaint or decide to terminate by an injunction the competition supervision proceeding. (3) The case handler shall be entitled to establish whether the conditions pursuant to Article 8(4) of Regulation (EC) No 2006/2004 of the European Parliament and of the Council are fulfilled and, if the said conditions are not fulfilled, to communicate the information mentioned in Article 8(5).

Adding that based on other acts the Hungarian Competition Authority has competence regarding the following directives as well:

- (ii) 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 market⁴⁵;
- (iii) Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market⁴⁶.

⁴⁵ Based on Articles. 10(3) and 28(1) of Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers

National Bank of Hungary

Pursuant to Act CXXXIX of 2013 on the National Bank of Hungary (hereinafter referred to as “**National Bank Act**”)⁴⁶ and Article 10(2) and 28(1) of Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers (hereinafter referred to as “**Act on the Prohibition of Unfair Commercial Practices**”)

⁴⁶ Due to Article 16/F (1) a) of the Act on Electronic Commerce the Competition Authority has a shared competence with the HACP with respect to Arts. 5, 6 and 10 of the directive as follows:

(1) The implementation of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council shall be conferred:

a) upon the HACP or the Hungarian Competition Authority - as prescribed in the Act on the Prohibition of Unfair Business-to-Consumer Commercial Practices - with a view to any intra-Community infringements of national laws on the transposition of Articles 5, 6 and 10 of Directive 2000/31/EC of the European Parliament and of the Council;

⁴⁷ Due to Article, 81 of the National Bank Act “(1) The MNB shall, upon request or of its own motion, monitor compliance with:

a) the acts enumerated in Section 39 and the regulations adopted for the implementation of these acts laying down provisions as to business-to-consumer commercial practices of the bodies or persons covered by the acts enumerated in Section 39 in connection with their activities for the pursuit of the supply of services, regarding the users of these services; and

b) the Act on the Prohibition of Unfair Business-to-Consumer Commercial Practices;

c) the Act on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities; and

d) the Act on Electronic Commerce and on Information Society Services [Paragraphs a)-d) hereinafter referred to collectively as „consumer protection regulations”]; furthermore

e) the provisions of this Act on meeting obligations in relation to consumer disputes of a financial nature;

and - with the exception of the regulations pertaining to the conclusion, validity, legal aspects and termination of contracts, and cases of breach of contract and the related legal ramifications - shall take action in the event of any infringement of these provisions (hereinafter referred to as „proceedings for the protection of consumers' interests”).”

Article 82(2), of National Bank Act “For the purposes of this Act, ‘consumer’ shall mean any natural person who is acting for purposes which are outside his trade, business or profession.

(3) Consumers shall be able to initiate proceedings for the protection of consumers' interests only after having lodged a complaint orally or in writing, with the body or person covered by the acts enumerated in Section 39, by the means specified and published by said body or person (in person, by phone, post or fax, or through a dedicated IT system) whose contents can be identified, concerning the services or actions of the body or person covered by the acts enumerated in Section 39, however:

a) the compliant failed to elicit a response,

b) investigation of the compliant did not occur in compliance with the acts enumerated in Section 39,

c) another infringement of consumer rights under the legislation referred to Subsection (1) is alleged stemming from the reply of the person or the body covered by the acts enumerated in Section 39.

Pursuant to Article 83, (1) In proceedings for the protection of consumers' interests, client rights shall be conferred upon the qualified entities established under the laws of any EEA Member State - with respect to the consumer interests they protect - that are included in the list published in the Official Journal of the European Communities pursuant to Article 4(3) of Directive 2009/22/EC of the

the National Bank of Hungary (hereinafter referred to as “**National Bank**”), in the framework of its supervisory proceedings for the protection of consumers’ interests, also functions as a competent authority.

Due to Article 41(1) of the National Bank Act, within the framework of its responsibilities set out in paragraph (9) of Article 4⁴⁸, the National Bank shall provide for the implementation of Regulation (EC) No. 2006/2004⁴⁹ of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws, with a view to any infringement within any Member State of the European Economic Area of national laws on the transposition of:

- (i) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts;
- (ii) 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.

European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers’ interests with respect to any violation of the legal provisions on the transposition of the directives listed under Subsection (1) of Section 41 of this Act.

(2) In proceedings for the protection of consumers’ interests, client rights shall be conferred upon the foreign financial authority of competence related to the case on hand.”

⁴⁸ According to Article 4(9) of the National Bank Act, “(9) The National Bank shall supervise the financial intermediary system with a view to:

- a)* ensuring the smooth, transparent and efficient functioning of the financial intermediary system;
- b)* facilitating the prudent operation of the persons and organizations comprising the financial intermediary system and overseeing the prudent exercise of owners’ rights;
- c)* discovering undesirable business and economic risks threatening individual financial organizations or individual sectors of financial organizations, mitigating or eliminating existing individual or sector-related risks, and taking preventive measures with a view to ensuring the prudent operation of individual financial organizations;
- d)* protecting the interests of parties using the services rendered by financial organizations and strengthening public confidence in the financial intermediary system.”

⁴⁹ Due to Article 186(3) of the National Bank Act, Paragraph (1) of Article 41, Article 87, Points *a)-c)* of Paragraph (1) of Article 88 and Article 89 of this Act contain provisions for the implementation of Article 4(1) and (6) of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance, in connection with the National Bank’s competence and proceedings. Due to Article 186(4) of the National Bank Act, subsection (2) of Section 41 of this Act contains provisions for the implementation of Commission Decision 2007/76/EC of 22 December 2006 implementing Regulation (EC) No. 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance, as amended by Commission Decision 2008/282/EC of 17 March 2008, in connection with the MNB’s competence and proceedings

Moreover, it has also jurisdiction with respect to the infringement of the (particular) provisions of Act CVIII of 2001 on Electronic Commerce and on Information Society Services (hereinafter referred to as “**Act on Electronic Commerce**”), in respect of the persons and organizations engaged in the conduct of pursued by bodies and persons supervised by the National Bank Act.

National Media and Infocommunications Authority

The implementation of CPC Regulation shall be conferred upon the National Media and Infocommunications Authority (hereinafter referred to as “**Media and Infocommunications Authority**”) with a view to any intra-Community infringements of national laws on the transposition of Article 7 of Directive 2000/31/EC of the European Parliament and of the Council.

Directive 2005/29/EC on Unfair Commercial Practices

As a standing point, it is important to note that due to Art. 28(1) of Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers (hereinafter referred to as “**Act on the Prohibition of Unfair Commercial Practices**”), three authorities are involved in the enforcement of CPC Regulation in relation to Directive 2005/29/EC on Unfair Commercial Practices (hereinafter referred to as “**UCP**”).

Article 28(1) of Act XLVII of 2008:

“The HACP, the National Bank of Hungary or the Hungarian Competition Authority are vested with powers - in accordance with Article 10 - for the implementation of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council with a view to any intra-Community infringements of national laws on the transposition of Directive 2005/29/EC of the European Parliament and of the Council.”

With respect to the assignments and competences of the above-mentioned authorities, Article 10 of Act on the Prohibition of Unfair Commercial Practices stipulates as follows:

*“(1) Subject to the exceptions set out in paragraph (2) and (3), the **HACP** shall have jurisdiction in connection with any infringement of the provisions relating to the prohibition of unfair commercial practices.*

*(2) Subject to the exceptions set out in paragraph (3), the **National Bank of Hungary** (...) acting within its function as supervisory authority of the financial intermediary system, shall have jurisdiction in connection with any violation of the provisions relating to the prohibition of unfair commercial practices if the commercial practices in question relate to such activities of the business entity that is conferred under the competence of the Authority.*

*(3) The Hungarian **Competition Authority** shall have jurisdiction in connection with any infringement of the provisions relating to the prohibition of unfair commercial practices if the commercial practices in question exert material influence upon competition.”⁵⁰*

Although the proceedings conducted under the Act on the Prohibition of Unfair Commercial Practices shall not preclude the possibility for the aggrieved party to file a civil suit in the court of law to enforce his claim arising in connection with unfair commercial practices.⁵¹

In order to effectively exercise their supervisory functions relating to any infringement of the prohibition of unfair commercial practices, the above authorities shall cooperate with each other. In order to do so, the authorities entered into a cooperation agreement to lay down the detailed rules for their cooperation. Such an agreement is reviewed on an annual basis and is available to the general public on their official websites.⁵² In addition to that, the concerned authority, whether it deemed not to be competent to handle the given request, shall transfer the request in connection with the infringement of the prohibition of unfair commercial practices.⁵³

⁵⁰ Although the jurisdiction of the Competition Authority is subject to certain exceptions, such as the unfair commercial practice is apparent only on the label on the product or on the packaging of the product, or fixed to the product by other means, or on any warnings and instructions provided for its use and operation or in the warranty note, or where the infringement of the prohibition of unfair commercial practices covers a case of non-compliance with commitments contained in codes of conduct which defines the behavior of the business entities who undertake to be bound by the code in relation to one or more particular commercial practices mentioned in Subsection (2).

⁵¹ Act on the Prohibition of Unfair Commercial Practices, Article 15(1)

⁵² Act on the Prohibition of Unfair Commercial Practices, Articles. 12(1) and (3)

⁵³ Article 20(1) of the Act on the Prohibition of Unfair Commercial Practices (HACP): Where the Hungarian Competition Authority is vested with jurisdiction relating to unfair commercial practices detected by the HACP, or if the proceedings are opened upon request in connection with the infringement of the prohibition of unfair commercial practices, the HACP shall transfer the request, or the documents of the case, to the Hungarian Competition Authority without undue delay, but within thirty days from the day following the date of detection of the infringement or upon receipt of the request, and shall inform the client accordingly. Article 23(1) of the Act on the Prohibition of Unfair Commercial Practices (National Bank), Where the Hungarian Competition Authority is vested with jurisdiction relating to unfair commercial practices detected by the National Bank of Hungary in its any proceedings, or if the proceedings are opened upon request in connection with the

Pursuant to Article 19 of the Act on the Prohibition of Unfair Commercial Practices:

“In proceedings for establishing unfair commercial practices:

- a) Act CLV of 1997 on Consumer Protection (...) shall apply in connection with the proceedings of the HACPHACP;
- b) the provisions of the Act CXXXIX of 2013 on the National Bank of Hungary (...) shall apply in connection with the proceedings of the Authority;
- c) Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition (...) shall apply in connection with the proceedings of the Hungarian Competition Authority; subject to the derogations set out in this Act.”

There were also measures targeted at specific issues, such as the Government Decree 45/2014 (II.26.) on the detailed rules concluded by and between consumers and businesses (hereinafter referred to as “**Decree**”) is responsible for the transposition of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council. The Decree also refers to the Act on the Prohibition of Unfair Commercial Practices, establishing which ones of the Decree’s provisions in case of violation would be addressed by the stipulated authority and the procedure described under the Act on the Prohibition of Unfair Commercial Practices HACP⁵⁴.

Based on the Official Journal of the European Union (Article 5(2) of the CPC Regulation) the HACP is the competent authority regarding the Directive 2011/83/EU on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and

infringement of the prohibition of unfair commercial practices, the National Bank of Hungary shall transfer the request, or the documents of the case to the Hungarian Competition Authority without undue delay, but within thirty days from the day following the date of detection of the infringement or upon receipt of the request, and shall inform the client accordingly. Article 23(3) of the Act on the Prohibition of Unfair Commercial Practices (National Bank The Authority shall notify the Competition Authority concerning the opening of proceedings in connection with any violation of the prohibition of unfair commercial practices, or if the infringement of the prohibition of unfair commercial practices is detected in its any proceedings, and shall supply the information necessary for identification of the case, meaning in particular the data for the identification of the business entity affected and of the person requesting the proceedings, supplied by that person, including the relevant facts of the case.

⁵⁴ Please see the discussion on Article 10 of to the Act on the Prohibition of Unfair Commercial Practices. Due to Article 31 (2) of the Decree, the consumer protection authority is the competent authority in the case of violation of Article 6 of the Decree (rules applicable to the usage fee of means of payment and in connection with telephonic correspondence following the conclusion of the contract)

repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council. Adding that the National Bank is the competent authority responsible for Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directives 90/619/EEC, 97/7/EC and 98/27/EC.

Additionally due to Act V of 2013 on Civil Code, it is possible to initiate public interest proceedings in connection with unfair commercial contracts.

Pursuant to Article 6:105(1)-(2):

As regards contracts between a business and consumer, an action may be filed for the annulment of an unfair contract term that has been incorporated into a contract by:

- a) the public prosecutor;
- b) the minister, autonomous administrative agencies⁵⁵, government agencies, the director of the head of central⁵⁶ office;
- c) the heads of the Budapest and county government agencies;
- d) economic and trade organizations or interest-representation bodies; and
- e) associations for the protection of consumers' interests within the scope of consumer interests they protect, and organizations set up for the protection of consumers' interests under the laws of any Member State of the European Economic Area.

In public-interest proceedings, the court shall establish the annulment of an unfair contract term in favour of all of the parties with which the party imposing the condition has a contractual relationship, and shall order the party who applied the contract term in question to take measures for having a public notice on declaring the contract term unfair published at his own cost. The wording of such public notice and the mode of publication shall be decided by the court. The public notice shall contain the precise description of the contract term in question, an indication that it was found unfair, including the reasons and the arguments in support of such ruling. Having the term declared null and void by the court shall not affect the contracts that had already been performed prior to the date on which the action was filed.

⁵⁵ Competition Authority is an autonomous administrative agency.

⁵⁶ Consumer Protection Agency is a central office.

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PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 51-52 Act CXL of 2004 on the General Rules of Administrative Proceedings and Services (hereinafter referred to as " Administrative Act ") Article 56 of the Administrative Act Article 47(9) of the Consumer Protection Act Article 14 of the Act on the Prohibition of Unfair Commercial Practices	Article 51 of the Administrative Act on client statement, data disclosure requirement: (1) The client has the right in a proceeding to make a statement, or to refuse to make a statement. (2) If deemed necessary to ascertain the relevant facts of the case the authority shall request the client in proceedings launched upon request to make a statement. If the client fails to provide a statement as requested by the authority in proceedings opened at his request, the authority shall adopt a decision based on the information in its possession, or shall terminate the proceedings pursuant to paragraph (2) of Article 31. (3) An act or government decree may compel the client in <i>ex officio</i> proceedings, or the adverse party in proceedings opened upon request to supply at the authority's request the information deemed necessary for a decision on the merits, and may prescribe sanctions for any failure to comply with the obligation of data disclosure or for supplying false data. (4) Where the disclosure of data is prescribed by an act or government decree, the client in proceedings opened <i>ex officio</i> , or the adverse party in proceedings opened upon request may refuse to comply if: a) he was not released from the obligation of confidentiality relating to classified information;

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Article 4(6)		
	Article 25-26/A of the Act on the Prohibition of Unfair Commercial Practices (<i>Specific Provisions Relating to the Proceedings of the Hungarian Competition Authority</i>)	<p><i>b</i>) compliance would implicate himself or his relative in some criminal activity; or</p> <p><i>c</i>) the client or the adverse party is a media content provider or any person it employs under contract of employment or some other form of employment relationship, and his statement would expose the identity of any person from whom they receive information relating to the media content they provide.</p> <p>(4a) The exemption described in Paragraph <i>c</i>) of Subsection (4) shall remain to apply after the underlying relationship is terminated.</p> <p>(4b) The ruling ordering the client or the adverse party to disclose information notwithstanding reference to Paragraph <i>c</i>) of Subsection (4) may be appealed independently.</p> <p>(5) The client or his representative may be subject to an administrative penalty if providing any false evidence of substantial weight for the case on hand, in spite of his knowledge otherwise, or if fails to comply with the disclosure requirement prescribed in Subsection (3) for reasons other than those illustrated under Subsection (4), or conceals any information which may be of import concerning the outcome of the case, or provides any false information.</p> <p>(6) The authority shall inform the client concerning his rights and obligations relating to making statements and to data disclosures, and shall advise the client concerning the legal consequences for any failure to comply with his obligations.</p> <p>(7) If so permitted by the relevant legislation, the client shall be allowed to make the statement referred to in Subsection (1) and to disclose the information under Subsections (3)-(4) by telephone as well after the electronic identification of the client, provided that the conversation is recorded by reliable means for the safeguarding of information, or may refuse to make the statement and to disclose the information by telephone as well.</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p><u>Article 52 official documents:</u></p> <p>(1) The authority, for establishing the relevant facts of the case, may request to present some document or other instrument, and may contact another organ in an attempt to obtain them, in accordance with subparagraph c) of paragraph (1) of Article 26.</p> <p>(2) An authentic instrument made out abroad, and any private document certified by a foreign court, administrative body, notary public or any other person vested with authenticity shall - unless any legal regulation pertaining to the case in question, an international agreement or the principle of reciprocity suggests otherwise - be considered affirmative proof according to Hungarian laws if endorsed by the Hungarian foreign mission in the country where it was issued. Any instrument made out in a language other than Hungarian shall be accepted only with the official translation attached, unless otherwise prescribed by any legal regulation pertaining to the type of case in question.</p> <p>(3) Any instrument made out in a language other than Hungarian shall be accepted only with the official translation attached, unless otherwise prescribed by any relevant legislation pertaining to the type of case in question, however, the client may offer a statement concerning a fact that is to be verified in place of a document that may be unreasonably difficult to obtain. In such cases the client has to be advised concerning the legal consequences for making a false statement.</p> <p><u>Article 56 of the Administrative Act:</u></p> <p>(1) Where ascertaining the relevant facts of a case requires the inspection or surveillance of any movable property, real estate property (hereinafter referred to collectively as "subject-matter of the inspection"), or a</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p>person, the authority may order an inspection.</p> <p>(2) Inspections may be conducted by the authority's officers, an expert appointed by the authority, or another person duly authorized by the relevant legislation, where they are required to verify their authorization, with the exception set out in Paragraph (3) of Article 57. The person conducting the inspection may be required by law to produce a letter of authorization before commencing the inspection.</p> <p>(3) An act or government decree may provide for the special authority competent in the case to provide its assessment within the framework of an on-site inspection. The authority shall inform the special authority concerning the time of the on-site inspection at least fifteen days in advance, by forwarding the request for a special authority assessment.</p> <p>(4) In the case referred to in Subsection (3) above, the provisions of Point <i>d</i>) of Paragraph (3) of Article 33 and Paragraph (8) of Article 33 shall not apply.</p> <p><u>Article 47(9) of Consumer Protection Act</u></p> <p>In connection with regulatory inspections and the proceedings of the HACP, the business entity is required to supply all information as it may be necessary for reaching a decision on the merits, with the exception of such data and information that is contained in the public records or in the records of any authority or court, or in the records of the Hungarian Association of Notaries Public maintained by virtue of law. In the event of the business entity's failure to supply information when so requested by the HACP, or if the information provided is false, an administrative penalty may be imposed.</p> <p><u>Article 14 of the Act on the Prohibition of Unfair Commercial Practices against Consumers</u></p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p>At the request of the competent authority the business entity shall provide proof to verify the authenticity of any fact comprising a part of commercial practices. In the event of the business entity's failure to comply, the fact in question shall be construed as untrue. The authority's notice shall contain a warning for the business entity to this effect.</p> <p><u>Article 25 of the Act on the Prohibition of Unfair Commercial Practices:</u></p> <p>(1) By way of derogation from what is contained in Subsection (2) of Section 43/H and in paragraph (1) of Article 43/I of the Competition Act the provisions of the Act on the General Rules of Administrative Proceedings pertaining to jurisdictional disputes shall also apply relating to proceedings opened upon notification or upon complaint lodged in connection with any violation of the prohibition of unfair commercial practices, with the proviso that client shall be construed as the notifier or the complainant.</p> <p>(2) In proceedings opened upon notification lodged in connection with any violation of the prohibition of unfair commercial practices the investigator shall adopt a ruling in accordance with paragraph (8) of Article 43/H of the Competition Act within thirty days from the day following the date of receipt of the notification.</p> <p>(3) The Hungarian Competition Authority shall notify the HACP concerning any notification lodged in connection with any violation of the prohibition of unfair commercial practices, and shall supply the information necessary for identification of the case, meaning in particular the data for the identification of the business entity affected and of the person requesting the proceedings, supplied by that person, including the relevant facts of the case,</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p>or in connection with the commercial practices referred to in paragraph (2) of Article 10, the National Bank of Hungary.</p> <p><u>Article 26 of the Act on the Prohibition of Unfair Commercial Practices:</u></p> <p>(1) The investigator shall adopt a ruling ex officio in which to order that an investigation be held in connection with any activity, conduct or predicament which is suspected to violate the provisions on the prohibition of unfair commercial practices falling within the jurisdiction of the Hungarian Competition Authority.</p> <p>(2) The Hungarian Competition Authority shall notify the HACP concerning the opening of proceedings in connection with any violation of the prohibition of unfair commercial practices, and shall supply the information necessary for identification of the case, meaning in particular the data for the identification of the business entity affected and of the person requesting the proceedings, supplied by that person, including the relevant facts of the case, or in connection with the commercial practices referred to in paragraph (2) of Article 10, the National Bank of Hungary.</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	<u>Article 64/</u> <u>Article 47(9) of Consumer Protection Act</u>	See above <u>Article 47(9)</u> In connection with regulatory inspections and the proceedings of the HACP, the business entity is required to supply all information as it may be necessary for reaching a decision on the merits, with the exception of such data and information that is contained in the public records or in the records of any authority or court, or in the records of the Hungarian Association of Notaries Public maintained by virtue of law. In the event of the business entity's failure to supply information when so requested by the HACP, or if the information provided is false, an administrative penalty may be imposed.
(c) to carry out necessary on-site inspections;	<u>Article 56 of the Administrative Act:</u> Article 89-90 of the Administrative Act Article 86(1)-(5) of the National Bank Act <i>(Supervisory proceedings for the protection</i>	<u>Article 56</u> (1) Where ascertaining the relevant facts of a case requires the inspection or surveillance of any movable property, real estate property (hereinafter referred to collectively as "subject-matter of the inspection"), or a person, the authority may order an inspection. (2) Inspections may be conducted by the authority's officers, an expert appointed by the authority, or another person duly authorized by the relevant legislation, where they are required to verify their authorization, with the exception set out in Paragraph (3) of Article 57. The person conducting the inspection may be required by law to produce a letter of authorization before commencing the inspection.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	<p><i>of consumers' interests)</i></p> <p><i>Competition- Clarification of the Facts of the Case)</i></p> <p>Articles 20(1), 23(1) and (3) of the Act on the Prohibition of Unfair Commercial Practices</p>	<p><u>Article 89 of the Administrative Act:</u></p> <p>The means of regulatory inspections are:</p> <p><i>a)</i> data disclosure, submission of documents and other forms of information provided for the purposes of inspection;</p> <p><i>b)</i> on-site inspections; or</p> <p><i>c)</i> if permitted by the relevant legislation, inspections conducted by way of remote data transmission from the monitoring system installed at the site or at the authority's official records and registers, or built into the process.</p> <p><u>Article 89 of the Administrative Act:</u></p> <p>(1) Data disclosure obligations prescribed by the relevant legislation may be periodic or regular, and routine inspections may be prescribed as well.</p> <p>(2) As regards the obligation of notification relating to the opening of control procedures and pertaining to site inspections, the rules laid down by the relevant legislation may differ if the authority conducts control procedures at a client on a regular basis.</p> <p><u>Article 86(1)-(5) of the National Bank Act:</u></p> <p>1) The National Bank shall have powers to conduct:</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p>a) direct inquiries, b) thematic investigations, or c) follow-up inspections, for the purpose of consumer protection at the bodies or persons covered by the acts enumerated in Article 39⁵⁷.</p> <p>(2) The National Bank shall have authority to conduct direct inquiries for consumer protection for the purpose of monitoring compliance with consumer protection regulations on a case-by-case basis, and also if an infringement of consumer protection regulations concerns a broad range of consumers and it is justified upon the need for immediate action.</p> <p>(3) The National Bank may conduct thematic investigation for consumer protection at several bodies or persons for concerted and comparative review of compliance with identical or similar consumer protection regulations.</p> <p>(4) The National Bank shall conduct follow-up inspections for consumer protection for the purpose of verifying compliance with its resolutions adopted in supervisory proceedings for the protection of consumers' interests, covering data obtained through regular and extraordinary data disclosures, as well as the findings of on-site and off-site inspections.</p> <p>(5) In supervisory proceedings for the protection of consumers' interests the provisions of Paragraph (2) of Article 62, Paragraphs (1) and (3) of Article 63, Paragraphs(1)-(3) of Article 65, Articles 66-67, Articles 67/B, Paragraph (4) of Article 70, Paragraphs (3)-(6) of Article 75 and Article 77 shall apply mutatis mutandis, on the understanding that any reference made to control procedures shall be construed as supervisory proceedings for the protection of consumers' interests.</p>

⁵⁷ These act cover those the bodies and persons, and the activities with respect to that the National Bank has a the "supervisory" power.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		<p><u>Article 62(2) of the National Bank Act:</u> The National Bank's oversight proceedings shall cover the verification of data submitted and the regulatory inspections ex officio performed by the MNB on-site and off-site (hereinafter referred to as "control procedures").</p> <p><u>Article 63 (3) of the National Bank Act:</u> The National Bank shall continuously monitor the data stemming from data disclosure; the client affected shall not be notified of such monitoring.</p> <p><u>Article 65 (1)-(3) of the National Bank Act:</u> (1) In carrying out off-site inspections, the National Bank may apply the provisions set out in Paragraphs (3) and (4) of Article 48⁵⁸ for ascertaining the relevant facts of the case, and may request further information.</p>

⁵⁸ Article 48(3)-(4) of the National Bank Act:

(3) In the interests of obtaining the information necessary for ongoing supervision, the MNB may stipulate regular or extraordinary data disclosure obligations for the bodies and persons covered by the acts enumerated in Paragraph (1) of Article 39 and in the Act on the Development of the Institutional Framework Intended to Enhance the Security of Members of the Financial Intermediary System.

(4) At the request of the National Bank, the bodies and persons covered by the acts enumerated in Paragraph (1) of Article 39 and by the Act on the Development of the Institutional Framework Intended to Enhance the Security of Members of the Financial Intermediary System shall be required to provide information to the National Bank requested with a view to discharging its functions, as well as data, reports, certificates, review materials, accounting records, regulations, documentation related to individual transactions, the proposals and minutes of management, supervisory and other supreme bodies, the written findings of auditors, the audit report, reports and minutes of internal audits, and statements not covered in one of the previous categories, in the form specified by the National Bank in relation to their activities and connected to the supervisory proceedings, and shall be required to provide these for the National Bank.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p>(2) In the interests of ascertaining the relevant facts of a case, any person or organization is required to provide information in writing as well, or to send to the National Bank documents relating to the object of the inspection.</p> <p>(3) The National Bank shall notify the persons and bodies, and the leader of the financial group being investigated in writing in respect of control procedures, at least fifteen days in advance, except if prior notification would endanger the outcome of the control procedures.</p> <p><u>Article 66-67 of the National Bank Act:</u></p> <p>The National Bank may access information relating to clients of the bodies and persons covered by the acts enumerated in Section 39 and to fund members solely for the purposes of and to the extent required for discharging its supervisory responsibilities. Clients and fund members need not be informed of data disclosure occurring in proceedings within the scope of the National Bank's inspection responsibilities which fall under the scope of confidentiality.</p> <p>In carrying out the control procedures referred to in Paragraph (1) of Article 64, the National Bank may conduct on-site inspections as well. Within the framework of group examination the National Bank may perform inspections at all group members.</p> <p>Paragraph (3) of Article 65 shall apply to notices for on-site inspections.</p> <p>The National Bank shall provide the persons conducting on-site inspections with letters of authorization, and such persons shall be deemed public officials acting within their scope of responsibility.</p>

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Article 4(6)		<p>The person conducting the on-site inspection shall be required to present the letter of authorization at the start of the on-site inspection, and to credibly verify his/her personal identity.</p> <p>On-site inspections may be conducted at any location where evidence necessary for ascertaining the relevant facts of the case can be found. Within their sphere of authority, persons conducting the inspection may enter premises necessary for conducting the inspection, may inspect documents, data storage media, objects, and monitor work procedures related to the object of the inspection, may request and prepare information and statements from the client, the client's representatives, and any other persons at the site of the inspection, may carry out trial transactions and may gather evidence by other means.</p> <p>In carrying out the on-site inspection, the National Bank is authorized to prepare a hard mirror image of any data storage media and to inspect the data stored on the data storage media using the copy.</p> <p>Where the on-site inspection is carried out through any means of information technology, upon verification of authorization to carry out the inspection, the holder of the subject-matter of the inspection shall provide access for the MNB to the information specified by the relevant legislation by making available the required technical means and access information.</p> <p>An on-site inspection shall be conducted during the hours when the activity to which the inspection pertains is conducted, in a private residence that is not registered as a business address - unless another time is better suitable for the purposes of the inspection - on regular work days between 8:00 and 20:00 hours. The on-site inspection shall be conducted so as to cause the least amount of disturbance in the work and regular activities of the person or organization inspected.</p> <p>In duly justified cases, if deemed necessary for the successful and safe conduct of the on-site inspection, the National Bank may ask for police assistance.</p>

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Article 4(6)		<p>Where an on-site inspection is carried out within the framework of control procedures, no special report or simplified report shall be drawn up thereon, however, the National Bank shall record its findings of the control procedure in an inspection report and group examination report under Paragraph (1) of Article 69.</p> <p><u>Article 67/B of the National Bank Act:</u></p> <p><u>Article 70(4) of the National Bank Act:</u> The National Bank shall render its final decision based on the findings shown in the inspection report, and on other evidence at its disposal, as well as facts of which it is officially aware and which are of common knowledge.</p> <p><u>Article 75(3)-(6) of the National Bank Act:</u> (3) The National Bank shall be entitled to impose sanctions repeatedly and collectively. (4) The National Bank shall weigh the following circumstances when imposing a sanction: <i>a)</i> the gravity of the infringement or negligence; <i>b)</i> the impact the act has on the principle of prudent and sound management and on the market; <i>c)</i> the impact the act has on the persons and organizations covered by the regulations specified in Paragraph (1) of Article 62, and also on their members and clients; <i>d)</i> the impact the act has on other members of the entire financial system; <i>e)</i> the risk engendered by the infringement or negligence, the extent of damages and the gravity of violation of rights relating to personality underlying a claim for restitution,, and the inclination to mitigate damages; <i>f)</i> cooperation with the National Bank on the part of the persons responsible;</p>

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Article 4(6)		<p><i>g)</i> whether or not the person affected by the sanction has acted in good or bad faith, and the material gains acquired and the economic loss avoided by that person through the infringement or negligence;</p> <p><i>h)</i> the suppression of the data, facts and information on which the action is based, or the intention to do so; and</p> <p><i>i)</i> repeated occurrence and frequency of the infringement.</p> <p>(5) No sanction shall be imposed in connection with any negligence or breach of duty after a period of three years from the time when the National Bank has gained knowledge of the act, or after five years from the time it was committed. If, by order of the court, the National Bank is to reopen the proceedings, measures may be taken by the last day of the fifth year after the date of commission, irrespective of the three-year time limit.</p> <p>(6) Within the time limits referred to in Paragraph (5) hereof a sanction may also be imposed even if the natural person affected is no longer in the employment of the audited organizations or persons, if his/her mandate has ended or he/she is no longer engaged in performing any of the audited activities.</p> <p><u>Article 77 of the National Bank Act:</u></p> <p>The fine shall be paid into the account specified in the decision within thirty days of the operative date of the decision on the imposition of such fine.</p> <p>Parties who are able to prove that they acted in a manner that can reasonably be expected of persons acting in such capacities in similar circumstances shall not be ordered to pay fines.</p> <p>In respect of collegiate bodies, members who did not participate in making the decision forming the basis of the fine or who voted against the decision and this was recorded in the minutes of the meeting may not be required to pay fines.</p>

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		<p><u>Article 64/B(4) of the Competition Act:</u></p> <p><u>Article 65/A (3)-(10) of the Competition Act:</u></p> <p>(3) A site search may be carried out in possession of a prior court order. The written request of the Competition Authority submitted for court order shall be decided by the Budapest Court of Public Administration and Labor within seventy-two hours from the time of receipt of the request in non-contentious proceedings. The court's ruling shall be final; it may not be appealed and may not be subject to judicial review.</p> <p>(4) The court shall authorize the site search requested if the Competition Authority is able to substantiate probable cause that any other investigative measure is unlikely to produce the required results, and if there is reason to believe that the source of information - relating to the infringement investigated - indicated is in the location for which the court order is requested and it is presumed that this information will not be surrendered voluntarily or that it would be destroyed. If the site search is only partially accepted, the court shall specify the type of procedure and the person who is the subject of such procedure.</p> <p>(5) The site search may be carried out within three months from the court order is delivered.</p> <p>(6) The competition control proceedings shall be launched at the time or before the site search is carried out. The ruling referred to in Paragraph (1) of Article 70⁵⁹ shall be communicated at the scene to the client present,</p>

⁵⁹ Article 70 (1) of the Competition Act, "The investigator shall adopt a ruling to order an investigation in connection with any allegedly illegal activity, conduct or predicament falling within the jurisdiction of the Competition Authority, where a competition control proceedings is required for the protection of public interest. The ruling shall indicate the circumstances and actions, or the predicament due to which the proceedings were instituted."

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		<p>including the client's employee in attendance, and shall be communicated to other parties by phone or fax, in addition to other means of communication according to the general rules prescribed for the delivery of decisions.</p> <p>(7) The person affected, including the client's employee in attendance, and - in the case (...) the affected person's family member of legal age, shall be informed about the site search verbally at the time of the beginning of the search, and before the investigative measure is carried out the court ruling authorizing the search shall be presented to the person affected, together with the purpose of the investigative measure. The site search shall be carried out if possible in the presence of the person affected. If the presence of the person affected cannot be ensured, the search shall be carried out in the presence of an official witness. In the process of the site search the investigator shall have powers to demand information, written or oral, from the persons involved, and may gather intelligence in any other way.</p> <p>(8) A site search shall be conducted on regular work days between 8:00 and 20:00 hours, unless another time is better suitable for the purposes of the inspection. In the case (...), the site search shall be carried out so as not to cause any unreasonable disturbance in the privacy of the person affected, and to cause the least amount of disturbance in the work and regular activities of the person affected.</p> <p>(9) In the course of carrying out the site search, the investigator shall be empowered to make copies of or seize any means of evidence suggesting any infringement of Section 11 or 21 of this Act or Article 101 or 102 of the TFEU, even if such evidence is not directly related to the subject of the investigation and if not covered by the court order. In the case of such means of evidence the court order referred to in Subsection (3) shall be obtained subsequently. In the absence of a subsequent court order the means of evidence discovered shall be inadmissible.</p>

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Article 4(6)		<p><u>Article 65/B of the Competition Act:</u></p> <p>(1) If checking the data medium at the site in the process of carrying out the search cannot be accomplished without blocking the regular activities of the person affected for an unreasonably long period of time, or the person affected agrees, the investigator shall make copies of the data and documents found on the data medium (hereinafter referred to as "seizure copy").</p> <p>(2) In the search report the type of the data medium used for making the copy shall indicated, together with the information for individual identification, the nature of the data and documents copied, and the particulars for the individual identification of the copies, as well as the information for subsequent verification of the unchanged reproduction of the information stored.</p> <p>(3) The investigator shall research the means of evidence on the working duplicates made of the data and documents under Paragraph (3) of Article 65 for that purpose (hereinafter referred to as "examination working dossier"). Of the evidence to be used, the investigator shall prepare a special electronic or paper-based copy (hereinafter referred to as "evidence brief"), and shall send a description thereof in sufficient detail to permit the individual identification of the data and documents contained therein to the client who held the data medium, or to whom the site specified in Paragraph (2) of Article 65/A, where the seizure copy was made, can be connected (hereinafter referred to as "client affected"), or to the data proprietor, to make a statement within the prescribed deadline of eight days whether the evidence contained in the brief contains any trade secret or personal secret as provided for in Paragraphs (2) or (3) of Article 55/A. No application for continuation shall be accepted upon the client's failure to meet the above-specified deadline.</p> <p><u>Article 20(1) of the Act on the Prohibition of Unfair Commercial Practices:</u></p>

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Article 4(6)		<p>20(1) Where the Hungarian Competition Authority is vested with jurisdiction relating to unfair commercial practices detected by the consumer protection authority in the course of its inspection, or if the proceedings are opened upon request in connection with the infringement of the prohibition of unfair commercial practices, the consumer protection authority shall transfer the request, or the documents of the case, to the Hungarian Competition Authority without undue delay, but within thirty days from the day following the date of detection of the infringement or upon receipt of the request, and shall inform the client accordingly.</p> <p><u>Article 23(1), (3) of the Act on the Prohibition of Unfair Commercial Practices:</u> Where the Gazdasági Versenyhivatal (<i>Hungarian Competition Authority</i>) is vested with jurisdiction relating to unfair commercial practices detected by the Authority (here the authority means the <i>Hungarian National Bank</i>) in the course of its inspection in its any proceedings, or if the proceedings are opened upon request in connection with the infringement of the prohibition of unfair commercial practices, the Authority shall transfer the request, or the documents of the case to the Gazdasági Versenyhivatal without undue delay, but within thirty days from the day following the date of detection of the infringement or upon receipt of the request, and shall inform the client accordingly.</p> <p>(3) The Authority shall notify the Gazdasági Versenyhivatal concerning the opening of proceedings in connection with any violation of the prohibition of unfair commercial practices, or if the infringement of the prohibition of unfair commercial practices is detected in its any proceedings, and shall supply the information necessary for identification of the case, meaning in particular the data for the identification of the business entity affected and of the person requesting the proceedings, supplied by that person, including the relevant facts of the case.</p>

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(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Articles 13-15 of the Act on the Prohibition of Unfair Commercial Practices Article 18 of the Act on the Prohibition of Unfair Commercial Practices Article 47(14) of the Consumer Protection Act Article 47(1) a) and d) of the Consumer Act Article 87 of the National Bank Act	Article 13-15 of the Act on the Prohibition of Unfair Commercial Practices <u>Article 13</u> Proceedings may not be opened after a period of three years following the time of the act of commercial practices. If the infringement is constant, the time limit shall commence at the time the infringement is terminated. Where an illegal conduct is realized through failure to terminate a particular situation or predicament, the above-specified period shall not commence as long as such situation or predicament continues to prevail. Article 14 At the request of the competent authority the business entity shall provide proof to verify the authenticity of any fact comprising a part of commercial practices. In the event of the business entity's failure to comply, the fact in question shall be construed as untrue. The authority's notice shall contain a warning for the business entity to this effect <u>Article 15</u> (1) Proceedings conducted under this Act shall not preclude the possibility for the aggrieved party to file a civil suit in the court of law to enforce his claim arising in connection with unfair commercial practices. (2) In court proceedings the burden of proof relating to the authenticity of any fact comprising a part of

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Article 4(6)		<p>commercial practices lies with the business entity.</p> <p>(3)⁶⁰ The provisions contained in Subsections (1)-(6) of Section 88/B of Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition shall also apply to civil actions brought before the court of law to enforce claims arising out of or in connection with unfair commercial practices.</p> <p><u>Article 47(1) a) of the Consumer Act:</u> The HACP, if it finds in its proceedings any infringement of the consumer protection regulations prescribed in paragraph (1)-(3) of Article 45/A, may impose the following sanctions taking into consideration material circumstances, in particular, the sphere and gravity of the infringement, the duration of the illegal conduct and any recidivism where applicable, and also the gain achieved by the infringement, and in accordance with the principle of proportionality:</p> <ul style="list-style-type: none"> a) order the cessation of the offending practice, b) prohibit the continuation of the infringement, c) setting a deadline to eliminate the errors and deficiencies; d) require or prohibit the marketing of goods, or the sale if necessary to restore the legal order., <p><u>Article 87 of the National Bank Act:</u> In proceedings for the protection of consumers' interests, the National Bank may adopt an enforceable ruling for</p>

⁶⁰ Enacted: by paragraph (3) Section 134 of Act CLVIII of 2010. In force: as of 1. 01. 2011.

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		<p>the cessation or prohibition of the infringement irrespective of any appeal for suspension for the period ending upon the passing of the resolution or ruling adopted for the termination of the proceedings, where such action is deemed urgently necessary with a view to the protection of the legal and economic interests of the consumers. The National Bank shall adopt this decision in priority proceedings</p> <p><u>Article 47(14) of the Consumer Protection Act:</u> The HACP in carrying out its functions delegated in Regulation (EC) No. 2006/2004 of the European Parliament and of the Council shall have powers - where there are reasonable grounds to suspect any infringement of the consumer protection regulations set out in Subsections (1)-(3) of Section 45/A of the HACPHACP - to order the infringing business entity - before the opening of regulatory proceedings - to terminate within the prescribed time limit the deficiencies and disparities. If the business entity fails to comply with the instruction set out in said notice within the prescribed time limit, the HACP shall conduct the proceedings regulated in this Act for the protection of consumers' interests.</p>
(e) to obtain from the seller or supplier responsible for intra-	Article 47(6)-(8) of the Consumer Protection	<p><u>Article 47(6)-(8) of the Consumer Protection Act</u> (6) The HACP, instead of adopting a resolution ordering the cessation of infringements, may enter into an</p>

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Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Act Article 51(4)-(5) and Article 51/A of the Consumer Protection Act Article 88(1) d) of the National Bank Act	administrative agreement with a client who agrees to cease the infringement, and to engage - by way of the means specified in the administrative agreement - in conduct in conformity with the consumer protection regulations referred to in Paragraph (1)-(3) of Article 45/A. (7) The sanctions referred to in Subsection (1) shall not be imposed upon a client who has entered into an administrative agreement with the HACP in connection with an infringement committed within the time limit prescribed in the agreement, the elimination of which was the object of the agreement. (8) The HACP shall inform the authority for trade and commerce that has registered the business entity or the commercial establishment in question concerning its decision imposing the sanctions specified in Points <i>d)</i> , <i>g)</i> and <i>h)</i> of Paragraph (1). <u>Article 51(4)-(5) of the Consumer Protection Act:</u> (4) The decisions shall be published on the official website of the HACP, or - if necessary - by any other means the HACP deems appropriate. The HACP may notify the national news agency concerning the publication of such resolutions. (5) The documents published as specified above shall indicate: <i>a)</i> the date of publication; <i>b)</i> the legal basis for publication according to this Act; <i>c)</i> an indication whether or not it is final and operative; <i>d)</i> the name of the relevant authority;

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(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article 16 of the Act on the Prohibition of Unfair Commercial Practices Article 47(1) b) and c) of the Consumer Protection Act Article 87 and Article 88(1) c) of the National Bank Act	<u>Article 16 of the Act on the Prohibition of Unfair Commercial Practices</u> If the act of unfair commercial practices has not yet been carried out, however, based on the business entity's activities - in particular, the setting up of the necessary conditions, the concluding of contracts and the acquisition of assets - it is presumed that such act will in fact be carried out, the competent authorities shall have powers to prohibit the planned commercial practices in advance. ⁶¹ <u>Article 47(1) b) of the Consumer Protection Act</u> (1) The HACP, if it finds in its proceedings any infringement of the consumer protection regulations prescribed in Paragraphs (1)-(3) of Article 45/A, may impose the following sanctions taking into consideration material circumstances, in particular, the sphere and gravity of the infringement, the duration of the illegal conduct and any recidivism where applicable, and also the gain achieved by the infringement, and in accordance with the principle of proportionality: b) prohibit continuation of the illegal conduct; c) order the business entity in question to terminate within the prescribed time limit the deficiencies and disparities exposed;

⁶¹Due to Article 21(2), Article 24 and Article 27(1) article 16 of the Act on the Prohibition of Unfair Commercial Practices is applicable in the case of each authority (HACP, National Bank, Competition Authority)

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		<p><u>Article 87 of the National Bank Act:</u> In proceedings for the protection of consumers' interests, the National Bank may adopt an enforceable ruling for the cessation or prohibition of the infringement irrespective of any appeal for suspension for the period ending upon the passing of the resolution or ruling adopted for the termination of the proceedings, where such action is deemed urgently necessary with a view to the protection of the legal and economic interests of the consumers. The National Bank shall adopt this decision in priority proceedings.</p> <p><u>Article 88(1) c) of the National Bank Act:</u> (1) If the National Bank finds any infringement of the relevant consumer regulations or its resolution adopted in proceedings for the protection of consumers' interests, the National Bank may impose the following sanctions taking into consideration the criteria set out in Paragraphs <i>a)</i>, <i>c)</i> and <i>e)-j)</i> of Subsection (4) of Section 75, and in accordance with the principle of proportionality: <i>c)</i> prohibit any further infringement;</p> <p><u>Article 80(1)-(2) of the Competition Act</u> (1) The Hungarian Competition Authority shall, after rendering restricted-access data unrecognizable, publish on its website: <i>a)</i> the final resolution; <i>b)</i> the final ruling adopted in conclusion of proceedings the opening of which was made public under Subsection (6) of Section 68 or Subsection (3) of Section 70, as well as the ruling on the annulment of such ruling of the first</p>

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		instance and on ordering the investigator having adopted said ruling to reopen the case. (2) Any final ruling not covered in Subsection (1) that is of great importance in terms of principles of law may be made public on the website of the Gazdasági Versenyhivatal after rendering restricted-access data unrecognizable. (3) The decision may be made available to the public irrespective of whether or not a request for a court review was filed, however, if such request is filed it shall be indicated in the public disclosure.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article 47(1), i) of the Consumer Protection Act Article 78(1) a) and (1a) of the Competition Act Article 89 of the National Bank Act	<u>Article 47(1), i) of the Consumer Protection Act:</u> (1) The HACP, if it finds in its proceedings any infringement of the consumer protection regulations prescribed in Subsections (1)-(3) of Section 45/A, may impose the following sanctions taking into consideration material circumstances, in particular, the sphere and gravity of the infringement, the duration of the illegal conduct and any recidivism where applicable, and also the gain achieved by the infringement, and in accordance with the principle of proportionality: i) impose a consumer protection fine (hereinafter referred to as "fine"). <u>Article 47/C of the Consumer Protection Act:</u> (1) The amount of the fine shall be between 15,000 forints and: a) 5 per cent of the annual net sales revenue of business parties covered by the Accounting Act, other than those governed by the Act on Small and Medium-sized Enterprises and the Support Provided to Such Enterprises, whose annual net sales revenue is in excess of one hundred million forints, or maximum five hundred million forints, or maximum two billion forints if the infringement concerns the lives, health, physical

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		integrity of a broad range of consumers, or if it results in substantial financial injury to a broad range of consumers; b) 500,000 forints for business entities not included in Paragraph a), or up to five per cent of the annual net sales revenue of the business entity if the infringement concerns the lives, health, physical integrity of a broad range of consumers, or if it results in substantial financial injury to a broad range of consumers, or up to five million forints for business entities to whom the Accounting Act does not apply. (2) The net sales revenue referred to in Subsection (1) shall be determined relying on the annual report or simplified annual report (hereinafter referred to collectively as "annual report") filed for the financial year immediately preceding the time when the resolution on the infringement was adopted. If the business entity did not operate for a full year, the figures shall be calculated as commensurate for the period applicable. If there is no reliable information available relating to the net sales revenue of the business entity for the financial year immediately preceding the time when the resolution on the infringement was adopted, the upper and lower limits of the fine shall be determined based upon the net sales revenue of the last financial year for which the books are closed officially. In the case of newly established business entities that do not have an annual report, the business plan for the year when the procedure was opened, or failing this, the net sales revenue the business entity has indicated upon the authority's request, calculated according to the provisions of the Accounting Act on interim balance sheets for the day when the procedure was opened shall be taken into consideration. (3) in the application of subsection (1), when determining the amount of net sales revenue: a) in the case of payment institutions, aa) the net revenue from payment services activities, and the net profit on financial operations,

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Article 4(6)		(3) The aforesaid fines shall be paid to the treasury account of the consumer protection authority. (4)-(5) (6) In the event of non-payment of fines imposed by final decision, default interest shall be charged on the unpaid amount at a rate of 1/365 of twice the current central bank base rate for each day in default. (7) The administrative penalties imposed by the consumer protection authority shall be treated as outstanding public dues enforced as taxes. Article 89 of the National Bank Act:(1) The amount of the consumer protection fine shall be between fifteen thousand forints and: a) five per cent of the annual net turnover of organizations covered by the Accounting Act, whose annual net turnover is in excess of one hundred million forints, not exceeding one hundred million forints, or a maximum of two billion forints if the infringement results in substantial financial injury to a broad range of consumers; b) five million forints for organizations and persons not covered by Point a), or up to ten per cent - if this is higher than five million forints - of the annual net turnover of the organization or person if the infringement results in substantial financial injury to a broad range of consumers for organizations and persons not covered by the Accounting Act up to fifteen million forints. (2) The net sales revenue referred to in Paragraph (1) shall be determined relying on the annual account or simplified annual account (hereinafter referred to collectively as „annual accounts“) filed for the financial year immediately preceding the time when the resolution on the infringement was adopted. If the organization or person did not operate for a full year, the figures shall be calculated proportionately for the applicable period. If

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PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p>there is no reliable information available relating to net sales revenue for the financial year immediately preceding the time when the resolution on the infringement was adopted, the upper limit of the consumer protection fine shall be determined based upon the net sales revenue of the last financial year for which the books are closed officially. In the case of newly established organizations that do not have annual accounts, the business plan for the year when the procedure was opened, or failing this, the net sales revenue the service provider has indicated upon the authority's request, calculated according to the provisions of the Accounting Act on interim balance sheets for the day when the procedure was opened shall be taken into consideration.</p> <p>(3) In the application of Paragraph (1), net sales revenue for the organizations specified in Paragraphs <i>a)-d)</i> below shall mean:</p> <ul style="list-style-type: none"> <i>a)</i> for insurance companies, the value of the gross insurance premiums; <i>b)</i> for investment firms, the total of revenues from investment services, including the revenues from non-trading financial transactions; <i>c)</i> for private pension funds and voluntary mutual insurance funds, membership payments related to regular operations and activities; for voluntary mutual health and mutual aid funds, membership fees of the operative fund; and for institutions for occupational retirement provision the members' and employers' contributions related to regular operations and activities; <i>d)</i> for credit institutions and financial enterprises, the sum total of: <ul style="list-style-type: none"> <i>da)</i> interest receivable and similar income, <i>db)</i> income from dealing securities, <i>dc)</i> commissions and fees received (or due), <i>dd)</i> net profit on financial operations;

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS		
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		<p><i>e)</i> in the case of commodity exchange dealers, the sum total of:</p> <p><i>ea)</i> net revenue from commodity exchange services, and</p> <p><i>eb)</i> income from financial operations;</p> <p><i>f)</i> in the case of payment institutions, the sum total of:</p> <p><i>fa)</i> net revenues from payment services activities, and</p> <p><i>fb)</i> income from financial operations.</p> <p>(4) In the application of Subsection (1), where the figures are indicated in a foreign currency, they shall be translated to forints based on the official exchange rate quoted by the National Bank for the day of closing of the organization or person's financial year, or in the case of newly established service providers, for the last day of the previous year</p>

Directive 93/13/EC and Directive 2006/114/EC

As clarified by Article 91/I (1) of the Competition Act, the Hungarian Competition Authority shall be responsible for the enforcement of Regulation (EC) No 2006/2004 of the European Parliament and of the Council in respect of infringements within the European Union violating national legislation transposing (a)

Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts and (b) Directive 2006/114/EC of the European Parliament and of the Council.

In particular, with reference to Article 4 of Directive 2006/114/EC, the Hungarian Competition Authority (HCA) is the competent authority for the enforcement of Article 4 (a)-(c) and (e) of Directive no. 2006/114/EC on comparative and misleading advertising in Hungary. The legal provisions implementing the abovementioned subsections of the Directive can be found in Chapter III of Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition.

In case of the infringement of the provisions of Article 4 (d) and (f)-(h) of Directive no. 2006/114/EC of the abovementioned Section the court has competence to proceed – according to Section 86(1) of the Competition Act, upon application of the Competition Authority.

For the remaining violations of the Directive 2006/114/EC, the HACP and in pharmaceutical advertising the National Institute of Pharmacy has competence to proceed. In case of an infringement process, the Competition Council verifies the reality of the facts stated in the advertisement. Sometimes even those ads containing accurate information can have a deceptive influence on consumers due to their pictorial appearance (small letters, colors merged into the background, insufficient time for reading). The whole impression created by the advertisement is also taken into account during the process. The types of advertising are also factors. Different amount of information and message can be extracted from flyers, TV screens, car doors, pages of magazines. Another relevant consideration is the fact that certain consumers are well-informed and others are not.

The Competition Council particularly decides on whether to impose a fine based on: –the duration and frequency of advertisement's appearance, – the role of the enterprise in the market, – retentive power of fine according to the other competitors perspective, – the sum of money spent on advertising, – number of consumers who received the misleading information⁶².

⁶² Z. HORVÁTH, Consumer Protection in the Hungarian Competition Law, [tps://www.law.muni.cz/sborniky/cofola2008/files/pdf/civil/horvath_szofia.pdf](https://www.law.muni.cz/sborniky/cofola2008/files/pdf/civil/horvath_szofia.pdf)

The procedure of the HACP is set out in the Consumer Protection Act with the exceptions laid down in the Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities (hereinafter referred to as “**Act on Restrictions of Commercial Advertising Activities**”).

Although the National Bank has jurisdiction acting within its function as supervisory authority of the financial intermediary system, in respect of the advertising of activities supervised by the National Bank and the related code of conduct. The procedure of the National Bank is established by the National Bank Act while its exceptions are laid down in the Act on Restrictions of Commercial Advertising Activities.

Moreover, the National Media and Infocommunications Authority shall have jurisdiction in accordance with the Act on Electronic Commerce in connection with any infringement of the provisions of Article 6 (direct marketing) — of the Act on Restrictions of Commercial Advertising Activities — relating to advertisements disseminated by information society services, exclusive of voice telephony services, and by way of electronic communication.

The procedure of the National Media and Infocommunications Authority is outlined in the Act on Electronic Commerce with the exceptions laid down in the Act on Restrictions of Commercial Advertising Activities.

ARTICLE 4 DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include,		

ARTICLE 4 DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 64/A (1) Competition Act	<p>Article 64/A(1)</p> <p>The Hungarian Competition Authority shall be entitled to access and manage privileged information which is necessary to carry out the proceeding, unless this is precluded by a separate act governing the protection of such data.</p> <p>(3) The Hungarian Competition Authority may use the documents, data and other means of proof lawfully obtained in the course of sectoral inquiries, proceedings relating to informal or formal complaints or in competition supervision proceedings in other competition supervision proceedings as well.</p>
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	<p>Article 64/B (4) of the Competition Act</p> <p>Article 43(H)(4) of the Competition Act</p>	<p>Article 64/B(4)</p> <p>4) The case handler and the competition council proceeding in the case may request, in the scope and to the extent necessary to conduct the proceeding, any person or organisation to supply information as well as to provide data and documents in connection with the subject of the investigation.</p> <p>Article 43(H)(4)</p> <p>(4) The case handler is entitled to obtain the information necessary for the assessment of the formal complaint; and to this end the case handler may, in the scope and to the extent necessary, request any person or organisation to supply information as well as data and documents in connection with the subject matter of the investigation, and may hear the complainant and the entity against whom a complaint was lodged. If the requested person or entity refuses to cooperate in the course of the proceeding, no procedural fine or other coercive measure may be imposed</p>

ARTICLE 4 DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
(c) to carry out necessary on-site inspections;	<p>Article 44 Competition Act</p> <p>Article 56 Administrative Act</p>	<p>Article 44</p> <p>(1) Unless otherwise provided for in this Act, competition supervision proceedings shall be governed by the provisions of the Act on Administrative Procedures</p> <p>Article 56</p> <p>(1) Where ascertaining the relevant facts of a case requires the inspection or surveillance of any movable property, real estate property (hereinafter referred to collectively as "subject-matter of the inspection"), or a person, the authority may order an inspection.</p> <p>(2) Inspections may be conducted by the authority's officers, an expert appointed by the authority, or another person duly authorized by the relevant legislation, where they are required to verify their authorization, with the exception set out in Paragraph (3) of Article 57. The person conducting the inspection may be required by law to produce a letter of authorization before commencing the inspection.</p>
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 72/A(1) a) of the Competition Act	<p>Article 72/A(1) a) of the Competition Act:</p> <p>(1) On the strength of the investigator's report, the competent competition council may impose provisional measures:</p> <p>a) to prohibit the further continuation of the conduct alleging probable cause for an infringement or may order the termination of the status quo alleging probable cause for an infringement, if it is required out of pressing necessity due to the protection of the legal or economic interests of the interested parties, and the endangering of the formation, maintenance or development of economic competition,</p>

ARTICLE 4 DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 75 of the Competition Act (Commitment)	<p><u>Article 75 of the Competition Act:</u></p> <p>(1) If with respect to a conduct investigated by an ex officio competition control proceedings the party undertakes the commitment to proceed in a specific way to bring his conduct into conformity with the relevant statutory provisions, so as to ensure that the protection of public interest can be effectively implemented, the competent competition council shall have powers to adopt a resolution to compel the party in question to undertake that commitment, without adopting an opinion regarding any infringement of the law or the lack thereof. If the party has in the meantime ceased the conduct investigated, a commitment may be undertaken for compliance with transparent and verifiable codes of conduct intended to avoid any recurrence of the infringement.</p> <p>(2) The competent competition council may amend or withdraw its resolution provided for in Subsection (1) in the cases and under the conditions specified in Subsections (3)-(7).</p> <p>(3) The competent competition council shall amend the resolution:</p> <p><i>a)</i> at the request of the obliged company if the obligor is unable to perform any obligation stipulated in the resolution in consequence of unavoidable circumstances beyond his control, or</p> <p><i>b)</i> at the request of the obliged company or of its own motion if fulfillment of any of the obligations prescribed in the resolution is no longer justified due to changes in the relevant circumstances, such as in market conditions or in conditions of effective competition, and the objective of the commitment can be achieved by other means as well.</p> <p>(4) The request referred to in Paragraph <i>a)</i> of Subsection (3) may be submitted within fifteen days from the time of gaining knowledge of the reason preventing the fulfilment of the commitment, at the latest within two months from the date of occurrence of said reason.</p> <p>(5) The competent competition council shall withdraw its resolution not reviewed by the court, if the resolution is</p>

ARTICLE 4 DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Article 86(2)(c) Competition Act	<p>based upon the misleading communication by the obliged company of a fact that is considered material for the purposes of making the decision.</p> <p>(6) If the company failed to fulfill the obligation prescribed in the resolution, or in the resolution amended according to Subsection (3), the competent competition council shall withdraw its resolution or shall impose a fine upon weighing the effective enforcement of the public interest underlying the resolution prescribing the commitment undertaken, having regard to the nature of market conditions affected by the commitment, to the existing level of competition, to the extent of the commitment undertaken has been fulfilled, and to the attributability of the company's actions with respect to the infringement.</p> <p>(7) The resolution may be withdrawn within five years:</p> <p><i>a)</i> from the time it was delivered in the case provided for in Subsection (5);</p> <p><i>b)</i> from the deadline prescribed for the fulfilment of the obligation, or from the date of infringement of a continuing obligation in the case provided for in Subsection (6).</p> <p>(8) If the resolution is withdrawn, the competition control proceedings shall be reopened irrespective of the restriction provided for in Subsection (3) of Section 67, moreover, in the case provided for in Subsection (6), an administrative penalty may be imposed on account of the conduct based on which the resolution had to be withdrawn.</p> <p>Article 86 (1)(c)</p> <p>(1) The court shall have competence to conduct proceedings against violations of the provisions contained in Articles 2 to 7.</p> <p>(2) In the action, the interested party may demand</p>

ARTICLE 4 DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		c) that the party infringing the law make amends — through an announcement or in any other appropriate manner — and if necessary, that sufficient publicity be given to such amends by or at the expense of the party infringing the law
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	<p>Article 72/A(1) of the Competition Act</p> <p>Article 76 (1) from (e) to (i) of the Competition Act</p> <p>Article 86(1)(2) (a)(b) (d) of the Competition Act</p>	<p>Article 72/A (1)</p> <p>On the basis of the report by the case handler, the competition council proceeding in the case may, by an interim measure, (a) prohibit the continuation of the conduct which is likely to constitute an infringement or order the termination of the situation which is likely to constitute an infringement, if it is urgently needed to protect the legal or economic interests of the concerned parties and the development, maintenance or improvement of competition is threatened;</p> <p><u>Article 76</u></p> <p>(1) By way of a resolution, the competent competition council;</p> <p>(e) may establish the fact of infringement;</p> <p>(f) may order the termination of the infringing state;</p> <p>(g) may prohibit the continuation of the infringing conduct;</p> <p>(h) may, where the existence of an infringement is established, impose obligations, including in particular an obligation to contract, on the parties in the case of an unjustified refusal to create or maintain appropriate business relations for the type of the transaction concerned;</p> <p>(i) may order the publication of a corrective statement in respect of any infringing communication of information;</p>

ARTICLE 4 DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Article 877A of the Competition Act:	<p>Article 86</p> <p>(1) The court shall have competence to conduct proceedings against violations of the provisions contained in Articles 2 to 7.</p> <p>(2) In the action, the interested party may demand</p> <p>(a) the establishment of the infringement;</p> <p>(b) the termination of the infringement and the prohibition of further infringement by the party infringing the law;</p> <p>(d) the termination of the injurious situation, the restoration of the status quo preceding the infringement, and the deprivation of the infringing features of the goods produced or distributed through the infringement or, where this is not possible, the destruction of such goods, as well as the destruction of any special facilities used for the production of such goods;</p> <p><u>Article 87/A</u></p> <p>The court shall prohibit the dissemination of any comparative advertising not yet published, if it finds that publication of such advertisement would violate the provisions of paragraph (1) of Article 6/A. Prohibition of publication may be ordered also in the form of a provisional measure. No penalty shall be imposed contemporaneously with a ban of publication.</p>
(g) to require the losing defendant to make payments	Article 78(1) of the Competition Act	Article 78 (1) The competition council proceeding in the case may impose a fine (a) for any infringement that

ARTICLE 4 DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.		falls within the competence of the Hungarian Competition (1a) The competition council proceeding in the case shall impose a fine for the nonfulfilment of a commitment pursuant to Article 75 except if the competition supervision proceeding was reopened as a result of the withdrawal of the decision imposing such commitment. (1b) The fine shall not exceed ten per cent of the net turnover, achieved in the business year preceding that in which the decision is adopted, of the undertaking or the group of undertakings which is specified in the decision and of whom the undertaking on which the fine is imposed is a member. The fine imposed on associations of undertakings shall not exceed ten per cent of the net turnover in the preceding business year of the undertakings which are members of such associations. (

Directive 2000/31/EC on electronic commerce

Article 16/A of the Act on Electronic Commerce distinguishes the authorities as follows:

In connection with any infringement of the provisions of Articles 4, 5 and 14/A⁶³, and provisions of Article 14 (1) and (2) of the Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR), the authority specified in Act on the Prohibition of Unfair Business-to-Consumer Commercial Practices shall have jurisdiction. The competent authority shall precede in accordance with the provisions of the Act on the Prohibition of Unfair Business-to-Consumer Commercial Practices.⁶⁴

In connection with any infringement of the provisions contained in Article 6:

- (i) The National Bank, acting within its function as supervisory authority of the financial intermediary system, shall have jurisdiction according to the National Bank Act in respect of the persons and organizations engaged in the pursuit of the activities falling within the scope of the National Bank Act;
- (ii) The HACP shall have jurisdiction in respect of other service providers according to Consumer Protection Act.

In connection with any infringement of the provisions contained in Article 14/B⁶⁵ of the Act on Electronic Commerce and Article 6⁶⁶ of the Act on Restrictions of Commercial Advertising Activities (hereinafter referred to collectively as “oversight proceedings in connection with unsolicited electronic communications”), the National Media and Infocommunications Authority shall have jurisdiction.

⁶³ Article 4 on information to be provided in connection with information society services; Article 5 on provisions relating to contracts concluded by electronic means; Article 14/A on electronic communication

⁶⁴ See explanation with respect to Directive 2005/29/EC on Unfair Commercial Practices.

⁶⁵ Article 14/B of the Act on Electronic Commerce:

(1) In order to enable the identification of the electronic advertiser or the publisher of electronic communications, the intermediary service provider shall supply, upon request, to the Authority the following information, provided that they are available to the intermediary service provider:

- a) the electronic communication identification code of the sender or publisher of electronic communication the National Media and Infocommunications Authority has indicated; and
- b) the name and address of the recipient of the service indicated in the records under the said electronic communication identification code.

(2) The National Media and Infocommunications Authority shall be authorized to process the aforesaid data as supplied for sixty days following the final and binding conclusion of the relevant oversight proceedings, or until the conclusion of any ensuing court review proceedings by final decision, solely for the purpose of identification of the electronic advertiser or the publisher of electronic communications.

According to Consumer Protection Act, the HACCP shall have jurisdiction on any infringement of the provisions in Article 15⁶⁷.

The table only contains the powers which differ from the general powers of the authorities described in the tables above. The inspection powers granted by the Administrative Act always apply.

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE

(3) The intermediary service provider, in the event of non-compliance with the obligation set out in Paragraph (1), shall be subject to collective liability with the electronic advertiser, the provider of electronic communications, and the publisher of electronic communications for any infringement of the provisions contained in Article 6 of the Act on Restrictions of Commercial Advertising Activities. Liability for damages caused by such infringement lies with the intermediary service provider, the electronic advertiser, the provider of electronic communications, and the publisher of electronic communications jointly and severally.

⁶⁶ This provision is in connection with direct marketing. Article 6, "(1) The service provider shall make available to the recipient of the service appropriate, effective and accessible technical means allowing him to identify and correct input errors, prior to the placing of the order by way of electronic means. In the absence of such technical means any communication of the recipient of the service shall not be treated as an order.

(2) The service provider has to acknowledge the receipt of the recipient's order without undue delay and by electronic means. If such acknowledgement is not received by the recipient of the service within a reasonable time consistent with the nature of the service, or within forty-eight hours maximum following the time of dispatch of the recipient's order, the recipient of the service shall be relieved from any contractual commitment.

(3) The order and the acknowledgement of receipt are deemed to be received by the service provider or the recipient when the parties to whom they are addressed are able to access them.

(4) In connection with contracts concluded between the service provider and recipients of the service who are not consumers, the parties may agree to derogate from the provisions set out in subsections (1) and (2).

(5) The provisions contained in subsections (1) and (2) of this section shall not apply to contracts concluded exclusively by exchange of electronic mail or by equivalent individual communications."

⁶⁷ In accordance with Article 15 of the Act on Electronic Commerce, "Companies offering, in addition to electronic commercial services, public utility services shall set up a customer service center that may be consulted by their customers by way of electronic means for handling consumer correspondence, investigating and handling complaints and for providing information to consumers."

PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
<p>6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:</p>	<p>Article 18(2) of the Act on Electronic Commerce</p> <p>Article 16/F of the Act on Electronic Commerce</p>	<p><u>Article 18(2) of the Act on Electronic Commerce:</u></p> <p>(2) This Act contains provisions for the implementation of the legislation of the Communities in connection with the duties and proceedings of the National Media and Infocommunications Authority:</p> <p><i>a)</i> Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws, Article 4 (1) and (6) [Paragraph (1) of Article 16/D, Article 16/E and Paragraph (1) of Article 16/F]</p> <p><u>Article 16/F of the Act on Electronic Commerce:</u></p> <p>(1) The implementation of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council shall be conferred:</p> <p><i>a)</i> upon the HACP or the Hungarian Competition Authority - as prescribed in the Act on the Prohibition of Unfair Business-to-Consumer Commercial Practices - with a view to any intra-Community infringements of national laws on the transposition of Articles 5, 6 and 10 of Directive 2000/31/EC of the European Parliament and of the Council;</p> <p><i>b)</i> upon the National Media and Infocommunications Authority with a view to any intra-Community infringements of national laws on the transposition of Article 7 of Directive 2000/31/EC of the European Parliament and of the Council;</p> <p><i>c)</i> upon the HACP with a view to any intra-Community infringements of national laws on the transposition of Article 11 of Directive 2000/31/EC of the European Parliament and of the Council.</p>
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;		?
(b) to require the supply by any person of relevant	?	?

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
information related to the intra-Community infringement;		
(c) to carry out necessary on-site inspections;	Article 56 Administrative Act	<p><u>Article 56 Administrative Act</u></p> <p>(1) Where ascertaining the relevant facts of a case requires the inspection or surveillance of any movable property, real estate property (hereinafter referred to collectively as "subject-matter of the inspection"), or a person, the authority may order an inspection.</p> <p>(2) Inspections may be conducted by the authority's officers, an expert appointed by the authority, or another person duly authorized by the relevant legislation, where they are required to verify their authorization, with the exception set out in Paragraph (3) of Article 57. The person conducting the inspection may be required by law to produce a letter of authorization before commencing the inspection.</p>
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	<p>Article 16/D a) of the Act on Electronic Commerce</p> <p>Article 16/D d) of the Act on Electronic Commerce</p>	<p><u>Article 16/D a) of the Act on Electronic Commerce:</u></p> <p>(1) In the event of any infringement of the provisions related to unsolicited electronic communications the National Media and Infocommunications Authority shall have powers:</p> <p>a) to order the cessation of the infringement;</p> <p><u>Article 16/D d) of the Act on Electronic Commerce:</u></p> <p>(1) In the event of any infringement of the provisions related to unsolicited electronic communications the National Media and Infocommunications Authority shall have powers:</p> <p>d) to advise the intermediary service provider referred to in Paragraph <i>la)</i> of Article 2 that the electronic advertiser, provider of electronic communications services or the publisher of electronic communications is using the intermediary service provider's subscriber or network services unlawfully for the transmission of electronic</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		communications
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 16/D c) of the Act on Electronic Commerce Article 16/E (5) of the Act on Electronic Commerce	<p><u>Article 16/D c) of the Act on Electronic Commerce:</u> (1) In the event of any infringement of the provisions related to unsolicited electronic communications the National Media and Infocommunications Authority shall have powers:</p> <p>c) instead of adopting a resolution ordering the cessation of infringement, to enter into an administrative agreement with a client who agrees to cease the infringement, and to engage in conduct in conformity with the provisions pertaining to unsolicited electronic communications in accordance with the administrative agreement;</p> <p><u>Article 16/E (5) of the Act on Electronic Commerce:</u> (5) The National Media and Infocommunications Authority shall post a notice concerning the administrative agreement concluded under Paragraph c) of Subsection (1) of Section 16/D on its official website. The notice shall specify:</p> <p>a) the name of the National Media and Infocommunications Authority; b) the name and address of the infringing service provider; c) the case number and the subject matter; d) the fact that the agreement was concluded for reasons of public policy; e) the essence of the commitment phrased in language that is easy to understand; and f) an indication that the administrative agreement is available for inspection at the authority.</p>
(f) to require the cessation or prohibition of any intra-	Article 16/D b) of the Act on Electronic Commerce	<p><u>Article 16/D b) of the Act on Electronic Commerce:</u> (1) In the event of any infringement of the provisions related to unsolicited electronic communications the</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
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Community infringement and, where appropriate, to publish resulting decisions;	Article 16/E (1)-(4) of the Act on Electronic Commerce	<p>National Media and Infocommunications Authority shall have powers:</p> <p><i>b)</i> to prohibit any further infringement;</p> <p><u>Article 16/E (1)-(4) of the Act on Electronic Commerce:</u></p> <p>(1) The National Media and Infocommunications Authority shall publish its final resolution adopted in connection with any infringement of the provisions contained in Section 14/B of this Act and Article 6 of the Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities, with the personal data of the recipient of the service deleted or rendered illegible, on its official website, if:</p> <p><i>a)</i> it contains a fine of two hundred thousand forints or more;</p> <p><i>b)</i> it was adopted for a repeat infringement; or</p> <p><i>c)</i> it was adopted ordering the cessation or prohibition of an infringement in the proceedings referred to in Subsection (2) of Section 16/C or in Paragraph <i>b)</i> of Subsection (1) of Section 16/F.</p> <p>(2) The National Media and Infocommunications Authority shall publish its ruling specified in Paragraph (4) of Article 16/D, if adopted under Paragraph (2) of Article 16/C.</p> <p>(3) The National Media and Infocommunications Authority may notify the national news agency concerning the publication of such resolutions.</p> <p>(4) In addition to what is contained in the Act on the General Rules of Administrative Proceedings, the posted notice shall indicate:</p> <p><i>a)</i> the legal basis for publication according to this Act;</p> <p><i>b)</i> the relevant facts of the case;</p> <p><i>c)</i> the operative part of the decision, save for the information on the available remedy; and</p> <p><i>d)</i> as to whether any judicial review, oversight proceedings or prosecutor's intervention has been submitted, and</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
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		the outcome if available
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	<p>Article 16/D e) of the Act on Electronic Commerce</p> <p>Article 16/E (1)-(4) of the Act on Electronic Commerce</p>	<p><u>Article 16/D e) of the Act on Electronic Commerce:</u> e) to impose an electronic commerce penalty between fifty thousand and five hundred thousand forints.</p> <p><u>Article 16/D(2)-(3) of the Act on Electronic Commerce:</u> (2) The amount of the electronic commerce penalty shall be determined with regard to all applicable circumstances, in particular, to the sphere and gravity of damages caused to recipients of the service and the electronic communication, the duration of the illegal conduct and any recidivism where applicable. The penalty may be imposed repeatedly for multiple infringements. (3) Electronic commerce penalties shall be paid to the account of the Authority. (<i>National Media and Infocommunications Authority</i>)</p> <p><u>Article 16/E (1)-(4) of the Act on Electronic Commerce:</u> (1) The National Media and Infocommunications Authority shall publish its final resolution adopted in connection with any infringement of the provisions contained in Section 14/B of this Act and Article 6 of the Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities, with the personal data of the recipient of the service deleted or rendered illegible, on its official website, if: <i>a)</i> it contains a fine of two hundred thousand forints or more; <i>b)</i> it was adopted for a repeat infringement; or <i>c)</i> it was adopted ordering the cessation or prohibition of an infringement in the proceedings referred to in Subsection (2) of Section 16/C or in Paragraph <i>b)</i> of Subsection (1) of Section 16/F. (2) The National Media and Infocommunications Authority shall publish its ruling specified in Paragraph (4) of Article 16/D, if adopted under Paragraph (2) of Article 16/C.</p>

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PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
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		<p>(3) The National Media and Infocommunications Authority may notify the national news agency concerning the publication of such resolutions.</p> <p>(4) In addition to what is contained in the Act on the General Rules of Administrative Proceedings, the posted notice shall indicate:</p> <ul style="list-style-type: none"> a) the legal basis for publication according to this Act; b) the relevant facts of the case; c) the operative part of the decision, save for the information on the available remedy; and d) as to whether any judicial review, oversight proceedings or prosecutor's intervention has been submitted, and the outcome if available

MEMBER STATE: IRELAND

LEGAL FRAMEWORK

The Competition and Consumer Protection Act 2014 (the Act) entered into force on 31 October 2014. The Act establishes the Competition and Consumer Protection Commission (CCPC) which merges the former National Consumer Agency and the former Competition Authority. The CCPC has the same statutory functions as the pre-existing bodies and it is the Single liaison office for the purpose of the CPC Regulation. Article 39 of the Act has transferred to the CCPC the function of the former National Consumer Agency, which was the body in charge of implementing the legislation on consumer protection covering all the acts mentioned in the Study and it was the national competent authority under the CPC Regulation.

Section 10 of the Act provides that the functions of the CCPC are, among others:

- to promote and protect the interests and welfare of consumers;
- to carry out an investigation, either on its own initiative or in response to a complaint made to it by any person, into any suspected breach of (i) the relevant statutory provisions, that may be occurring or has occurred;
- to enforce the relevant statutory provisions;
- to encourage compliance with the relevant statutory provisions, which may include the publication of notices containing practical guidance as to how those provisions may be complied with;
- to foster and promote contacts, and co-operate and consult with consumer groups and such other persons or bodies as the Commission considers could assist in the promotion or development of consumer protection and welfare and competition matters,
- shall promote public awareness and conduct public information campaigns for the purpose of educating and providing information to the public in relation to consumer protection and welfare
- to co-operate with other authorities whether in the State or elsewhere charged with responsibility for the enforcement of laws relating to consumer protection and welfare and competition or the promotion of consumer protection and welfare and competition between undertakings,

The investigative and enforcement powers of the CCPC for the purposes of enforcing consumer protection legislation are regulated by Sections 18 and 36 of the Act, while the powers related to prosecution (civil and criminal), prohibition orders, compliance notices, and undertakings remains regulated by the Consumer Protection Act 2007. The CCPC has also the power, in case of breach of price display legislation and certain provisions of the consumer rights directive as transposed, to impose fixed payment notice as an alternative to taking prosecutions. If the trader fails to pay the fine with the statutory time limit, the CCPC can initiate prosecution proceedings. The CCPC can seek

undertakings from traders; issue compliance notice and seek prohibition orders from the Courts. For the most serious infringements, the CCPC may initiate summary criminal proceedings before the Courts. The Director of Prosecutions may initiate prosecution on indictment on foot of a file being referred to it by the CCPC.

The Commission has a range of powers to help achieve compliance with consumer protection law. These are:

- Prosecution
- Prohibition orders
- Compliance notices
- Undertakings
- Fixed payment notices

As reported by the Law Society of Ireland, the National Consumer Agency often tackled such practices via Compliance Notices, under a system provided for in the Consumer Protection Act 2007. This enforcement mechanism, whereby the CCPC may elect to deal with cases either via enforcement notice or via criminal prosecution, seems to provide a useful and relatively rapid means to ensure appropriate enforcement of consumer protection rules⁶⁸.

<p>DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING</p>		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)

⁶⁸ Competition and Consumer Protection Commission (CCPC) Strategy Statement 2015 – 2017, DEPARTMENT OF JOBS, ENTERPRISE & INNOVATION MARCH 2015.

Article 4(6)		
<p>6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:</p>		
<p>(a) to have access to any relevant document, in any form, related to the intra-Community infringement;</p>	<p>Section 18 (1) of the Competition and Consumer Protection Act 2014</p> <p>Section 36 (1) (c) and (e) of the Competition and Consumer Protection Act 2014</p>	<p>Section 18</p> <p>18. (1) The Commission may, to enable it to perform its functions under this Act, do all or any of the following things:</p> <p>(...)</p> <p>(c) require any such witness to produce to the Commission any books, documents and records in his or her power or control;</p> <p>Section 36</p> <p>(c) remove and retain any books, documents or records relating to a trade, business or activity for such periods as may be reasonable for further examination and take any other steps which appear to the authorised officer to be necessary for preserving, or preventing interference with, such books, documents or records, subject to a warrant being issued for such purposes by a judge of the District Court,</p> <p>(e) inspect and take copies of or extracts from any such books, documents or records at the place including in the case of information in a non-legible form, copies of or extracts from such information in a permanent legible form</p>
<p>(b) to require the supply by any person of relevant information related to the intra-Community</p>	<p>Section 18 (d) the Competition and Consumer Protection Act 2014</p>	<p>18. The Commission may, to enable it to perform its functions under this Act, do all or any of the following things:</p> <p>(...)</p> <p>(d) by notice in writing, require any person or undertaking to provide it with such written information as the</p>

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infringement;	Section 36 (1) d), f), g) of the Competition and Consumer Protection Act 2014	Commission considers necessary to enable it to carry out its functions; Section 36 (d) by notice in writing, require any person or undertaking to provide it with such written information as the Commission considers necessary to enable it to carry out its functions. (d) require any person who carries on a trade, business or activity and any person employed in connection therewith to— (i) give to the authorised officer his or her name, home address and occupation, and (ii) provide to the authorised officer any books, documents or records relating to that activity which are in that person's power or control, and to give to the officer such information as he or she may reasonably require in regard to any entries in such books, documents or records, and where such books, documents or records are kept in a non-legible form to reproduce them in a legible form, (f) require any person mentioned in paragraph (d) to give to the authorised officer any information which the authorised officer may reasonably require in regard to such trade, business or activity or in respect of the persons carrying on such trade, business or activity or employed in connection with such trade, business or activity, (including in particular, in the case of an unincorporated body of persons, information in regard to the membership thereof and its committee of management or other controlling authority). (g) require any such person to give to the authorised officer any other information which the authorised officer

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		may reasonably require in respect of such trade, business or activity (i) summon, at any reasonable time, any other person employed in connection with such trade, business or activity to give to the authorised officer any information which the authorised officer may reasonably require in relation to such trade, business or activity and to produce to the authorised officer any books, documents or records which are in the control of that other person
(c) to carry out necessary on-site inspections;	Section 36(1), 4(b) of the Competition and Consumer Protection Act 2014	36. (1) An authorised officer may, for the purpose of enforcing any of the relevant statutory provisions (other than the Act of 2002)— (a) at all reasonable times enter any place at which there are reasonable grounds to believe that any trade or business or any activity in connection with a trade or business is being, or has been, carried on, or that books, documents or records in relation to that trade, business or activity are kept, and search and inspect the place and any books, documents or records that are at that place, 4.(b) On an application being made under this subsection, if a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting that evidence of, or relating to, the commission of an offence under any of the relevant statutory provisions (other than the Act of 2002) is to be found in any place, the judge may issue a warrant authorising an authorised officer (accompanied by such other authorised officers or members of An Garda Síochána or both as provided for in subsection (5) of section 35) at any time or times within one month from the date of issue of the warrant, on production if so

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PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
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		requested of the warrant, to enter and search that place using reasonable force where necessary, and exercise all or any of the powers conferred on an authorised officer under this section.
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Section 75 of the Consumer Protection Act 2007	(2) An authorised officer who is of the opinion that a person is committing or engaging in, or has committed or engaged in, a prohibited act or practice or is contravening or has contravened an enactment specified in Schedule 5 may serve, personally or by post, a written notice on that person (a "compliance notice"). (3) A compliance notice shall be signed and dated by the authorised officer and shall— (a) contain a statement of the alleged contravention (identifying the relevant enactment), the opinion referred to in subsection (2) and the reasons for that opinion, (b) direct the person to remedy the contravention or the matters occasioning that notice, including any other requirement that the authorised officer considers appropriate in order to remedy the contravention or matter (the "compliance direction and requirements"), (c) specify the date by which the person is to comply with the compliance direction and requirements, (d) contain a statement that the person may appeal the notice to the District Court within 14 days after service of the notice, including information specifying— (i) the form and manner of such an appeal, and (ii) the service address of the Agency for purposes of notifying the Agency under subsection (6), and (e) contain a statement that, if an appeal is not made in accordance with this section and within the time specified in paragraph (d), then— (i) the notice will be treated as not disputed, (ii) the person will be deemed to have accepted the notice and have agreed to comply with the compliance direction and requirements, and (iii) any failure or refusal to so comply is an offence and, on summary conviction, the person will be liable to the fine and penalties set out in Chapter 4. (4) The date

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		<p>specified under subsection (3)(c) shall not be earlier than the end of the period within which an appeal may be made under subsection (5). (5) If the person on whom the compliance notice is served wishes to dispute the notice, the person may, no later than 14 days after the notice is served and in accordance with this section and in the form and manner specified in the notice, appeal the notice to a judge of the District Court in the district court district in which the notice was served. (6) A person who appeals under subsection (5) shall at the same time notify the Agency of the appeal and the grounds for the appeal and the Agency shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal. (7) In determining an appeal under this section, the judge may confirm, vary or cancel the compliance notice, if satisfied that it is reasonable to do so. (8) If on appeal the compliance notice is not cancelled, the notice takes effect on the later of the following: (a) the day after the day on which the notice is confirmed or varied on appeal; (b) if the appeal is withdrawn by the appellant, the day after the day it is withdrawn; (c) the day specified in the notice. (9) If there is no appeal under subsection (5), the compliance notice takes effect on the later of the following: (a) 14 days after the notice is served on the person;</p> <p>(b) the day specified in the notice. (10) An authorised officer may— (a) withdraw a compliance notice at any time, or (b) if no appeal is made or pending under subsection (5), extend the date specified in the notice under subsection (3)(c). (11) A person commits an offence who, without reasonable excuse, fails to comply with a compliance direction or requirement specified in a compliance notice and, on summary conviction, is liable to the fines and penalties provided in Chapter 4. (12) Withdrawal of a compliance notice under subsection (10) does</p>

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PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
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		not prevent the service of another compliance notice, whether in respect of the same matter or a different matter. (13) If a compliance notice takes effect in accordance with this section, the Agency shall publish the compliance notice, or cause it to be published, in any form or manner the Agency considers appropriate. (14) Nothing in this section prevents the commencement of proceedings for an offence.
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Section 73 of the Consumer Protection Act 2007	73.—(1) In this section “prohibited act or practice” does not include a contravention of section 59(2) (respecting weighing facilities in grocery retail) or section 60(1) (respecting preventing the reading of prices). (2) If the Agency has reason to believe that a trader— (a) is committing or engaging in a prohibited act or practice, (b) is about to commit or engage in a prohibited act or practice, or (c) has committed or engaged in a prohibited act or practice, the Agency may accept from the trader a written undertaking that is signed by the trader in the form and which contains the terms and conditions the Agency determines are appropriate in the circumstances. (3) If the Agency accepts an undertaking from a trader under this section, the Agency shall publish the undertaking, or cause it to be published, in any form or manner the Agency considers appropriate. (4) Without limiting subsection (2), the undertaking may include one or more of the following terms and conditions: (a) an undertaking to comply with the provision or provisions concerned of this Act or regulations under this Act; (b) an undertaking to refrain from committing or engaging in any act or practice; (c) an undertaking to compensate consumers or a class of consumers, including reimbursing any money or returning any other property or thing received from consumers in connection with a consumer transaction; (d) an

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		undertaking to publish or cause to be published, at the trader's expense, an advertisement containing a corrective statement relating to the prohibited act or practice. (5) If the trader under subsection (2) is a body corporate, the undertaking shall be signed by a director, manager, secretary or other officer of the trader. (6) The Agency may terminate proceeding against a trader under section 71 (respecting civil relief by way of prohibition orders) on the acceptance of an undertaking from the trader.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Section 73 of the Consumer Protection Act 2007 Section 71 of the Consumer Protection Act 2007 Section 86 of the Consumer Protection Act 2007	(7) Despite subsection (6), the Agency may apply for an order against a trader under section 71 if the trader fails to comply with the terms and conditions of an undertaking under this section. (2) Any person, including the Agency or any other public body that is prescribed for the purposes of this subsection, may apply to the Circuit Court or High Court for an order prohibiting a trader or person from committing or engaging in a prohibited act or practice. (3) An application under subsection (2) shall be on notice to— (a) the trader or person against whom the order is sought, and (b) the Agency, if the applicant is not the Agency. (4) In determining an application under this section, the court shall consider all interests involved and, in particular, the public interest. 59 Pt.5 S.69 Offence of trader due to act or default of another person. Civil relief by way of prohibition orders. Pt.5 S.71 Prohibition orders against code owners. 60 [No. 19.] [2007.] Consumer Protection Act 2007. (5) If the applicant for an order under this section is not the Agency, the court may not make the order unless the Agency has been afforded an opportunity to be heard and adduce evidence.

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		86.—(1) The Agency shall keep and maintain a list (the “consumer protection list”) of names and addresses of the following persons, together with a description of their trade, business or profession and the particulars described in subsection (2): (a) any person on whom a fine or other penalty was imposed by a court under the relevant statutory provisions or who was required, by an order under section 81, to pay an amount of money to a consumer; (b) any person against whom an order is made under section 71 (respecting civil relief by way of prohibition orders); (c) any person who gives an undertaking to the Agency under section 73; (d) any person against whom a compliance notice takes effect under section 75(7) or (8) (respecting compliance notices); (e) any person who makes payment to the Agency pursuant to a fixed payment notice under section 85. (...) (3) The Agency may, at any time and in any form or manner the Agency considers appropriate, publish or cause to be published all or any part of the consumer protection list.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with	Section 75(2) of the Consumer Protection Act 2007	Section 85(1) (2) An authorised officer who has reasonable grounds for believing that a person is committing, or has committed, a relevant offence may serve, personally or by post, the notice referred to in subsection (3) on the person. (3) The notice (“fixed payment notice”) shall be in the prescribed form and state— (a) that the person on whom it is served is alleged to have committed the relevant offence concerned, (b) when and where it is alleged to have been committed, (c) that a prosecution for it will not be instituted if, during the period of 28 days beginning on the date of the

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the decision.	Section 75(11) of the Consumer Protection	notice, the person pays the amount of €300 to the Agency (at the address stated in the notice) and submits the original or a copy of the fixed payment notice together with that payment, and (d) that in default of such payment, the person will be prosecuted for the alleged relevant offence. (4) A payment referred to in subsection (3) shall be accompanied by the original or a copy of the fixed payment notice concerned. (5) If a fixed payment notice is served on a person— (a) the person may make a payment in accordance with subsection (3)(c), (b) the Agency shall receive and retain the payment (subject to subsection (7)) and issue a receipt for it, (c) any payment received shall not be recoverable by the person who made it, and (d) a prosecution in respect of the alleged relevant offence to which the notice relates shall not be instituted during the period specified in subsection (3)(c) or, if a payment is made in accordance with subsections (3)(c) and (4), at all. (6) In proceedings against a person for a relevant offence it shall be presumed, until the contrary is shown, that the person did not make payment in accordance with subsections (3)(c) and (4). (7) Payments received by the Agency under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance directs. Section 75(11) (11) A person commits an offence who, without reasonable excuse, fails to comply with a compliance direction

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	Act 2007 Section 79 Consumer Protection Act	or requirement specified in a compliance notice and, on summary conviction, is liable to the fines and penalties provided in section 4. 79.—(1) A person guilty of an offence under this Act (other than an offence under section 65(2)) is liable on summary conviction to the following fines and penalties: (a) on a first summary conviction for any such offence, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both; (b) on any subsequent summary conviction for the same offence or any other offence under this Act (other than an offence under section 65(2)), to a fine not exceeding € 5,000 or imprisonment for a term not exceeding 12 months or both. (3)A person guilty of an offence under this Act (other than an offence under any of the excluded sections) is liable on conviction on indictment to the following fines and penalties: (a) on a first conviction on indictment for any such offence, to a fine not exceeding €60,000 or imprisonment for a term not exceeding 18 months or both; (b) on any subsequent conviction on indictment for the same offence or any other offence under this Act (other than an offence under any of the excluded sections), to a fine not exceeding €100,000 or imprisonment for a term not exceeding 24 months or both.

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PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
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		(...) <p>(6) A person guilty of an offence under section 65 (2) [pyramid scheme] is liable on conviction on indictment to a fine not exceeding €150,000 or imprisonment for a term not exceeding 5 years or both.</p> <p>(7) If, after being convicted of an offence under section 65 (2), a person continues to contravene section 65 (1), the person is guilty of a further offence on each day that the contravention continues and for each such offence is liable on conviction on indictment to a fine not exceeding €10,000.</p>

MEMBER STATE: LITHUANIA

LEGAL FRAMEWORK

Article 4(6) of the Consumer Protection Cooperation (**CPC**) Regulation has been mainly implemented into the Lithuanian legal system by virtue of provisions of the Law on Consumer Protection dated 12th of February 2007 (**LCP**). Based on provisions of the LCP the State Consumer Rights Protection Authority has been given various tools for implementation of consumer protection, which were inspired by the provisions of Article 4(6) of the CPC Regulation. The State Consumer Rights Protection Authority is a public and administrative body fulfilling the function of competent authority (as defined in the CPC Regulation).

Additionally, several other legal acts of the Republic of Lithuania implement the CPC Regulation and related EU Directives, i.e. the Law on Advertising, the Law on Information Society Services, the Law on Prohibition of Unfair Business-to-Consumer Commercial Practices, the Law on Competition, and the Administrative Code (liability for infringements of legal requirements is established therein) (for more details please see the tables below). The following authorities: Competition Council, State Food and Veterinary Service, Department of Cultural Heritage under the Ministry of Culture, State Service for Protected Areas under the Ministry of Environment and others defined in Table 2 perform functions of the competent authorities (as defined in the CPC Regulation) based on the provisions of the aforementioned legal acts. All of these authorities are public.

The enforcement powers of the aforementioned authorities are outlined in the analysis presented in the tables below. The analysis is divided into three tables: (i) the table covering directives 2005/29/EC, 93/13/EEC and 2011/83/EU; (ii) the table covering directive 2000/31/EC, and (iii) the table with directive 2006/114/EC.

Article 12. Functions and rights of the State Consumer Rights Protection Authority

1. The State Consumer Rights Protection Authority shall exercise the following functions:

1) to ensure the protection of consumer rights and supervise whether non-food products put on the market fulfil the food safety, quality, labelling requirements established by legal acts;

- 2) to coordinate the activities of consumer rights protection institutions, responsible for the regulation of a certain area of consumption, in the sphere of the protection of consumer rights (analyses the accumulated information, obtained periodically from state and municipal institutions, about the protection of consumer rights, submits proposals regarding the improvement of the protection of consumer rights);
 - 3) to adopt and harmonise legal acts relating to the protection of consumer rights;
 - 4) to present conclusions and proposals on the laws and other legal acts relating to the protection of consumer rights;
 - 5) to resolve disputes of consumers, traders, and service providers in accordance with the out of court procedure;
 - 6) to control standard terms and conditions of contracts in the manner prescribed by law and contests unfair terms and conditions of consumer contracts;
 - 7) to apply sanctions provided for by law;
 - 8) to defend the public interest of consumers in accordance with the procedure laid down in chapter seven of this Law;
 - 9) to organise consumer education, coordinates activities of state and municipal institutions, consumer associations when organising consumer education, provides information about consumer rights to sellers and service suppliers;
 - 10) to create and manages a database of the protection of consumer rights;
 - 11) (in conjunction with other state institutions) to organise and carry out exchange of information with the Commission of the European Communities and member states (RAPEX system) in accordance with the procedure laid down by legal acts of the European Union, as well as places information on its website about hazardous non-food products manufactured in the Republic of Lithuania or supplied from the European Union member states or other countries that are banned from the placing on the market;
 - 12) (in conjunction with the Commission of the European Communities and other national authorities of other member states of the European Union) to implement Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws;
 - 13) to represent the Republic of Lithuania in international organisations in the sphere of the protection of consumer rights;
 - 14) to carry out other functions prescribed by other laws and other legal acts.
2. The State Consumer Rights Protection Authority shall have the right:
- 1) to obtain information relating to the protection of consumer rights from state and municipal authorities responsible for an appropriate management sphere;
 - 2) to obtain from state and municipal institutions, establishments, other persons the information and documents necessary to investigate infringements of laws and, when necessary – samples of advertised goods;

- 3) to carry out necessary on-site inspections as much as necessary to achieve the purposes of Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws;
- 4) to request that producers, importers, sellers and service suppliers or their representatives arrive to the State Consumer Rights Protection Authority and submit explanations orally or in writing;
- 5) to set up commissions, working groups for drafting of legal acts or solving other issues falling within the competence of the State Consumer Rights Protection Authority, to include in them the specialists of other institutions (after consultation with their heads);
- 6) other rights laid down by laws and other legal acts.

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Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:	Article 9 of the Law on Prohibition of Unfair Business-to-Consumer Commercial Practices of the Republic of Lithuania (LPUBCP)	Article 9 of the LPUBCP. Unfair commercial practice control authorities 1. The State Consumer Rights Protection Authority shall control compliance with the provisions of this Law, except for the provisions of paragraph 2. 2. The Competition Council of the Republic of Lithuania shall monitor whether advertising is not misleading, as well as comparative advertising in accordance with the procedure prescribed in the Law on Advertising of the Republic of Lithuania.

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		Article 228 ² of Book 6 of the Civil Code of the Republic of Lithuania (the Civil Code) Article 11 of LCP	Article 6.228 ² of the Civil Code. Prohibition to waive consumer rights or to restrict them. Consumer rights protection 1. Consumers shall not waive their rights provided for herein. Any conditions of consumer contracts that revoke or restrict, either directly or indirectly, the consumer rights provided for herein shall not be valid. 2. Where an entrepreneur infringes consumer rights, the consumer shall have the right to apply to consumer rights protection authorities or courts for the protection of his infringed rights in accordance with the procedure prescribed in legislation. 3. The consumer rights protection authorities and the procedure for defending consumer rights are specified in legislation. Article 11 of the LCP. State Consumer Rights Protection Authority 1. The State Consumer Rights Protection Authority is a state agency under the Ministry of Justice implementing the state policy in the field of consumer rights protection and ensuring the protection of consumer rights.
(a) to have access to any relevant document, in any form, related to the		Article 10 of LPUBCP Article 12 of LCP	Article 10 of the LPUBCP. Rights and obligations of the State Consumer Rights Protection Authority 1. In controlling compliance with the provisions of this Law falling within its competence, the State Consumer

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intra-Community infringement;		Rights Protection Authority shall have the right to: <ol style="list-style-type: none"> (1) obtain from state and municipal institutions and agencies, and other persons any information and documents needed for investigating infringements of this Law; (2) obtain from commercial entities information and documents and, if necessary, samples of goods needed for investigating infringements of this Law, require commercial entities to clarify and substantiate their claims relating to commercial practices if, in the light of the legitimate interests of a commercial entity or a consumer, such a request appears appropriate in view of the circumstances of the infringement; Article 12 of the LCP. Functions and rights of the State Consumer Rights Protection Authority <ol style="list-style-type: none"> 2. The State Consumer Rights Protection Authority shall have the right to: <ol style="list-style-type: none"> (1) obtain from state and municipal institutions responsible for the relevant area of management any information relating to the protection of consumer rights; (2) obtain from state and municipal institutions, agencies and other persons any information and documents needed for investigating infringements of laws and, if necessary, samples of advertised goods;

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		(4) require manufacturers, importers, sellers and service providers or their representatives to come to the State Consumer Rights Protection Authority to provide written or verbal explanations; (6) other rights provided for in laws and other legislation. Article 13 of the LCP. Consumer associations 1. Consumer associations shall have the right to: (8) obtain information from manufacturers, sellers and service providers on the quality of the goods sold and services provided as well as other data necessary for defending consumer rights and interests; (9) obtain information from state and municipal authorities;
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 10 of LPUBCP	Article 10 of the LPUBCP. Rights and obligations of the State Consumer Rights Protection Authority 1. In controlling compliance with the provisions of this Law falling within its competence, the State Consumer Rights Protection Authority shall have the right to: (1) obtain from state and municipal authorities and agencies, and other persons information and documents needed for investigating infringements of this Law;

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		<p>(2) obtain from commercial entities information and documents and, if necessary, samples of goods needed for investigating infringements of this Law, require commercial entities to clarify and substantiate their claims relating to commercial practices if, in the light of the legitimate interests of a commercial entity or a consumer, such a request appears appropriate in view of the circumstances of the infringement;</p> <p>(3) require that commercial entities and other persons responsible for commercial practices come to provide verbal or written explanations;</p>
(c) to carry out necessary on-site inspections;	Article 12 of LCP	<p>Article 12 of the LCP. Functions and rights of the State Consumer Rights Protection Authority</p> <p>2. The State Consumer Rights Protection Authority shall have the right to:</p> <p>(5) carry out the necessary on-the-spot checks insofar as necessary to achieve the objectives of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (the CPC Regulation);</p>
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 32 LCP	<p>Article 32. Applying to the seller or service supplier</p> <p>1. Upon having established that the public interests of consumers were infringed, the State Consumer Rights Protection Authority must apply to the seller, service supplier and propose to him to cease the infringement of the public interests of consumers within 14 days from the receipt of this proposal, as well as point out to the seller or service supplier that the State Consumer Rights Protection Authority will appeal to the court with a</p>

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Article 4(6)		<p>claim or petition (complaint) for the protection of the public interests, if the seller or service supplier will not cease the infringement of the public interests.</p> <p>2. Upon having established that the terms and conditions of a consumer contract are unfair, the State Consumer Rights Protection Authority must apply to the seller, service supplier and propose to him within 14 days from the receipt of this proposal to amend, repeal or discontinue application of the unfair terms and conditions when concluding contracts with consumers, as well as point out to the seller or service supplier that the State Consumer Rights Protection Authority will appeal to the court with a claim or petition (complaint) for recognising the unfair terms and conditions invalid or amending them, if the seller or service supplier will not fulfil the proposal of the State Consumer Rights Protection Authority.</p> <p>3. Upon having received the proposal of the State Consumer Rights Protection Authority referred to in paragraphs 1 or 2 of this Article, the seller, service supplier, who consents to cease the infringement of the public interests, shall, within the set time limit of 14 days, send to the State Consumer Rights Protection Authority a notification that he consents to cease the infringement of the public interests or that he has ceased the infringement. Having checked that the infringement of the public interests has been actually ceased, the State Consumer Rights Protection Authority shall announce a notification about this fact in its web site. If the infringement of the public interests has not been ceased, the State Consumer Rights Protection Authority shall appeal to the court for the protection of the public interests.</p> <p>4. The provisions of paragraphs 1-3 of this Article shall apply mutatis mutandis also in the cases when the public interests of consumers are protected by other state and municipal institutions in the cases laid down by law, and paragraphs 1 and 2 of this Article shall apply mutatis mutandis when the public interests of consumers are</p>

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	Article 21 LPUBCP	<p>1. In urgent cases, before the end of the application (complaint) examination procedure where there is sufficient data on an infringement of this Law, in order to prevent substantial damage or irreparable consequences for consumer interests, the State Consumer Rights Protection Authority shall have the right to take a reasoned decision to impose an interim measure, namely an obligation to cease potentially unfair commercial practices. In the event of paying fines imposed by the decision of the State Consumer Rights Protection Authority adopted after examining the application (complaint), no interim measure shall be applied.</p> <p>2. Before taking the decision to apply an interim measure, the commercial entity suspected of infringing this Law shall have the right to provide explanations within a time limit set by the State Consumer Rights Protection Authority. The decision to apply an interim measure shall be reasoned. The persons to whom the decision applies shall be notified of this decision immediately but no later than within three working days.</p> <p>Article 21. Decision Adopted after Examining an Application (Complaint)</p> <p>1. The Authority, having examined an application (complaint), shall adopt the following decision:</p> <p>1) to impose fines or a warning provided for in this Law;</p> <p>2) in the absence of the grounds specified in this Law, to refuse to impose fines or a warning.</p> <p>The decision of the State Consumer Rights Protection Authority to apply an interim measure may be appealed in</p>

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		accordance with the procedure prescribed in the Law on Administrative Proceedings of the Republic of Lithuania within one month of the date of the decision. Upon submitting a complaint, the application of the interim measure shall not be suspended, unless the court rules otherwise.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article 10 and 13 of LPUBCP	Article 10 of the LPUBCP. Rights and obligations of the State Consumer Rights Protection Authority (4) impose fines or issue a warning in the cases provided for in this Law; Article 13 of the LPUBCP. Fines and warning 1. The State Consumer Rights Protection Authority may, within its competence, impose a fine of two hundred eighty-nine to eight thousand six hundred eighty-eight euros on commercial entities for unfair commercial practices, provided that this fine does not exceed three percent of the annual income of the commercial entity in the previous financial year. In the event of repeating, within one year, the infringement for which the fine provided for in this Law has been imposed, commercial entities may be imposed a higher fine of up to thirty-four thousand seven hundred and fifty-four euros, provided that this fine does not exceed six percent of the annual income of the commercial entity in the previous financial year. The maximum fine for a commercial entity that has been engaged in commercial practices for less than a year shall be calculated in view of the income of the entity for the current financial year. In cases where the infringement is minor and causes no significant damage to the consumer interests protected by this Law, acting in accordance with the principles of justice and

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Article 4(6)		<p>reasonableness, the State Consumer Rights Protection Authority may impose a penalty on commercial entities for unfair commercial practices, ie a warning without imposing a fine. The State Consumer Rights Protection Authority may not impose a fine on commercial entities if more than three years have passed since the date of infringement of this Law.</p> <p>2. In the event of failure to perform or improper performance of the decision of the State Consumer Rights Protection Authority on the interim measure provided for in this Law, commercial entities shall be imposed a fine of two hundred eighty-nine euros for each day of failure to perform or improper performance of the decision.</p> <p>3. The amount of the fine imposed shall be determined in view of the average of minimum and maximum fines. The mitigating and aggravating circumstances referred to in paragraphs 4 and 5 hereof and the nature, duration and extent of the infringement shall be taken into account when imposing a specific fine. Where there are mitigating circumstances, the fine shall be reduced from the average to the minimum amount, and in the event of aggravating circumstances, the fine shall be increased from the average to the maximum. Where there are mitigating and aggravating circumstances, a fine shall be imposed in view of the quantity and significance thereof. Reasons for any reduction or increase of the amount of the fine shall be stated in the decision of the State Consumer Rights Protection Authority.</p> <p>4. Mitigating circumstances shall be the circumstances where the commercial entities that committed an infringement voluntarily prevented the harmful consequences of the infringement, cooperated with the State</p>

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Article 4(6)			<p>Consumer Rights Protection Authority during the investigation, paid damages and/or eliminated the damage done or where the State Consumer Rights Protection Authority received a notice from the entity responsible for the Code of Conduct informing that the commercial entities that committed the infringement have ceased unfair commercial practices.</p> <p>5. Aggravating circumstances shall be the circumstances where the commercial entities that committed an infringement impeded the investigation, concealed the infringement, and continued the infringement, ignoring the interim measure specified in Article 17 of this Law, ie the obligation to cease unfair commercial practices.</p> <p>6. Taking into account mitigating and other circumstances (due to which the relevant fine imposed on the commercial entity that has infringed this Law would be clearly too high because of being disproportionate to the infringement committed and therefore unfair), and acting in accordance with the principles of justice and reasonableness, the court examining the complaint about the decision of the State Consumer Rights Protection Authority shall have the right to impose a lower fine than the minimum fines provided for in the relevant paragraph hereof.</p> <p>7. In the event of failure to perform or improper performance of the request of the State Consumer Rights Protection Authority to provide information and documents required to investigate an infringement of this Law where a notice regarding the failure to perform or improper performance of this request has been given, the commercial entity may be imposed a fine of two hundred eighty-nine to two thousand eight hundred ninety-six</p>

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		euros. Article 22 of the LPUBCP. Execution of decisions 1. The decision of the State Consumer Rights Protection Authority on the imposition of a fine shall be executed by paying the fine to the state budget. The decision of the State Consumer Rights Protection Authority on the imposition of the fine shall be executed within one month of the date of service thereof on the commercial entity.

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Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised	Articles 18 and 19 of the Law on Information Society Services of the Republic of Lithuania (LISS)	Article 18 of the LISS. Information society service policy-making and regulatory authorities The formulation, implementation and interinstitutional coordination of the policy for the provision of information

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<p>where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:</p>		<p>society services and other activities of service providers in the Republic of Lithuania shall be performed by the Ministry of Transport and Communications. The provision of information society services and other activities of service providers shall be regulated by the Information Society Development Committee.</p> <p>Article 19 of the LISS. Information Society Development Committee</p> <p>1. The Information Society Development Committee is a body under the Ministry of Transport and Communications that is involved in the formulation of state information society development and state information resources development and interoperability policies and in the coordination of the implementation thereof as well as effective use of information resources in accordance with the information society development planning documents of the Government of the Republic of Lithuania, coordinates information society development in the state, creation and implementation of electronic content, the information and communication technology infrastructure, and information and communication technology innovations, and oversees compliance with the requirements of this Law and legislation related to the implementation thereof.</p> <p>2. The Information Society Development Committee shall operate in accordance with this Law and other laws and legal acts of the Republic of Lithuania, international obligations, its own regulations approved by the Government of the Republic of Lithuania or the Minister of Transport and Communications on behalf of the Government, and shall be financed from the state budget.</p> <p>3. The Information Society Development Committee Council, a collegial advisory body of the Information Society Development Committee, shall be set up and its composition shall be approved by the Minister of Transport and</p>

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		Communications.
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Articles 21 and 22 of LISS	<p>Article 21 of the LISS. Rights of the Information Society Development Committee</p> <p>2. Service providers and other entities as well as state and municipal institutions and agencies shall, within time limits set by the Information Society Development Committee, which shall not be shorter than 10 working days or, in case of urgency, upon a reasoned request of the Information Society Development Committee, three working days, provide the Information Society Development Committee with information needed to perform the functions thereof. The Information Society Development Committee shall store confidential information in accordance with the procedure and under the conditions set out in legislation.</p> <p>3. The Information Society Development Committee shall have the right to take targeted, transparent, proportionate and non-discriminatory actions and/or measures to implement the provisions of this Law and the implementing legislation.</p> <p>Article 22 of the LISS. Rights of Information Society Development Committee officers</p> <p>In overseeing compliance with this Law, the authorised officers of the Information Society Development Committee shall have the following rights:</p> <p>(4) to obtain data and documents or copies thereof regarding transactions performed by a service provider from other persons, regardless of their subordination, as well as from public and local authorities;</p>

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		(5) to temporarily – for up to 30 days – seize documents and items that are necessary or have evidential value in investigating an infringement. A reasoned decision on the seizure of documents and/or items and a description of the documents and/or items seized shall be provided in this case; to require copies of the above documents that are necessary or have evidential value in investigating an infringement.
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 22 of LISS	<p>Article 22 of the LISS. Rights of Information Society Development Committee officers</p> <p>In overseeing compliance with this Law, the authorised officers of the Information Society Development Committee shall have the following rights:</p> <p>(1) to obtain the necessary information from service providers in accordance with the conditions and procedures set out in this and other laws and other legislation;</p> <p>(3) to obtain verbal and written explanations from persons related to the activities of the service providers inspected, and to require them to come to the official premises of the investigating officer to provide explanations;</p> <p>(4) to obtain data and documents or copies thereof regarding transactions performed by a service provider from other persons, regardless of their subordination, as well as from public and local authorities;</p>
(c) to carry out necessary on-site inspections;	Article 22 of LISS	<p>Article 22 of the LISS. Rights of Information Society Development Committee officers</p> <p>In overseeing compliance with this Law, the authorised officers of the Information Society Development Committee shall have the following rights:</p>

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		(2) upon producing an official ID and a document issued by the Information Society Development Committee and certifying their powers and functions, to enter and carry out an inspection on the premises, territory and vehicles used by the service provider, to review the documents of the service provider necessary for the investigation, to obtain copies and extracts thereof, as well as information stored in computer and magnetic media;
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 21 of LISS	Article 21 of the LISS. Rights of the Information Society Development Committee 1. The Information Society Development Committee shall have the right to instruct the service provider, either on its own initiative or at the request of the persons whose rights are infringed by the information transmitted and/or stored by the service provider or activities related thereto, to take actions to cease the infringement committed using the information society services provided for in Articles 12-14 hereof or to prevent it, notwithstanding the fact that the service provider is not liable for such an infringement under Articles 12-14 of this Law.
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	-	See below
(f) to require the cessation or	Article 21 of LISS	Article 21 of the LISS. Rights of the Information Society Development Committee

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prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;		<p>1. The Information Society Development Committee shall have the right to instruct the service provider, either on its own initiative or at the request of the persons whose rights are violated by the information transmitted and/or stored by the service provider or activities related thereto, to take actions to cease an infringement committed using the information society services provided for in Articles 12-14 hereof or to prevent it, notwithstanding the fact that the service provider is not liable for such an infringement under Articles 12-14 of this Law.</p> <p>3. The Information Society Development Committee shall have the right to take targeted, transparent, proportionate and non-discriminatory actions and/or measures to implement the provisions of this Law and the implementing legislation.</p>
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	<p>Article 23 of LISS</p> <p>Article 214²⁵ of the Administrative Code</p>	<p>Article 23 of the LISS. Liability for infringing this Law</p> <p>Service providers and other persons infringing the requirements of this Law shall be held liable in accordance with the procedure and under the conditions prescribed by law.</p> <p>Article 214²⁵. Infringement of the Law on Information Society Services of the Republic of Lithuania</p> <p>An infringement of the Law on Information Society Services of the Republic of Lithuania shall carry a fine of one hundred forty-four to five hundred seventy-nine euros imposed on information society service providers (natural persons or heads of legal entities).</p> <p>The same act committed by a person imposed an administrative penalty for the infringement referred to in the first paragraph hereof shall carry a fine of five hundred seventy-nine to one thousand one hundred fifty-eight</p>

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		euros.

DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING		
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Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:	Article 19 of Law on Advertising of the Republic of Lithuania (LA)	<p>Article 19 of the LA. Advertising supervisory authorities</p> <p>1. The implementation of the requirements of this Law in accordance with the present and other laws shall, within their competence, be supervised by:</p> <p>(1) The State Consumer Rights Protection Authority – regarding the provisions of Articles 4, 7, 8, 9, 11, 13, Article 14 (examines infringements of the requirements set out herein and imposes fines for infringements investigated on its own initiative or based on infringement investigation documents and investigation findings (report, minutes or another document) (the investigation document) provided by the State Food and Veterinary Service), and Articles 15, 16, 17 and 18 hereof;</p>

DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING		
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Article 4(6)		
		<p>(2) The Competition Council of the Republic of Lithuania – regarding the provisions of Articles 5 and 6 hereof;</p> <p>(3) The State Food and Veterinary Service – regarding the provisions of Article 14 of this Law (carries out investigations into infringements of the requirements set out herein and draws up investigation documents);</p> <p>(4) Municipal executive authorities – regarding the provisions of Article 12(1), (2), (4) and (12) hereof;</p> <p>(5) The Cultural Heritage Department under the Ministry of Culture – regarding the provisions of Article 12(1), (2), (4) and (12) hereof (regarding external advertising on cultural heritage objects, the territories and protection zones thereof);</p> <p>(6) A Protected Areas Authority or Regional Environmental Protection Department where there is no Protected Areas Authority in a protected area – regarding the provisions of Article 12(1), (2), (4) and (12) hereof (regarding external advertising in protected areas).</p> <p>2. The Competition Council shall be responsible for the application of Regulation (EC) No. 2006/2004 (CPC Regulation) insofar as this is related to the functions of the Competition Council in monitoring whether advertising is not misleading, as well as comparative advertising.</p> <p>3. In supervising the use of advertising, the institutions specified in paragraph 1 hereof (the supervisory authorities) shall cooperate with self-regulatory advertising bodies.</p>
(a) to have access to any	Article 21 of LA	Article 21 of the LA. Rights and obligations of the supervisory authorities

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relevant document, in any form, related to the intra-Community infringement;		<p>1. In supervising the implementation of the requirements hereof, the supervisory authorities shall have the right to:</p> <p>(1) obtain from state and municipal institutions and agencies, and other persons any information and documents necessary for investigating infringements of the requirements set out herein;</p> <p>(2) obtain from advertising entities information and documents and, if necessary, samples of advertised goods and advertisements needed for investigating infringements of the requirements set out herein. Upon investigating an infringement or, where the decision of the supervisory authorities has been appealed to a court, upon the entry into force of the court judgement, samples of advertised goods and original business documents shall be returned to advertising entities upon the request of the latter;</p>
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 21 of LA	<p>Article 21 of the LA. Rights and obligations of the supervisory authorities</p> <p>1. In supervising the implementation of the requirements hereof, the supervisory authorities shall have the right to:</p> <p>(1) obtain from state and municipal institutions and agencies, and other persons any information and documents necessary for investigating infringements of the requirements set out herein;</p> <p>(2) obtain from advertising entities information and documents and, if necessary, samples of advertised goods and advertisements needed for investigating infringements of the requirements set out herein. Upon investigating an infringement or, where the decision of the supervisory authorities has been appealed to a</p>

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		<p>court, upon the entry into force of the court judgement, samples of advertised goods and original business documents shall be returned to advertising entities upon the request of the latter;</p> <p>(3) require advertising entities or managers thereof and other persons responsible for the use of advertising to come and provide verbal or written explanations;</p>
(c) to carry out necessary on-site inspections;	Article 25 of the Law on Competition of the Republic of Lithuania (LC)	<p>Article 25 of the LC:</p> <p>1. In carrying out the investigation, the authorised officials of the Competition Council shall have the right:</p> <p>(1) to enter and carry out inspections of any premises, territory and means of transport used by the economic entity;</p>
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 21 of LA	<p>Article 21 of the LA. Rights and obligations of the supervisory authorities</p> <p>1. In supervising the implementation of the requirements hereof, the supervisory authorities shall have the right to:</p> <p>(6) notify advertising entities in writing that their actions may have elements of an infringement of the requirements set out herein and propose them to cease the use of such advertising or to change it;</p>
(e) to obtain from the seller or supplier responsible for intra-Community infringements an	-	See above

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undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking		
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article 21 of LA	<p>Article 21 of the LA. Rights and obligations of the supervisory authorities</p> <p>1. In supervising the implementation of the requirements hereof, the supervisory authorities shall have the right to:</p> <p>(4) in urgent cases, where there is sufficient evidence that advertising disseminated or planned to be disseminated may be declared to be in conflict with the requirements set out herein and likely to cause damage to other persons or public interests or to result in irreparable consequences, take the decision to apply an interim measure, ie an obligation to stop the dissemination of advertising until the adoption of the decision referred to in Article 25(17) hereof. Before taking the decision to apply the interim measure, ie an obligation to stop the dissemination of advertising, the supervisory authority shall enable the advertising entity suspected of infringing the requirements set out herein to provide explanations within a time limit set by the supervisory authority;</p> <p>(5) instruct advertising entities to cease any advertising that does not meet the requirements set out herein;</p>
(g) to require the losing defendant to make payments into the public	Article 21 and 24 of LA	<p>Article 21 of the LA. Rights and obligations of the supervisory authorities</p> <p>1. In supervising the implementation of the requirements hereof, the supervisory authorities shall have the right</p>

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<p>purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.</p>		<p>to:</p> <p>(7) impose fines in cases prescribed by law.</p> <p>Article 24. Fines</p> <p>1. In the event of failure to comply with the requirements set out in Articles 4, 5, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17 and 18 hereof, advertising entities may be imposed a fine of two hundred eighty-nine to eight thousand six hundred eighty-eight euros. In the event of repeatedly infringing the requirements set out in Article 5 or Article 6 hereof within one year of the imposition of the fine, advertising entities may be imposed a higher fine of up to thirty-four thousand seven hundred and fifty-four euros.</p> <p>2. In the event of failure to perform the temporary obligation to stop the dissemination of advertising imposed by the supervisory authorities, failure to perform or improper performance of the obligation to cease the use of any advertising that does not meet the requirements set out herein, repeated use of the advertising that the advertising entity has been instructed to cease where this is in breach of the requirements set out herein, or failure to perform or improper performance of an order of the Competition Council to deny any misleading or unlawful comparative advertising, advertising entities shall be imposed a fine of two hundred eighty-nine euros for each day of failure to perform or improper performance of the obligations or repeated use of advertising.</p> <p>3. In the event of failure to perform or improper performance of the request of the supervisory authorities to provide information and documents and, if necessary, samples of advertised goods and advertisements needed for investigating infringements of the requirements set out herein, advertising entities shall be imposed a fine of</p>

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		<p>8. Aggravating circumstances shall be the circumstances where the advertising entity has impeded the investigation and continued the infringement of the requirements set out herein ignoring the order to cease it, if damage was done to advertising customers or other persons or the infringement was repeated within a year of the imposition of the fine set herein.</p> <p>9. The amount of the fine imposed for the infringements referred to in the first sentence of paragraph 1 and in paragraphs 2, 3 and 4 hereof shall not exceed three percent of the annual income of the advertising entity in the previous financial year, and in the event of the infringements referred to in the second sentence of paragraph 1 hereof, it shall not exceed six percent of the annual income of the advertising entity in the previous financial year. Where the advertising entity has operated for less than a year, its income for the current financial year shall be taken into account.</p> <p>10. A fine may be imposed within one year from the last day of dissemination of advertising or, in the cases specified in paragraphs 2 and 3 hereof, from the date of the decision of the supervisory authority or, in the cases specified in paragraph 4 hereof, from the date of identification of the infringement. If the advertiser states any commitments in advertising for a certain period, a fine may be imposed within one year of the last day of the commitment period, but no later than three years of the last day of dissemination of advertising.</p>

MEMBER STATE: LUXEMBOURG

LEGAL FRAMEWORK

The consumer protection in Luxembourg is regulated by the Consumer Code, entered into force in 2011 and amended in April 2014, following the implementation of Directive 2011/83/EU, which repealed, among others, the *Loi du 23 avril 2008 relative à la recherche et à la sanction des violations des droits des consommateurs*. The national competent authority for consumer protection under CPC Regulation is the Ministry with consumer protection “within its competence” (Article L- 311-3 of the). This means that there is more than one authority competent, depending on the substantive provision which has been infringed. However, for the legislative acts covered by the Study, the Ministry of Economy is the competent authority for both investigation and enforcement. Article L-311-5 clarifies the sectoral competence, for the application of CPC Regulation, of the following authorities:

- the Commission de surveillance du secteur financier is the competent authority for consumer protection in financial services;
- the Commissariat aux Assurances is the competent authority for consumer protection in the insurance sector;
- the Health Minister is competent for consumer protection in case of misleading advertising of medicines; and
- the National Commission for data protection is competent for consumer data protection in electronic communications.

In Luxembourg, before the adoption of the CPC Regulation, consumer protection was based only on a system of private law. Instead the current system is based on a combination of administrative powers for investigation and court enforcement. The administrative authorities cannot impose fine or order injunction but they have to apply for such measures to be granted before the competent court. The inspections are allowed only upon a judicial warrant and the assistance of a lawyer for the trader is imposed as procedural safeguard.

The power to accept an undertaking was not found in the legislative system. This seems due to the fact that the public authority cannot adopt decisions nor impose fines since this power is constitutionally reserved to the courts.

The cease and desist order is issued by the court following summary proceedings with the right of appeal within shorter terms. The Competent court is the local Commercial Court. The cease and desist order may be required independently from the criminal proceedings. However, if the trader is acquitted in the criminal proceedings with a final judgment, the action for the cease and desist order must be terminated.

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6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article L311 -8 (2) Consumer Code	Article L 311-8(2) The appointed inspectors can (...) seize or obtain information contained in the books, invoices and all other professional documents, including making copies of these, as well as gathering, through a request for information or on the spot, the information and the justifications.
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article L311 -8 (2) Consumer Code	See above
(c) to carry out necessary on-	Article L 311-8 (3) Consumer Code	Article L 311-8 (3)

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site inspections;	Article	<p>The inspectors can accede to all premises, real estate or means of transportation used for professional purposes.</p> <p>The inspection and the seizure are carried out under the authority and the control of the judge who has authorized them. He appoints one or more judiciary police officials tasked with carrying these inspections out and with keeping him informed about how these inspections have unfolded. Should this be needed for the inspection, the judge can also, after having informed the public prosecutor of the competent court, also assist, together with the clerk, the inspections throughout the national territory.</p>
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;		The competent authority does not have the power to adopt decisions or to accept undertakings but in case of infringement must ask for a decision of the court.
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish		Not found

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the resulting undertaking		
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article L 320-3 Consumer Code	(Unfair terms) The magistrate presiding the Chamber of the Tribunal d'Arrondissement competent in commercial matters (local Commercial Court) can, upon request made by an individual, a professional association, organizations foreseen under Article L.313-1 and following of the current Code, the Minister competent on consumer protection issues, the Commission concerning the oversight of the financial sector or the Insurance Commissariat, declare the unfair character of a term or combined terms pursuant to Articles L.211-2 and L.211-3 of the present Code, and acknowledge that this terms or combined terms is or are deemed null and void. The above organisations, the Minister or the entities mentioned in the above paragraph can also start, against one or more professionals of the same economic sector or their professional organisations, an action for annulment of one or more abusive terms in contract models ordinarily proposed by these professionals to consumers and proposed by professional organisations to their members. The ordinance rendered by the magistrate can be adopted independently from such public action. The measure adopted by the magistrate presiding the Chamber of the tribunal d'arrondissement competent in commercial matters (local Commercial Court) can, however, be annulled by an acquittal by a criminal judge and which has become final. The action is introduced on the basis of a procedure applied in front of the tribunal competent on summary proceedings. The magistrate presiding the Chamber of the tribunal d'arrondissement competent in commercial matters participates as trial judge. The time limit to lodge an appeal is fifteen days. Articles 2059 to 2066 of the Civil Code equally apply. The decision rendered may be ordered to be affixed inside or outside the premises of the person who has committed the infringement and upon

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PROVISION OF REGULATION	CPC	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION OF NATIONAL LAW (QUOTATION OR SUMMARY)
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		Article L.320-7 (Law of 2 nd of April 2014)	<p>affixed inside or outside the premises of the person who has committed the infringement and upon this person's expenses. The decision specifies the time during which it may be displayed and it can also contain an obligation to provide for the publication of such a decision, in its totality or by an excerpt upon expenses of the person who has committed the infringement, by means of a journal or in all other means. Only a judge decision which has been made final can be published and displayed. All infringements of the injunction or the obligations as laid down in a final decision pursuant to this article are punished with a penalty from 251 euros to 50.000 euros.</p> <p>aux</p> <p>(Distance contracts, unfair terms, pre-contractual information and voyage à forfait)</p> <p>Article L.320-7 (Law of 2nd of April 2014)</p> <p>"The magistrate presiding the Chamber of the tribunal d'arrondissement competent in commercial matters (local Commercial Court) can, upon request made by organizations foreseen under Article L.313-1 and following of the current Code and of the Minister competent on consumer protection, adopt any measure declaring that all acts, contrary to Articles L.111-1, L.113-1, L.212-1 to L.212-13, L.213-2 to L.213-7, L.221-2 and L. 225-1 to L.225-20 of the present Code, and the regulations that apply in relation to this Code, must be ceased. . The proceedings is introduced on the basis of an action before of the tribunal competent on summary proceedings. The judge presiding the Chamber of the tribunal d'arrondissement competent in commercial matters (local Commercial Court) participates as trial judge. The time limit to lodge an appeal is fifteen days. Articles 2059 to 2066 of the Civil Code equally apply. The decision rendered may be ordered to be affixed inside or outside the premises of</p>

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		the person who has committed the infringement and upon this person's expenses. The decision specifies the time during which it may be displayed and it can also contain an obligation to provide for the publication of such a decision, in its totality or by an excerpt upon expenses of the person who has committed the infringement, by means of a journal or in all other means. Only a judge decision which has been made final can be published and displayed. All infringements of the injunction or the obligations as laid down in a final decision pursuant to this article are punished with a penalty from 251 euros to 50.000 euros.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article L 122-8 Loi 8 Avril 2011 (Code de la Consommation)	(Unfair Commercial Practices) Article L. 122-8. (1) Whoever contravenes the dispositions under Articles L.122-1 to L.122-5 and Article 122-7 is punished with a penalty from 251 to 120.000 euros. Article L. 211-4. The professional that invokes, vis-à-vis a consumer, a clause or combined clauses which is or are declared abusive and, as such, null and void via a decision of a competent court having been made final, is punished with a penalty from 300 to 10.000 euros.

MEMBER STATE: MALTA

LEGAL FRAMEWORK

The CPC Regulation has been implemented by Part II of the Consumer Affairs Act (Cap. 378). The competent authority and single liaison office Office for Consumer Affairs within the Malta Competition and Consumer Affairs Authority. The enforcement is competence of the Enforcement Directorate focuses on public enforcement of consumer rights by:

- investigating unfair trading practices and unfair contract terms;
- ensuring price transparency and compliance with other information requirements; and
- ensuring observance of consumer-related legislation falling within the jurisdiction of the Office for Consumer Affairs.

. The main provisions of the UCP (Unfair Commercial Practices) Directive were transposed into Maltese Law by Act II of 2008, which amended the Consumer Affairs Act (Chapter 378 of the Laws of Malta) – the " Main Act". Act II of 2008 introduced Part VII in the Consumer Affairs Act, which deals with Unfair Commercial Practices and Illicit Schemes.

Directive 2011/83/EU has been implemented through the Consumer Rights Regulations, 2013, which has amended the Cap 378. The enforcement competence remains within the Enforcement Directorate of the Malta Competition and Consumer Affairs Authority

Section 12A provides that, in order to ensure the observance of the provisions of this Act and any regulations made thereunder, the Director General (Consumer Affairs), hereinafter referred to as the Director General, shall have power to carry out investigations of his own motion or upon a reasonable allegation in writing of a breach of the provisions of this Act and any regulations made thereunder.

The other competent authority for the relevant acts covered by the Study is the Malta Communications Authority for the enforcement of Directive 2000/31/EC on electronic commerce which was implemented by Legal Notice 251 of 2006, as amended by Legal Notices 426 of 2007 and 180 of 2012. However,

investigative powers are regulated by the Malta Communication Authority Act (ACT XVIII of 2000, as amended by Acts VII of 2004 and XIII of 2005; Legal Notice 426 of 2007; Acts XXX of 2007, XII of 2010 and IX of 2011; Legal Notice 180 of 2012; and Act VIII of 2014).

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6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Section 103, paragraph 1, point (c) of Consumer Affairs Act (hereinafter referred as CAA)	Section 103 of CAA: 1. For the purpose of discharging his functions under this Act, the Director General may - (a) [...] (b) [...] (c) take any books, documents or records however kept or stored;
(b) to require the supply by	Section 104, paragraph 1, point (a), (b) of	Section 104 of CAA:

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any person of relevant information related to the intra-Community infringement;	CAA. Section 94, paragraph 5, point (a), (b), (c), (d) of CAA Section 12A of CAA	1. The Director General may, for the purpose of discharging his functions under this Act, require any person to provide any information in any manner, including: <ol style="list-style-type: none"> (a) By answering any questions, orally or in writing; or (b) By producing any books, documents or other records as the Director General may consider to be necessary. <u>Section 94 of CAA:</u> <ol style="list-style-type: none"> 5. The director General shall, when issuing a compliance order under this article - <ol style="list-style-type: none"> (a) Serve a copy of the compliance order on each person against whom the order is made; (b) Include with the compliance order, information about the right to file an application before the Appeals Tribunal in accordance with article 97; and (c) Briefly state his reasons for issuing the compliance order, which reasons shall be notified to each person against whom the compliance order is issued and, if any, to the qualified entity on whose application the compliance order is issued; (d) Notify the person against whom the order is made that non-compliance with the order may lead to the imposition of an administrative fine. <u>Section 12A of CAA:</u> <ul style="list-style-type: none"> • In order to ensure the observance of the provisions of this Act and any regulations made there under, the Director General shall have power to carry out investigations of his own motion or upon a

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	Section 104A, paragraph 1	reasonable allegation in writing of a breach of the provisions of this Act and any regulations made there under. <u>Section 104A of CAA:</u> 1. Notwithstanding anything contained in this Act, the Director General may, in order to carry out his function as competent authority under the Consumer Protection Co-operation Regulation, request, receive, disclose and exchange information in matters of mutual assistance with other competent authorities in terms of the Consumer Protection Co-operation Regulation and the Data Protection Act.
(c) to carry out necessary on-site inspections;	Section 103, paragraph 1, point (a), (b), (c) of CAA.	<u>Section 103 of the CAA:</u> 1. For the purpose of discharging his functions under this Act, the Director General may- (a) enter and search any premises other than premises used exclusively as a place of residence; (b) make any inspection, conduct any test and on paying or making tender therefor, takes any goods; (c) take any books, documents or records however kept or stored.
(d) to request in writing that	Section 94, paragraph 1, point (a), (b), (c), of	<u>Section of the CAA:</u>

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the seller or supplier concerned cease the intra-Community infringement;	CAA.	I. Where he feels it reasonably appropriate or necessary in the public interest, the Director General may, whether or not in conjunction with a decision finding an infringement under article 14A ⁽⁶⁹⁾ , of his own initiative or on a written application to him by qualified entity, issue a compliance order – <ul style="list-style-type: none"> (a) On any person requiring – <ul style="list-style-type: none"> (i) The deletion or alteration of terms in a consumer contract which the Director General considers to be unfair to consumers in accordance with the provisions of part VI of this act; and (ii) The incorporation of terms in a consumer contract which the Director General considers to be necessary for the better information of consumers, or for preventing a significant imbalance between the rights and obligations of the parties, and this to the benefit of consumers; (b) requiring any person engaging or proposing to engage in any unfair commercial practice, to discontinue or refrain from such practice and, or take any measures specified in the compliance order, including the making of a corrective statement, within the time specified therein to ensure that the provisions of Part VII of this Act are complied with; (c) requiring any person to take any measures specified in the compliance order, including the making of a corrective statement, within the time specified in the compliance order to ensure that this Act or

⁽⁶⁹⁾ See Below;

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	Section 8, paragraph 1, point (a), (b), (c), (d) of CAA	any regulations made thereunder or any other law dealing with consumer rights and protection as may be designated by Order in the Gazette by Minister acting after consulting the Council, are complied with; Section 8 of CAA: 8. The Director General may make or issue a public statement identifying and giving warnings or information about any of the following: (a) goods that are unsatisfactory or dangerous and persons who supply those goods; (b) services supplied in an unsatisfactory manner and persons who supply those services; (c) trading practices detrimental to the interests of consumers and persons who engage in such practices; and (d) any other matter that adversely affects or may adversely affect the interests of consumers in connection with the acquisition by them of goods or services from traders.
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish	Section 12 and 14 of CAA	Section 12 of CAA 12. (1) Upon the conclusion of an investigation, where it appears to the Director General that a trader has engaged in conduct that constitutes a breach of, or failure to comply with, any regulations made under article 7 or under the provisions of article 9, or a breach or a failure to comply with the provisions of articles 44 to 47, 51 to 53, the Director General may, at his discretion, instead of issuing a decision finding an infringement or instituting proceedings against the trader and, or issuing a compliance order, caution the trader and seek an

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the resulting undertaking		undertaking in writing from the trader that he shall refrain from the conduct or practice specified in the undertaking for such period not exceeding three years, as may be specified by the Director General. The undertaking shall contain such other terms and conditions as may be agreed, including, where circumstances so warrant, the provision of compensation for aggrieved consumers. (2) Where the Director General deems it appropriate, he may order the publication of the said undertaking in at least two daily newspapers, and that the relative expenses shall be borne by the trader. (3) The Director General shall maintain a register of undertakings made under this article, which register shall be kept at the principal office of the Office and the register may be seen by any person at such times as may be established by the Director General. (4) A trader who acts in contravention of an undertaking made in accordance with this article shall, without prejudice to any liability arising under this or any other law, be guilty of an infringement against this article, and shall in any case remain bound by the undertaking for the remaining period of its term.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Section 94, paragraph 1, point (d) of CAA. Section 14A CAA	Section 94, point d of CAA: (d) requiring any person to cease or desist from committing an offence or an infringement against this Act or any regulations made thereunder or of any other law dealing with consumer rights and protection as may be designated by Order in the Gazette by the Minister after consulting the Council; Section 14A of CAA:

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	Section 14B of CAA	(1) Upon commencing investigations in terms of article 12A concerning an alleged infringement of a provision of this Act or of any regulations made there under, the Director General shall write to the person investigated informing him of the nature of the alleged infringement and granting the person concerned a period of not less than fifteen days as the Director General may determine to be appropriate in the circumstances during which period the person concerned may make his submissions to the Director General: (2) Where, upon the conclusion of an investigation, having considered the submissions, if any, made to him under sub-article (1), it results to the Director General that a breach of a provision of this Act or of any regulations made there under has occurred, he shall issue a decision finding an infringement, giving his reasons therefore: Provided that, the Director General may, instead of a decision finding an infringement, seek an undertaking from the traders in term of article 12 (70). (3) A copy of the decision issued under sub-article (2) shall be served upon the person against whom the decision is taken. <u>Section 14B of CAA:</u>

⁽⁷⁰⁾ See Above;

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	Section 101, paragraphs 1 and 2 of CAA	1. Notwithstanding the provisions of article 14A 71, in cases of urgency due to the risk of immediate and serious harm to the collective interests of consumers, the Director General may, before the conclusion of an investigation, on the basis of a prima facie finding of an infringement, order interim measures to remedy the situation in advance of reaching a final decision, giving his reasons therefore: Provided that the person against whom such measures are contemplated, shall be given a reasonable opportunity to state his views and propose any remedies. 2. Measures taken under sub-article (1) shall have immediate effect and shall remain in force for the period of time stipulated therein unless they are previously revoked by the Director General or unless the matter under investigation has been determined by the Director General before the said period, and may be renewed in so far this is necessary and appropriate. <u>Section 101, paragraph 1 and 2 of CAA:</u> 1. The Director General may, in order to eliminate or reduce the continuing effects of any non-observance of any provisions of this Act or of regulations made thereunder or of any other law dealing with consumer rights and protection as may be designated by the Minister after consulting the Council by order in the Gazette, require by notice in writing any person – a) to publish a copy of the compliance order made under article 94 against any such person, in full or in part and in such form as he considers to be appropriate and adequate; and, or

(71) See Above;

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		b) to publish a corrective statement as required by the compliance order in relation to any infringement of this Act, against any regulations made thereunder, or against any other law dealing with consumer rights and protection as may be designated by the Minister after consulting the Council by order in the Gazette; 2. Publication shall be made in at least two daily newspapers and if appropriate, in any other medium of communication within seven days from receipt of the notice and it shall be at the expense of the person served with such notice. Where such publication is not effected as aforesaid, the Director General may proceed to effect publication himself, in which case he shall have the right to recover from the person on whom the notice is served any expenses incurred as a civil debt.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Section 106A, paragraphs 1 and 2 of CAA.	Section 106A of CAA: 1. The Director General may impose an administrative fine upon any person who is found by the Director General following an investigation under article 14A to have committed an infringement of a provision of this Act or of any regulation made thereunder. 2. An administrative fine imposed for an infringement under sub-article 1 shall not be less than four hundred and seventy euro (€470) and not more than forty-seven thousand euro (€47,000). Provided that in case of non-compliance with a compliance order the Director General may also impose a daily fine of not more than two hundred and thirty euro (€230) for each day of non-compliance.

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6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:	Article 22 LN 251 of 2006, as amended by LN 426 of 2007 and 180 of 2012.	<u>Article 22</u> Without prejudice to the powers of the Authority and other enforcement authorities under these regulations or under any other law, the Authority may, in accordance with its powers under Part VII of the Malta Communications Authority Act, take any such enforcement action as it may consider appropriate to ensure compliance with the provisions of the Act
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 29(1) (c) Malta Communication Authority Act	<u>Article 29(1)</u> 29. (1) For the purposes of the exercise by the Authority of any of its functions under this Act or any other law the Authority is entitled to enforce, the Authority may: (c) remove and retain such books, documents or records for such period as may be reasonable for further examination;
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 4(10) Malta Communication Authority Act Article 29(1) (b) Malta Communication	<u>Article 4(10)</u> Without prejudice to the enforcement powers that it has at law, the Authority may require any person to provide it with any information, including financial information, that the Authority considers necessary for the purpose of ensuring compliance with the provisions of, or decisions or directives made in accordance with this Act or any other law which the Authority is entitled to enforce <u>Article 29(1)</u>

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	Authority Act	(b) require any person to produce for inspection and take extracts from any books, documents or records relating to any activities regulated by or under this Act or any other law which the Authority is entitled to enforce, which are under the control of that person and, in the case of information in a non-legible form to reproduce it in a legible form, and to give to the Authority such information as the Authority may reasonably require in relation to any entries in such books, documents or records;
(c) to carry out necessary on-site inspections;	Article 29(1) (a) Malta Communication Authority Act	Article 29(1) (a) (a) For the purposes of the exercise by the Authority of any of its functions under this Act or any other law the Authority is entitled to enforce, the Authority may: (a) enter, at any reasonable time, any premises other than a place of residence, or any other place or any vehicle or vessel where any activity regulated by or under this Act or any other law which the Authority is entitled to enforce, takes place, or in the opinion of the Authority takes place, and search and inspect the premises, place, vehicle or vessel and any books, documents or records found therein;
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Art. 15 (1) (a) LN 251 of 2006, as amended by LN 426 of 2007 and 180 of 2012. Article 19 (1) LN 251 of 2006, as amended by LN 426 of 2007 and 180 of 2012.	<u>Art. 15 (1)(a)</u> The Authority, where feels it reasonably and necessary for the consumer protection, may on his own initiative or on a written application to him by a qualified entity, issue a compliance order against a provider service or against any other person on one or more of the following objects: (a) take any measures or require any person to take any measures specified in the compliance order within the time specified in it, to ensure the respect of this Act and of the any other Regulation made thereunder; <u>Article 19. (1)</u> A person against whom a compliance order has been made, may, within fifteen days, from receipt of notification of the compliance order, appeal in writing to the Tribunal for the revocation or amendment of the compliance

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	Article 23(1) LN 251 of 2006, as amended by LN 426 of 2007 and 180 of 2012.	<p>order, giving detailed grounds for the request. The Authority and where appropriate any qualifying entity that may have requested the issue of the compliance order, shall be notified with the appeal and shall have fifteen days from the date when they are notified with the appeal in which to reply. (2) The Tribunal may confirm, change or cancel the compliance order as it considers appropriate, provided that in doing so the Tribunal shall in all instances state its reasons. (3) Where an appeal is instituted under this regulation, the compliance order shall remain in force unless the Tribunal, at the request of the party contesting the order, specifically orders that the compliance order shall be stayed pending the outcome of the appeal, subject to such conditions and amendments to the order as the Tribunal may determine</p> <p><u>Article 23(1)</u> 23. (1) Without prejudice to any other powers it has at law, the Authority may, in writing, order any person to cease and desist from committing any intra-Community infringement and, or from acting in breach of any of the provisions of the Act, and, or of these regulations.</p>
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	<p>Article 23 (2) LN 251 of 2006, as amended by LN 426 of 2007 and 180 of 2012.</p> <p>Article 24(1) LN 251 of 2006, as amended by LN 426 of 2007 and 180 of 2012.</p>	<p><u>Article 23(2)</u> (2) The Authority may, in issuing an order under subregulation (1), require the person concerned to provide the Authority with a written undertaking whereby that person agrees to cease and desist from any such breach and which undertaking shall include any conditions as the Authority may consider necessary in the circumstances</p> <p><u>Article 24(1)</u> (1) The Authority may, for the better information of the public, require the service provider or person against whom the compliance order has been issued, at their expense to communicate in any manner the Authority considers appropriate, including publication in at least two daily newspapers: (a) a copy in full or in part - (i) of a</p>

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		compliance order made under regulation 15 and, or (ii) a copy of an undertaking given under regulation 23, or an abstract of any such order and, or of any such undertaking; and, or (b) a corrective statement in relation to any contravention of the Act and, or of these regulations.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Articles 15 (1)(b) 22 and 24(1) LN 251 of 2006, as amended by LN 426 of 2007 and 180 of 2012.	<p><u>Article 15.</u></p> <p>(1) Where the Authority feels it is reasonably appropriate or necessary for the protection of consumers, it may, of its own initiative or on a written application to it by a qualified entity, issue a compliance order against a service provider or any other person for one or more of the following purposes:</p> <p>(a) (...)</p> <p>(b) requiring any person to cease and desist from committing a breach of the Act and, or of these regulations.</p> <p><u>Article 22</u></p> <p>Without prejudice to the powers of the Authority and other enforcement authorities under these regulations or under any other law, the Authority may, in accordance with its powers under Part VII of the Malta Communications Authority Act, take any such enforcement action as it may consider appropriate to ensure compliance with the provisions of the Act and of regulations 5, 6, 8, 11 and 15 of these regulations and, or to cease and desist from any intra-Community infringement and, or from any infringement of the Act and, or of these regulations, and in particular may impose an administrative fine on any person who fails to comply accordingly: Provided that any such fine that the Authority may decide to impose in accordance with this regulation, shall not exceed twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (€23,293.73) for each breach, and, or four hundred and sixty-five euro and eighty-seven cents (€465.87) for each day during which such breach persists: Provided further that in taking any measure in accordance with this regulation, the Authority may, where it considers appropriate, give any such publicity as to any such</p>

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		<p>measure as it may consider appropriate in the circumstances.</p> <p><u>Article 24(1)</u></p> <p>(1) The Authority may, for the better information of the public, require the service provider or person against whom the compliance order has been issued, at their expense to communicate in any manner the Authority considers appropriate, including publication in at least two daily newspapers: (a) a copy in full or in part - (i) of a compliance order made under regulation 15 and, or (ii) a copy of an undertaking given under regulation 23, or an abstract of any such order and, or of any such undertaking; and, or (b) a corrective statement in relation to any contravention of the Act and, or of these regulations.</p>
(g) to require the losing defendant to make payments into the public pursue or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Articles 22 and 23(3) LN 251 of 2006, as amended by LN 426 of 2007 and 180 of 2012.	<p><u>Article 22</u></p> <p>Provided that any such fine that the Authority may decide to impose in accordance with this regulation, shall not exceed twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (€23,293.73) for each breach, and, or four hundred and sixty-five euro and eighty-seven cents (€465.87) for each day during which such breach persists:</p> <p><u>Article 23(3)</u></p> <p>(3) A person who makes a undertaking in accordance with this regulation and who subsequently acts in breach of any conditions stated in the undertaking, shall be liable to the imposition of an administrative fine by the Authority not exceeding the sum of twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (€23,293.73) and, or four hundred and sixty five euro and eighty-seven cents (€465.87) for each day during the failure to comply with the undertaking persists.</p>

MEMBER STATE: THE NETHERLANDS

LEGAL FRAMEWORK

The CPC regulation was implemented in the Netherlands by the 'Wet Handhaving Consumentenbescherming' (Whc, Act for the Enforcement of Consumer Protection Regulations). The Dutch system for consumer protection heavily relies on private law enforcement. With the implementation of the CPC Regulation the *Consumentenautoriteit* was created in 2007 in order to tackle intra-community infringements. In 2013, the authority has been merged with the

Autoriteit Consument en Markt (ACM) which is charged with the supervision of all acts listed in Annex A of the Act for the Enforcement of Consumer Protection Regulations. All legal instruments covered by the Study are included in the Annex and the ACM is the sole competent authority for enforcement, except for when the infringement covers a financial product or service. If an infringement relates to a financial product or service, competence will shift to the Netherlands Authority for the Financial Markets (AFM).

The powers of the ACM are regulated in different national legal instruments. (1) the Act for the Enforcement of Consumer Protection Regulations (*Wet handhaving consumentenbescherming, Whc*), which is the main implementing legislation for the CPC Regulation and contains specific rules for consumer law enforcement. (2) the *Instellingswet Autoriteit Consument en Markt*, the Basic Act of the ACM which lays down horizontal powers of the ACM for all fields of law the enforcement of which it is charged with. In addition, (3) the General Administrative Law Act (*Algemene Wet Bestuursrecht, Awb*), which provides an overarching administrative law framework for public law enforcers.

The Act for the Enforcement of Consumer Protection Regulations (Whc) lays down the tasks of the ACM in Chapter 2 (section 1 mandate and tasks, section 2 enforcement, section 3 publication). Article 2.2 of the Whc designates the ACM as the supervisory authority. The supervisory powers of the ACM are laid down in the ACM Basic Act, in particular Chapter 3 Enforcement (section 1 supervision, section 2 undertakings, section 3 sanctions and section 4 publication). In addition, general administrative law provisions on enforcement complement the ACM Basic Act. The *Algemene Wet Bestuursrecht* (General Administrative Law Act, Awb), provides enforcement powers under Chapter 5 'Enforcement' (Title 5.1 general provisions, title 5.2 supervision on compliance, title 5.3 a cease-and-desist order backed by a daily default fine, title 5.4 administrative fines).

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6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 5:15, 5:18, 5: 19 Awb	Article 5:17 1.A supervisor is authorized to demand access to business information and documents. 2.He is authorized to make copies of the information and documents. 3.If the copies cannot be done on the spot, he is entitled to the information and documents to that end to take a short time to a by issuing him written proof. Article 5:18 1.A supervisor is authorized to investigate matters, subject to inspection and to take samples. 2.He is authorized to open packaging so. 3.The supervisor shall at the request of the party concerned if possible a second sample, unless otherwise

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		<p>provided by or pursuant to statutory regulation.</p> <p>4.If the investigation, the inclusion or the sampling cannot be done on the spot, he is authorized for that purpose for the business to take a short time to a by issuing him written proof.</p> <p>5.The samples taken shall be returned whenever possible.</p> <p>6.The interested party at his request, be informed as soon as possible of the results of the research, the inclusion or sampling.</p> <p>Article 5:19</p> <p>1.A supervisor shall be authorized to inspect means of transport in respect of which he has a supervisory role.</p> <p>2.He is entitled transport that reasonably believes things are transported in respect of which he has a supervisory role, to examine their cargo.</p> <p>3.He is authorized to instruct the driver of a vehicle inspection of the statutory documentation in relation to which he has a supervisory role.</p> <p>4.He is responsible in order to recover the exercise of these powers by the driver of a vehicle or of the master of a vessel that they are either silent transport and transfer to a place designated by him.</p> <p>5.determines the action to stop is being done in any way by regulation of the Minister of Security and Justice</p>

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(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Awb Chapter 5 'enforcement' ACM Basic Act Section 3 'Sanctions'	Article 5:16 A supervisor has the power to demand information. 5:20 Awb creates a duty of cooperation. Art 12r last onder dwangsom (astreinte) may be linked to the supply of relevant information; time limits for the astreinte
(c) to carry out necessary on-site inspections;	Article 5: 15 5:15 Awb ACM Basic Act Chapter 3, section 1 (Articles 12-12g)	Article 5:15 1. A supervisor is authorized, taking with them the necessary equipment, to enter any place other than a dwelling without the consent of the occupant. 2. If necessary, he accesses using the force. 3. He is entitled to be accompanied by persons appointed by him. Article 12c 1. The in article 12a, paragraph referred to officials authorized to enter a dwelling without the consent of the occupant, to the extent that the exercise of the administrative law section 5:17 of the General Act powers

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		provided is reasonably necessary. 2. The first paragraph does not apply to the supervision of the Authority for Consumers and Markets compliance with the provisions under or pursuant to the Act on Financial Supervision. Article 12d 1. For the entry referred to in Article 12c, first paragraph, prior permission is required from the magistrate in charge of dealing with criminal cases in the District Court of Rotterdam. The authorization can be applied for as a precautionary measure. The authorization is displayed if possible. 2. Article 171 of the Code of Criminal Procedure shall apply. The magistrate may hear the public prosecutor before deciding. 3. The decision of the magistrate is to the extent that the request is not granted an authorization for the Authority for Consumers and Markets within fourteen days of appeal to the Court of Rotterdam. 4. The Articles 2 and 3 of the General Act on Entry into Dwellings do not apply.
(d) to request in writing that the seller or supplier concerned cease the	ACM Basic Act, Art. 12j Note: there is also the power to request	Binding order (<i>bindende aanwijzing</i> due to infringement) Artikel 12j ACM Basic Act

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intra-Community infringement;	compliance behaviour from an organisation in the absence of an infringement, the <i>bindende gedragslijn</i> (without infringement) Art. 3.8 Whc. ACM Basic Act, section 4 'publication'	The ACM may, In case of violation of a legal provision the supervision of which it is charged with, issue a binding order to the infringer. Publication requirements Art 12u sets conditions for publication of administrative binding orders; specifies which data may be published, time limits. Art 12v details specific conditions for violations for which a max of 10% of turnover of an undertaking may be requested, including publication of the names of the violating organisations Art 12w deals with publication of other documents than the decision and limitations
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the	ACM Basic Act, section2, Article 12h	Article 12h 1. Without prejudice to article 5:45 of the General Administrative Law which regulates the powers of the Authority for Consumers and Markets to impose an administrative fine or a cease and desist order to a market organization, the ACM may decide to accept a commitment made by the trader. 2. The ACM takes a decision as referred to in the first paragraph if it deems a binding commitment more effective than the imposition of an administrative fine or a cease and desist. 3. The economic organization shall submit the application before the Authority for Consumers and Markets

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resulting undertaking		decide on the imposition of an administrative fine or took a cease and desist order. 4. The period referred to in Section 5:45 paragraph of the General Administrative Law Act will be suspended with effect from the day on which the ACM receives the request until the date the ACM adopts a decision on the application. Section 5:45 paragraph of the General Administrative Law Act shall apply. 5. The market organization behaves in accordance with the decision referred to in the first paragraph. 6. The ACM determines the period for which the decision referred to in the first paragraph, applies and can always extend this period. 7. The ACM may amend or repeal a decision as referred to in the first paragraph or a decision to extend the meaning of the sixth paragraph, when: <ol style="list-style-type: none"> a. there is a material change in the facts on which the decision is based; b. The decision was based on incomplete provided by the market organization, incorrect or misleading information; c. the market organization is in breach of the fifth paragraph.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish	Article 5:32a ACM Basic Act	Article 5: 32a 1. The cease and desist order describes the remedial action to be taken. 2. With a penalty that involves the undoing of a violation or prevent further violation, it sets a time limit during which the offender can execute the order without forfeiting the penalty.

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resulting decisions;	Whc Article 2.9	Article 2.9 If the ACM is of the opinion that an infringement or intracommunity infringement was committed, it can issue to the infringer: a. an astreinte/cease-and-desist order; b. an administrative fine.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	ACM Basic Act Section 3 'Sanctions'	Art 12r (astreinte) may be linked to the supply of relevant information; time limits for the astreinte Art 12t payments for an astreinte or administrative fine belong to the Dutch State
	Whc Article 2.9	Administrative fine or astreinte/cease-and-desist Article 2.9 If the ACM is of the opinion that an infringement or intracommunity infringement was committed, it can issue to the infringer:

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2011/83/EU CONSUMER RIGHTS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		a. an astreinte/cease-and-desist b. an administrative fine. Artikel 2.15 The administrative fine, referred to in Article 2.9 has a maximum limit of € 450.000. De bestuurlijke boete, bedoeld in artikel 2.9 bedraagt ten hoogste € 450.000.
	ACM Basic Act Section 3 'Sanctions'	Art 12k time limits Art 12l amount of fine, maximum limit of amount of fine is € 450.000. Art 12n administrative fines for natural persons under criminal law have a maximum limit of € 450.000. Art 12o calculation of the amount of the fine Art 12p time limits for appeal Art 12q role of personnel working on administrative fine Art 12r <i>last onder dwangsom</i> (astreinte) may be linked to the supply of relevant information; time limits for the astreinte Art 12s failure to pay Art 12t payments for an astreinte or administrative fine belong to the Dutch State

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2011/83/EU CONSUMER RIGHTS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Awb Title 5.3, especially section 5.3.2. 'astreinte/cease-and-desist'	Procedural details on the astreinte are contained in Art. 5:31d -5:39 Awb
	Awb Titel 5.4 'administrative fine'	Procedural details on the administrative fine Art. 5:40-47 Awb
Contract between the ACM and the infringing organization to make payments to the persons having sustained damage through the infringement		Article 2.6 A contract with the aim of compensating the damage which was caused by the infringement or intra-community infringement of one or more legal provisions of which the ACM is charged with supervision on the basis of article 2.2, contracted by the ACM with one or more other parties which have violated the respective provisions and which have agreed to compensate that damage, may be, upon request of the parties bound by it, declared binding on the person which caused the damage. Persons which have been harmed include persons which have a claim to the damage that they hold under special title. [

MEMBER STATE: PORTUGAL

LEGAL FRAMEWORK

The Decree Law 57/2008 of 26 March 2008 transposed into Portuguese law Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005, C, and the CPC Regulation. The Decree-Law 57/2008 has been amended by the Decree-Law 14/2014 of 14 February which implemented Directive 2011/83/EU.

According to Article 19 of the Decree Law 57/2008, Autoridade de Segurança Alimentar e Económica- ASAE (Food and Economic Safety Authority) or the else regulatory body covering the sector in question shall be considered to the competent administrative authorities. If the unfair commercial practice is in the area of advertising the competent administrative authority shall be the Directorate-General for Consumer Affairs. Likewise, the Banco de Portugal, the Comissão do Mercado de Valores Mobiliários (Securities Market Commission) and the Instituto de Seguros de Portugal (Portuguese Insurance Institute) shall be considered as the competent administrative authorities for unfair commercial practices that occur within the respective financial sectors. The ASAE is a formal decision-making body with powers such as the criminal police. However, according to Article 21 of Decree Law 57/2008, unfair commercial practices are administrative offences, which are punished with administrative fines.

The ASAE is the competent authority for the enforcement of Directive 2011/83/EU on the basis of the Decree Law 24/2014 as amended by Decree Law 47/2014.

The Direction General for Consumer Affairs (DGC) is an enforcement authority which, according to Article 13 of the Law 24/96 of 31 July 1996 and following amendments, has the task of contributing to the preparation, definition and implementation of a consumer defense policy in order to ensure high a level of protection. Following the new organisational Law of the Ministry of Economy and Employment, approved by Decree-Law 126-C/2011, of 29 December, the DGC saw its powers extended in the area of non-food and non-harmonised product and services safety, and advertising. According to Article 21 of Decree Law 57/2008, DGC is competent in case of unfair commercial practices which cover misleading and comparative advertising. According to Article 2 of the Decree Law 38/2012, the DGC is the Single liaison office under the CPC Regulation. According to Article 4 of the Decree Law 38/2012, the DGC may initiate

the investigation and the opening infringement proceedings for the breach of advertising legislation and it may also decide the processes, applying the sanctions provided for in law and taking the necessary precautionary measures or, if necessary, refer them to the competent authorities.

According to Article 21 of the Law 24/96 of 31 July 1996, as amended by the Law 47/2014 and following amendments, DGC is competent for precautionary measures of termination, suspension or interdiction of supplies, deliveries or services which may entail or pose risks to health, safety and the economic interests of consumers. According to Article 20, the public prosecutor is competent for the enforcement of consumers' rights through both civil and administrative actions aimed at the protection of homogeneous individual interests as well as collective or diffuse interests of consumers.

Finally, according to Article 19 Law 24/96 of 31 July 2006 as amended by following amendments, the public prosecutor may also intervene in civil and administrative actions aimed at the protection of homogenous, collective or diffuse interests of consumers.

When the unfair commercial practices are in the field of banking and financial services, the competent supervision authorities for the banking and financial sectors, Banco de Portugal, Comissão do Mercado de Valores Mobiliários and Instituto de Seguros de Portugal, are competent for investigation and enforcement. The provisions included in the Decree law 58/2007 concerning the enforcement powers, i.e cease and desist orders adopted by the authority and the sanctions are common to all the authorities. Concerning the investigative powers, each authority has its own investigative powers but, the provision of the framework law on the infringements of the social order and fines, is applicable. All the competent authorities, may apply directly the powers provided by the CPC Regulation. The Joint Order 357/2006 provides that the authorities competent for the infringements of the acts in Annex to the CPC Regulation will have the investigative and enforcement powers provided by the CPC Regulation.

The directive 2000/31/EC on Electronic Commerce was implemented in Portugal through Law 7/2004 of 7 of January. The law establishes the competent Authority (Autoridade Nacional de Comunicações (ICP-ANACOM)), which is competent for the supervision of the application of the law.

Decree 62/2009 of 10 of March has partially modified Law 7/2004 of 7 of January. The Law 7/2004 has been amended by Law 46/2012, of 29 August 2012, which has provided investigative and enforcement powers to ICP-ANACOM.

The directive 93/13/EEC on unfair terms on consumer contracts has been implemented in Portugal through the Decree-Law 446/85 of 25 of October. The law has been amended by the "Decree-Law- 220/95 of 31/08/1995," "Portaria n. 1093/95 of 06/09/1995" and "Decree-Law n° 249/99 of 7 of July". The public prosecutor is responsible to enforce the provisions of the decree and obtain the removal of the unfair terms before the court ex officio or on the basis of a complaint.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU CONSUMER RIGHTS		
PROVISION OF CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION OF NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 15 of Decree Law 274/2007	1 - The ASAE has the powers of an authority and it is an organ of criminal police. 2 - Are criminal police authorities, under the terms and for the purposes of the Code of Criminal Procedure : a) The Inspector -General ; b) The sub-inspectors -general ; c) -regional managers , designated inspectores-directores ; d) The Director of planning and control service operational and -chief inspectors; e) The heads of multidisciplinary teams.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU CONSUMER RIGHTS			
PROVISION OF REGULATION	CPC	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION OF NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)			
		Article 3 (ab) Decree Law 274/2007 Art. 55 of the Criminal Procedure Code Article 48a of the Decree Law 483/82.	(ab) to cooperate with the judicial authorities in accordance with the provisions of the Criminal Procedure Code , to start the investigation of offences for which it has a specific jurisdiction assigned by the law. The criminal police bodies, even on their own initiative, have the power to gather information of offences and prevent their possible consequences, discover their agents and carry out the necessary and urgent measures to ensure the evidence. The competent administrative authorities can provisionally seize the objects used or were intended to serve for the commission of an offense, or that were produced by, as well as any others that are likely to serve as evidence .
(b) to require the supply by any person of relevant information related to the intra-Community infringement;			
(c) to carry out necessary on-		Article 3, t) Decree_Law 274/2007	Article 3

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU CONSUMER RIGHTS			
PROVISION OF REGULATION	CPC	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION OF NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)			
site inspections;			t) Inspect all places where they carry out any industrial, commercial , agricultural, livestock, slaughter, fishing , including recreational fishing activity , promotion and organization of summer camps , or the provision of services , particularly of finished goods and or intermediate warehouses , offices , transportation , cold stores , touristic enterprises, tourism enterprises in rural areas , nature tourism establishments , travel agencies , tourist animation companies, catering and drinking establishments , canteens and cafeterias , dental clinics , veterinary clinics, fairgrounds or shows, infrastructures , equipment, sports venues , ports, train stations and air terminals , without prejudice to the powers conferred by law to other entities.
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;		Article 20 of Decree-Law 57/2008 Article 51 of the Decree Law 483/82 as	The administrative authority can order the temporary cessation of an unfair commercial practice as a precautionary measure, or prohibit an imminent unfair commercial practice before it is carried out, independently of the degree of responsibility or the evidence that real harm has been caused. 3 — The application of precautionary measures as referred to above is subject to prior assessment of the extent to which it is foreseeable that an unfair commercial practice could occur. 4 — The adoption of precautionary measures as referred to in paragraph (2) above must, wherever possible, be preceded by a hearing of the trader, who will be given three working days for this purpose following notification, using any method, by the competent administrative authority. Article 51

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU CONSUMER RIGHTS		
PROVISION OF CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION OF NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	amended.	1. When gravity of the offense is reduced as well as and the culpability of the agent the competent authority may issue a warning 2 - The warning is made in writing and cannot be considered an administrative decision.
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 3 z) Decree-Law 57/2008 Article 14 of the Decree Law 483/82 as amended.	No power to obtain undertaking is provided by the specific legislation. The competent authorities have has the power to investigate and instruct administrative proceedings for the infringement for which it is competent or to dismiss the case when there is no infringement or there is no evidence that a particular agent committed the infringement. The framework-law of administrative infringements and fines (Decree-law 483/82) provides that "- The attempt is not punishable when the perpetrator voluntarily gives up the continuation of the offense or prevents its consummation, or , notwithstanding the consummation, prevents the verification of the results or the committed infringement is not included in any typology of offense.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article 20 Decree-Law 57/2008.	"The administrative Authority can order to stop immediately an unfair commercial practice regardless of the proof of guilt or or the existence of any damage."

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING DIRECTIVE 2011/83/EU CONSUMER RIGHTS		
PROVISION OF CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION OF NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article 21 of Decree- Law ° 57/2008, Para 1 —7	"The violation of Articles 4 to 12 constitute an administrative offense which is punishable with a fine of € 250 to € 3,740.98 if the offender is an individual, and from € 3000 to € 44 891.81, if the offender is a body corporate. 7 - The amount of the fines imposed is distributed under the terms of its sectoral regulatory regime or, failing that, as follows: a) 60% to the State; b) 30% for the entity that performs the instruction; c) 10% to the entity by virtue of their sectoral regulatory regime or, failing that, to CACMEP." Article 21 of the law establishes how the sanctions are applied, whether there is an infringement and how the amount is divided between the institutions.

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 44 (b) and (c) Decree Law 39/2015	Article 44(b)(c) ANACOM employees which have given investigative missions, when they exercise of their duties, they shall be treated as agents with the powers of the public authority and shall, inter alia, have the following powers: (a).... b)to inspect the books and other records related to companies, and other entities under investigation of ANACOM and those who collaborate with them, regardless from the support in which they are contained; c) To request documents for review, as well as equipment and materials for testing;
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 13E of Law 46/2012	Article 13-E Provision of information 1 - Bodies subject to obligations under this law must provide, where requested, to ICP-ANACOM, in the respective field of competence, all information related to their activity, so that these authorities may exercise all powers provided for herein. 2 - The requests for information referred to in the preceding paragraph shall be appropriate to their intended

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Article 44(e) Decree-Law 39/2015	<p>aims, comply with the principle of proportionality and be duly substantiated.</p> <p>3 - The requested information shall be submitted within the time limits, and in the form and to the level of detail required by ICP-ANACOM, which may establish the situations and periodicity governing the submission of such information.</p> <p>4 - For the purposes of the paragraph 1, bodies shall identify, in a substantiated manner, any information deemed to be confidential, attaching, where appropriate, a non-confidential copy of documents comprising such information.</p> <p>Article 44(e) ANACOM officials charge with investigative missions, when they exercise of their duties, they shall be treated as agents with the powers of the public authority and shall, inter alia, have the following powers: (...) e) to ask any representative, employee or any subject cooperating with the undertakings or entities under investigation,, clarifications on facts or documents relating to the object and purpose of inspection or audit and record the answers;</p>
(c) to carry out necessary on-site inspections;	Article 12 Decree Law 39/2015	<p>ANACOM should promptly conduct inspections and audits, in implementation of previously approved plans and whenever there are circumstances indicating disturbances in the sector of the regulated activity.</p> <p>2 - For the purposes of the preceding paragraph , ANACOM may instruct employees who must carry an ID card , pursuant to paragraph 3 of Article 44</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Article 44 (a) Decree Law 39/2015	<p>3 - ANACOM may also instruct people or specially qualified entities to conduct or monitor inspections and audits, and their employees must show the necessary credentials indicated in the previous paragraph.</p> <p>Article 44(a) ANACOM employees which have given investigative missions, when they exercise of their duties, they shall be treated as agents with the powers of the public authority and shall, inter alia, have the following powers:</p> <p>a) to enter any premises, land, equipment, infrastructure, transport and services of the entities subject to inspection and control of ANACOM and those with they collaborate;</p>
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 13F of Law 46/2012	<p>Article 13-F Non-compliance</p> <p>1 - Without prejudice to other applicable penalty mechanisms, where CNPD or ICP-ANACOM, in the respective fields of competence, find an infraction with any obligation arising under this law, they shall notify the offender of such findings, giving it the opportunity to state its views within a period of no less than 10 days, and, where appropriate, to cease the breach.</p> <p>2 - After holding a hearing according to the preceding paragraph, CNPD or ICP-ANACOM, in the respective fields of competence, are entitled to require the offender to cease the breach immediately or within a reasonable time limit set for the purpose.</p> <p>3 - Where the offender fails to cease the breach within the time-limit referred in the preceding paragraphs, CNPD or ICP-ANACOM, in the respective fields of competence, are entitled to take the adequate and proportional measures to guarantee compliance with obligations referred to in paragraph 1 hereof, namely the application of compulsory penalty payments as provided for by this law.</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Article 15 (1) Law 99/2009	<p>Article 15</p> <p>1 - In the case of less serious offences consisting of rectifiable irregularities and which has no significant injury result, ICP- ANACOM, through its officials in charge of the investigation, can warn the offender, indicating the detected infringement, and recommending appropriate steps to remedy the situation, giving a deadline for compliance.</p> <p>2 - ICP -ANACOM notifies immediately the warning to the offender so that the irregularity may be remedied, including the recommended measures, informing him of the proceeding and of how the fine would be calculated</p>
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 15 (4) Law 99/2009	<p>Article 15</p> <p>4 - In the case of infringements not covered by the preceding paragraphs , ICP- ANACOM may order the infringer to , within the prescribed period , to notify commitment on his honour that it has taken the necessary measures to comply with the regulations.</p> <p>.</p>
(f) to require the cessation or prohibition of any intra-Community infringement and, where	Decreto-Lei n. 7/2004 de 7 de Janeiro Artigo 36.o Atribuições e competência 2 ; Artigo 39.o Providências provisórias 1	<p>"It competes to supervisors, in addition to the general powers provided for above and specifically assigned to them, to:</p> <p>e) Determine the suspension of the activities of service providers in the face of serious irregularities and on grounds of urgency.</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
appropriate, to publish resulting decisions;		<p>Article 39 Provisional measures</p> <p>1 - The supervisory entity responsible for the application of the fine may determine, provided they are immediately necessary, the following provisional measures:</p> <p>a) The suspension of the activity and the closure of the establishment that supports those services of the information society, while running the procedure until the final decision;</p> <p>b) The seizure of goods or instruments that are causing the infraction.”</p> <p>The disposition establishes the power of the Authority to stop the activity that is causing damage. The responsible Authority for the application of the fine may determine where necessary, the following measures:</p> <p>a) The suspension of the activity and the closure of the plant that supports those services of the information society, while running the procedure until the final decision;</p> <p>b) The seizure of goods or instruments that are causing the infraction.</p>
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article 15C of Law 46/2012	<p>1 - Without prejudice to other applicable penalties, in case of failure to comply with decisions issued by CNPD or ICP-ANACOM imposing administrative penalties or, in the exercise of legally assigned powers, ordering the addressees of this law to adopt behaviours or measures, those authorities are entitled to impose a compulsory penalty payment, which must be duly substantiated, in the cases provided for in paragraphs 1, 3, 4 e 5 of article 10, paragraphs 1, 3, and 4 of article 13 and points a) to i), j) and l) to m) of paragraph 1 and a), b), c), d) and e) of paragraph 2 of article 14.</p> <p>2 - The compulsory penalty payment shall consist of the imposition on the addressee of the payment of a pecuniary amount for each day of non-compliance beyond the deadline set for such compliance.</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		<p>3 - The sanction referred to in the preceding paragraphs shall be determined according to criteria of reasonability and proportionality, having regard to the economic situation of the offender, namely its turnover in the preceding civil year, and with regard to the negative impact of the non-compliance on the market and on users, the daily amount of which sanction shall range from €500 to €100 000.</p> <p>4 - The amounts established pursuant to the preceding paragraph may vary for each day of non-compliance, in an increasing trend, and shall not exceed the maximum amount of €3 000 000 or the maximum period of 30 days.</p> <p>5 - The amount of the applied sanction shall revert to the State at 60% and to CNPD or ICP-ANACOM at 40%.</p>

DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable		

DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;		
(b) to require the supply by any person of relevant information related to the intra-Community infringement;		
(c) to carry out necessary on-site inspections;		
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;		
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and,		

DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
where appropriate, to publish the resulting undertaking		
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Articles 25, 26, 27, and 28 of Decree-Law 446/85	<p>"The general contractual terms drawn up for future use when contrary to the provisions of Articles 15, 16, 18, 19, 21 and 22 may be prohibited by court order, whether or not contained effective in individual contracts.</p> <p>Article 26 Right to stand 1 - The action for the conviction to abstain from the use or recommendation of general contractual clauses may be brought only: a) For consumer protection associations endowed with representation, under provisions of applicable laws; b) Labour union, professional or economic interests legally constituted associations acting within their powers; c) The public prosecutor, ex officio, by appointment of the Ombudsman or if it considers grounded the request of any interested party. 2 - The entities mentioned in the preceding paragraph operate autonomously in the process act on their own behalf, although claiming a right of others belonging to consumers which are likely to be affected by the provisions which ban is requested.</p> <p>Article 27 Capacity to be sued 1 - The action referred to in the previous article may be brought: a) Any person who, predisposing general contract terms, proposing contracts that include or accept proposals made thereunder; b) Any person who, regardless of their predisposition and use in concrete terms, recommend to others.</p>

DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		<p>2 - The action may be brought jointly against various entities that predispose and use or recommend the same general contractual terms or substantially identical terms, although the coalition import offense the provisions of article.</p> <p>Article 28 Competent court For the injunction is competent the district court where is the center of the main activity of the defendant whether he is not placed in the country, the place of his permanent address or place of work; if they are located abroad, will be the competent the court of the place where the contractual clauses were proposed or recommended.”</p> <p>The article establishes that in case of illegal contractual clause the Court has the power to cease the application of the same clause which causes damage.</p> <p>Under this law can stand to sue:</p> <ul style="list-style-type: none"> - Consumer protection associations who have the power to represents consumers for these specifics topics; - Labor Unions; - From the Public Minister <i>ex officio</i>. <p>For the injunction the competent Court is the district Court, where the center of activity of the defendant is localized. In case of the defendant is located outside Portugal the competent Court is the district Court where the clause had been proposed or recommended.</p>
(g) to require the losing defendant to make payments into the public	Article 33 Decree-Law 446/85	“1- If the defendant, who won the injunction, infringe the obligation to refrain from using or recommending contractual clauses that have been permanently prohibited by final judgment, incurs in a penalty of not more than the value of (euro) 4987.98 for each offense.

DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
<p>purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.</p>		<p>2 - The penalty provided in the preceding paragraph is applied by the court competent in 1st instance, at the request of those who can rely on the judgments given, should be allowed to the offender the opportunity to be heard previously.</p> <p>3 - The amount of the penalty payment is divided, in equal parts, to the applicant and the State.”</p> <p>The article establishes the sanction to be applied whether the offender does not comply with the obligation to cease the infringement.</p> <p>Point 2 establishes that sanction will be divided equally with the State and the defendant.</p>

MEMBER STATE: ROMANIA**LEGAL FRAMEWORK**

The legislative framework for the application of the CPC Regulation in Romania was created by the Government Decision No. 244/2007 regarding the competent authorities tasked with the enforcement of consumer protection legislation and cooperation between national authorities in this field, and it was published in the Official Gazette of Romania, Part I No. 187 dated 19 March 2007, as subsequently amended and completed. According to this normative act, the National Authority for Consumers Protection (hereinafter referred to as “NACP”) (in Romanian: *Autoritatea Națională pentru Protecția Consumatorului*) was designated single liaison office responsible for the application of the CPC Regulation.

NACP is a specialised public authority in the central administration, under Government authority and co-ordinated by the Ministry of Economy, Trade and Tourism. The NACP acts also as a regulating body with respect to consumer protection; it proactively enforces legislation on unfair practices and is also competent to deal with administrative complaints.

Organization, powers and responsibilities of NACP are mainly set forth under (i) the Government Decision no. 700/2012 on the organization and operation of the NACP, as published with the Official Gazette of Romania, Part I No. 491 dated 18 July 2012, as subsequently amended and completed (“GD No. 700/2012”), and under (ii) the Law No. 296/2004 on Consumer Code, as republished with the Official Gazette of Romania, Part I No. 224 dated 24 March 2008, as subsequently amended and completed (“Law No. 296/2004”).

As for the provisions of the Government Decision No. 244/2007, the Romanian competent authorities responsible with the enforcement of consumer protection legislation and cooperation between national authorities in this field are the following:

No. crt.	Transposed Directive	National legislation	Romanian competent authority
1	Directive 2005/29/EC on unfair commercial practices	Law No. 363/2007 on fighting against unfair practices of	NACP

		traders in relation to the consumers and on the harmonization of regulations with the European legislation on consumer protection	
2	Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the internal market (on electronic commerce)	Law No. 365/2002 on electronic commerce	Ministry of the Information Society Ministry of Internal Affairs
3	Directive 93/13/EC on unfair terms in consumer contracts	Law No. 193/2000 on abusive clauses in contracts concluded between professionals and consumers	NACP
4	Directive 2011/83/EC on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council	Government Emergency Ordinance No. 34/2014 on the consumer protection rights in their relations with enterprises	NACP National Regulatory Authority for Communications and Information Technology
5	Directive 2006/114/EC in relation to the provisions applying to comparative advertising	Law No. 158/2008 on misleading advertising and comparative advertising	NACP

In Romania, the Directive 2005/29/EC is implemented by Title I (*Defining and prohibiting unfair commercial practices*) of the Law No. 363/2007. The general enforcement of the Romanian legislation on unfair practices is handled by the NACP.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-		

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 11 of Law No. 363/2007	<p><u>Article 11 of Law No. 363/2007:</u></p> <p>(1) - Traders must provide evidence as regards the accuracy of the allegations made in connection with the commercial practice pursued, and have the obligation to provide, upon the request of NACP or of the relevant court of law, documents that substantiate their claims.</p> <p>(2) - Where the documents are not submitted within the deadline established by the authority that requested them or if the documents submitted are deemed insufficient, the allegations concerned shall be regarded as inaccurate.</p>
	Article 3 paragraph (1), letter i) of GD No. 700/2012	<p><u>Article 3, paragraph (1), letter i) of GD No. 700/2012:</u></p> <p>(1) - NACP has the following main duties:</p> <p>[...]</p> <p>i) controls the observance of the legal provisions regarding consumer protection, concerning the security of products and services, as well as the protection of the legitimate rights of the consumers, by carrying out market controls with the producers, the importers, the distributors, the sellers, the service providers, including financial services, and in customs units, having access to the places where products are manufactured, stored or traded or where the services are rendered, as well as to the related documents, excepting the hygienic-sanitary controls or the sanitary-veterinary controls with the manufacturers, in case of food products;</p> <p>[...]</p>
	Article 4 of GD No. 700/2012	<u>Article 4 of GD No. 700/2012:</u>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		<p>(1) - In view of exercising its duties, NACP works with ministries, other specialized bodies of the central and local public administration, as well as with non-governmental organisations.</p> <p>(2) - In order to fulfil its duties set forth under the law, NACP has access to necessary information from the National Office of Trade Registry, the National Customs Authority, the National Agency for Fiscal Administration, the General Inspectorate of the Border Police, under a Protocol signed with these institutions, as well as from the banking financial institutions, under the terms of the law.</p> <p>(3) - The institutions mentioned at paragraph (2) above shall provide the requested information and shall issue certified copies of the documents deemed necessary to finalise the inspection, under the terms of the law.</p>
	Article 85 paragraph (2) of Law No. 296/2004	<p>Article 85 paragraph (2) of Law no. 296/2004:</p> <p>[...]</p> <p>(2) - The personnel empowered with control activities in the field of consumer protection (<i>thus including the personnel of NACP</i>) is authorized to make copies of the materials and documents related to the subject of the inspection and that are in the possession of the traders, and also to request references in relation thereto, but only where an infringement has already been assessed.</p> <p>[...]</p>
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 11 of Law No. 363/2007	<p>Article 11 of Law No. 363/2007:</p> <p>(1) - Traders must provide evidence as regards the accuracy of the allegations made in connection with the commercial practice pursued, and have the obligation to provide, upon the request of NACP or of the relevant court of law, documents that substantiate their claims.</p> <p>(2) - Where the documents are not submitted within the deadline established by the authority that requested them or if the documents submitted are deemed insufficient, the allegations concerned shall be regarded as inaccurate.</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Article 4 of GD No. 700/2012	<p>Article 4 of GD No. 700/2012:</p> <p>(1) - In view of exercising its duties, NACP works with ministries, other specialized bodies of the central and local public administration, as well as with non-governmental organisations.</p> <p>(2) - In order to fulfil its duties set forth under the law, NACP has access to necessary information from the National Office of Trade Registry, the National Customs Authority, the National Agency for Fiscal Administration, the General Inspectorate of the Border Police, under a Protocol signed with these institutions, as well as from the banking financial institutions, under the terms of the law.</p> <p>(3) - The institutions mentioned at paragraph (2) above shall provide the requested information and shall issue certified copies of the documents deemed necessary to finalise the inspection, under the terms of the law.</p>
(c) to carry out necessary on-site inspections;	Article 3 paragraph (1), letter i) of GD No. 700/2012	<p>Article 3, paragraph (1), letter i) of GD No. 700/2012:</p> <p>(1) - NACP has the following main duties:</p> <p>[...]</p> <p>i) controls the observance of the legal provisions regarding consumer protection, concerning the security of products and services, as well as the protection of the legitimate rights of the consumers, by carrying out market controls with the producers, the importers, the distributors, the sellers, the service providers, including financial services, and in customs units, having access to the places where products are manufactured, stored or traded or where the services are rendered, as well as to the related documents, excepting the hygienic-sanitary controls or the sanitary-veterinary controls with the manufacturers, in case of food products;</p> <p>[...]</p>
	Article 85 paragraphs (1) and (2) of Law No. 296/2004	<p>Article 85 paragraphs (1) and (2) of Law no. 296/2004:</p> <p>(1) - All inspections and market surveillance actions shall be carried out by the personnel empowered by the</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		central and territorial public authorities having duties in the field of consumer protection (this including the personnel of NACP), as per their specific competencies. (2) - The personnel empowered with control activities in the field of consumer protection (<i>thus including the personnel of NACP</i>) is authorized to make copies of the materials and documents related to the subject of the inspection and that are in the possession of the traders, and also to request references in relation thereto, but only where an infringement has already been assessed. [...]
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 13 paragraph (1) of Law No. 363/2007	<u>Article 13 paragraph (1) of Law No. 363/2007:</u> (1) - To the extent deemed necessary, taking into account all the interests involved and, in particular, the public interest, the competent courts of law or the NACP shall order, under an emergency procedure, even in absence of evidence of a loss or of an actual damage, as well as of the intention or the negligence of the trader, one of the following measures: a) cessation or establishing the appropriate legal procedures for terminating the unfair commercial practices; b) prohibiting or establishing the appropriate legal procedures for the cessation of the unfair commercial practices, even if such have not been yet implemented, but this is imminent; c) the submission with the National Audiovisual Council, within 5 working days from receiving the request, of the identification data of the natural persons or of the legal entities involved in making the audiovisual advertising, considered to be an unfair commercial practice, as well as a copy of the broadcasted advertising material. [...]
	Article 3 paragraph (1) letter hh) of GD No. 700/2012	<u>Article 3 paragraph (1) letter hh) of GD No. 700/2012:</u> (1) - NACP has the following main duties: [...]

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		hh) orders the appropriate legal proceedings for the cessation of the unfair commercial practices; [...]
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 12 and Article 13 paragraphs (2) and (3) of Law No. 363/2007	<p>Article 12 of Law No. 363/2007:</p> <p>(1) - NACP may impose measures under the present law, by order issued by the head of the NACP or by decision issued by heads of the units with legal personality subordinated to NACP.</p> <p>(2) - The order or decisions issued as per paragraph (1) above shall be motivated.</p> <p>(3) - The order or decision issued as per paragraph (1) may be challenged in front of the administrative courts of law, in accordance with the Law No. 554/2004 on administrative litigations, as subsequently amended and completed.</p> <p>(4) - Challenging an order or the decisions in front of the administrative courts of law shall not conduct to the suspension by law of the enforcement of the measures imposed.</p> <p>Article 13 paragraphs (2) and (3) of Law No. 363/2007:</p> <p>[...]</p> <p>(2) - Where, with a view to eliminate the effects of the unfair commercial practices, the cessation or prohibition thereof has been ordered, and the court judgment ordering the measure became final or the order or decision issued has not been challenged as per Article 12 paragraph (3), the court which issued the final judgment or NACP may dispose:</p> <p>a) publication of the respective court judgment or of the decision, in full or in part, in the form they deem adequate;</p> <p>b) the publication of a corrective statement. The corrective statement must indicate the trader's registered office and its other identification details, the unfair practice committed, the date on which that practice was committed and the measures ordered.</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		(3) - The information that the publication of which has been required pursuant to paragraph (2) shall be published, in all cases, in a widely circulated newspaper, at the trader's expense. [...]
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article 12 and Article 13 paragraphs (2) and (3) of Law No. 363/2007	<p><u>Article 12 of Law No. 363/2007:</u></p> <p>(1) - NACP may impose measures under the present law, by order issued by the head of the NACP or by decision issued by heads of the units with legal personality subordinated to NACP.</p> <p>(2) - The order or decisions issued as per paragraph (1) above shall be motivated.</p> <p>(3) - The order or decision issued as per paragraph (1) may be challenged in front of the administrative courts of law, in accordance with the Law No. 554/2004 on administrative litigations, as subsequently amended and completed.</p> <p>(4) - Challenging an order or the decisions in front of the administrative courts of law shall not conduct to the suspension by law of the enforcement of the measures imposed.</p> <p><u>Article 13 paragraphs (2) and (3) of Law No. 363/2007:</u></p> <p>[...]</p> <p>(2) - Where, with a view to eliminate the effects of the unfair commercial practices, the cessation or prohibition thereof has been ordered, and the court judgment ordering the measure became final or the order or decision issued has not been challenged as per Article 12 paragraph (3), the court which issued the final judgment or NACP may dispose:</p> <p>a) publication of the respective court judgment or of the decision, in full or in part, in the form they deem adequate;</p> <p>b) the publication of a corrective statement. The corrective statement must indicate the trader's registered office and its other identification details, the unfair practice committed, the date on which that practice was committed</p>

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		and the measures ordered. (3) - The information that the publication of which has been required pursuant to paragraph (2) shall be published, in all cases, in a widely circulated newspaper, at the trader's expense. [...]
	Article 3 paragraph (1) letter hh) of GD No. 700/2012	<u>Article 3 paragraph (1) letter hh) of GD No. 700/2012:</u> (1) - NACP has the following main duties: [...] hh) orders the appropriate legal proceedings for the cessation of the unfair commercial practices; [...]
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article 15 paragraph (2) of Law No. 363/2007	<u>Article 15 paragraph (2) of Law No. 363/2007:</u> [...] (2) - Failure to comply with the measures ordered by the order or decision referred to in Article 12 paragraph (1) is sanctioned with fine ranging from RON 50,000 to RON 100,000. [...]

In Romania, the Directive 2000/31/EC is implemented by Law no. 365/2002. The general enforcement of the Romanian legislation on electronic commerce is handled by the Ministry of the Information Society and the Ministry of Internal Affairs.

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 17 paragraphs (6) to (8) of Law No. 365/2002	Article 17 paragraphs (6) to (8) of Law No. 365/2002: [...] (6) - The Authority (<i>i.e.</i> , the Ministry of the Information Society) may order inspections, under the terms of the law, ex officio or upon the request or complaint of any person. (7) - The control personnel empowered for such purpose by the Authority (<i>i.e.</i> , by the Ministry of the Information Society) may request statements or any other documents deemed necessary for the mission, may seal, pick-up any registers, financial-accounting documents, commercial documents or other records, releasing to the investigated person copies of the original documents, or may obtain copies, leaving him/her the originals; it is also authorized to make unannounced inspections, results of which shall be mentioned in ascertaining minutes, and may receive, when convening the inspected person or on site, information and justifications. (8) - The central and local administration bodies, as well as any other institutions and public authorities, are obliged to allow the control personnel empowered for this purpose by the Authority (<i>i.e.</i> , by the Ministry of the Information Society) to access the documents, data and information held by them insofar, to the extent such are necessary to fulfil the legal mission of the Authority (<i>i.e.</i> , of the Ministry of the Information Society), without being able to oppose the character of national secret or professional secret of such documents, data and information.

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		[...]
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 17 paragraph (3) of Law No. 365/2002	Article 17 paragraphs (6) to (8) of Law No. 365/2002: [...] (3) - The Authority (<i>i.e.</i> , the Ministry of the Information Society) may request to service providers any information deemed necessary to perform its duties, stating the legal basis and the purpose of such request, and may establish the time limit for providing such information, under the legal sanction provided by the law. [...]
(c) to carry out necessary on-site inspections;	Article 17 paragraphs (6) to (8) of Law No. 365/2002	Article 17 paragraphs (6) to (8) of Law No. 365/2002: [...] (6) - The Authority (<i>i.e.</i> , the Ministry of the Information Society) may order inspections, under the terms of the law, ex officio or upon the request or complaint of any person. (7) - The control personnel empowered for such purpose by the Authority (<i>i.e.</i> , by the Ministry of the Information Society) may request statements or any other documents deemed necessary for the mission, may seal, pick-up any registers, financial-accounting documents, commercial documents or other records, releasing to the investigated person copies of the original documents, or may obtain copies, leaving him/her the originals; it is also authorized to make unannounced inspections, results of which shall be mentioned in ascertaining minutes, and may receive, when convening the inspected person or on site, information and justifications. (8) - The central and local administration bodies, as well as any other institutions and public authorities, are obliged to allow the control personnel empowered for this purpose by the Authority (<i>i.e.</i> , by the Ministry of the Information Society) to access the documents, data and information held by them insofar, to the extent such are

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		necessary to fulfil the legal mission of the Authority (<i>i.e.</i> , of the Ministry of the Information Society), without being able to oppose the character of national secret or professional secret of such documents, data and information. [...]
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	N/A	N/A
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	N/A	N/A

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article 19 of Law No. 365/2002	<p>Article 19 of Law No. 365/2002:</p> <p>(1) - The entities qualified to bring an action, according to the provisions of paragraph (2), can require to the court to oblige the defendant to stop any infringement, according to the provisions of the present law, to prohibit the defendant to resume the action in the future and to oblige the defendant to pay damages for the impairment caused.</p> <p>(2) - The quality to bring to an action according to paragraph (1) belongs to the following:</p> <p>a) the natural and legal persons that pretend to be owners of a subjective right provided by the present law or of an interest that cannot be achieved otherwise than through court;</p> <p>b) the associations and non-governmental organisations mentioned under Article 18, paragraph (1);</p> <p>c) the NACP, the county consumer protection offices and the Bucharest Office for Consumer Protection;</p> <p>d) the entities created with the purpose to protect consumers in the member states of the EU, under the conditions provided by the application methodological norms of this law.</p> <p>(3) - The action mentioned at paragraph (1) is subject to a status of limitation of 1 (one) year as of the date when the infringement having justified the action was committed.</p> <p>(4) - The persons qualified to bring to an action, according to the provisions of paragraph (2), can require to the court, by presidential ordinance, the cessation of the infringement or prohibition from any that is contrary to the provisions of this law, under the conditions of the Civil Procedure Code.</p>
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the	Article 287 paragraph (1) of the Criminal Code	<p>Article 287 paragraph (1) of the Criminal Code:</p> <p>Failure to comply with a court decision, by means of which a specific obligation was imposed, is deemed a criminal deed and may be sanctioned with imprisonment from 3 months to 2 years or with a fine.</p> <p>[...]</p>

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
event of failure to comply with the decision.		

In Romania, the Directive 93/13/EC is implemented by Law No. 193/2000. The general enforcement of the Romanian legislation on abusive clauses in contracts is handled by the NAPC.

DIRECTIVE 93/13/EC ON UNFAIR TERMS IN CONSUMER CONTRACTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any	Article 10 of Law No. 193/2000	Article 10 of Law No. 193/2000:

DIRECTIVE 93/13/EC ON UNFAIR TERMS IN CONSUMER CONTRACTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
relevant document, in any form, related to the intra-Community infringement;		Professionals have the obligation to submit with the controlling authorities (<i>i.e.</i> , to the representatives of NACP) originals of the contracts concluded with the consumers.
	Article 3 paragraph (1), letter i) of GD No. 700/2012	<p><u>Article 3, paragraph (1), letter i) of GD No. 700/2012:</u></p> <p>(1) - NACP has the following main duties:</p> <p>[...]</p> <p>i) controls the observance of the legal provisions regarding consumer protection, concerning the security of products and services, as well as the protection of the legitimate rights of the consumers, by carrying out market controls with the producers, the importers, the distributors, the sellers, the service providers, including financial services, and in customs units, having access to the places where products are manufactured, stored or traded or where the services are rendered, as well as to the related documents, excepting the hygienic-sanitary controls or the sanitary-veterinary controls with the manufacturers, in case of food products;</p> <p>[...]</p>
	Article 4 of GD No. 700/2012	<p><u>Article 4 of GD No. 700/2012:</u></p> <p>(1) - In view of exercising its duties, NACP works with ministries, other specialized bodies of the central and local public administration, as well as with non-governmental organisations.</p> <p>(2) - In order to fulfil its duties set forth under the law, NACP has access to necessary information from the National Office of Trade Registry, the National Customs Authority, the National Agency for Fiscal Administration, the General Inspectorate of the Border Police, under a Protocol signed with these institutions, as well as from the banking financial institutions, under the terms of the law.</p> <p>(3) - The institutions mentioned at paragraph (2) above shall provide the requested information and shall issue</p>

DIRECTIVE 93/13/EC ON UNFAIR TERMS IN CONSUMER CONTRACTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		certified copies of the documents deemed necessary to finalise the inspection, under the terms of the law.
	Article 85 paragraph (2) of Law No. 296/2004	<p><u>Article 85 paragraph (2) of Law no. 296/2004:</u> [...] (2) - The personnel empowered with control activities in the field of consumer protection (<i>thus including the personnel of NACP</i>) is authorized to make copies of the materials and documents related to the subject of the inspection and that are in the possession of the traders, and also to request references in relation thereto, but only where an infringement has already been assessed. [...]</p>
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 10 of Law No. 193/2000	<p><u>Article 10 of Law No. 193/2000:</u> Professionals have the obligation to submit with the controlling authorities (<i>i.e.</i>, to the representatives of NACP) originals of the contracts concluded with the consumers.</p>
	Article 4 of GD No. 700/2012	<p><u>Article 4 of GD No. 700/2012:</u> (1) - In view of exercising its duties, NACP works with ministries, other specialized bodies of the central and local public administration, as well as with non-governmental organisations. (2) - In order to fulfil its duties set forth under the law, NACP has access to necessary information from the National Office of Trade Registry, the National Customs Authority, the National Agency for Fiscal Administration, the General Inspectorate of the Border Police, under a Protocol signed with these institutions, as well as from the banking financial institutions, under the terms of the law. (3) - The institutions mentioned at paragraph (2) above shall provide the requested information and shall issue certified copies of the documents deemed necessary to finalise the inspection, under the terms of the law.</p>
(c) to carry out necessary on-	Article 9 of Law No. 193/2000	<p><u>Article 9 of Law No. 193/2000:</u></p>

DIRECTIVE 93/13/EC ON UNFAIR TERMS IN CONSUMER CONTRACTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
site inspections;		Controlling authorities (<i>i.e.</i> , the representatives of NACP) shall carry out investigations upon the request of an impaired person or ex officio.
	Article 3 paragraph (1), letter i) of GD No. 700/2012	<p><u>Article 3, paragraph (1), letter i) of GD No. 700/2012:</u></p> <p>(1) - NACP has the following main duties:</p> <p>[...]</p> <p>i) controls the observance of the legal provisions regarding consumer protection, concerning the security of products and services, as well as the protection of the legitimate rights of the consumers, by carrying out market controls with the producers, the importers, the distributors, the sellers, the service providers, including financial services, and in customs units, having access to the places where products are manufactured, stored or traded or where the services are rendered, as well as to the related documents, excepting the hygienic-sanitary controls or the sanitary-veterinary controls with the manufacturers, in case of food products;</p> <p>[...]</p>
	Article 85 paragraphs (1) and (2) of Law No. 296/2004	<p><u>Article 85 paragraphs (1) and (2) of Law no. 296/2004:</u></p> <p>(1) - All inspections and market surveillance actions shall be carried out by the personnel empowered by the central and territorial public authorities having duties in the field of consumer protection (this including the personnel of NACP), as per their specific competencies.</p> <p>(2) - The personnel empowered with control activities in the field of consumer protection (<i>thus including the personnel of NACP</i>) is authorized to make copies of the materials and documents related to the subject of the inspection and that are in the possession of the traders, and also to request references in relation thereto, but only where an infringement has already been assessed.</p>

DIRECTIVE 93/13/EC ON UNFAIR TERMS IN CONSUMER CONTRACTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		[...]
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	N/A	N/A
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	N/A	N/A
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article 12 paragraph (1) and Article 13 paragraph (1) of Law No. 193/2000	<p>Article 12 paragraph (1) of Law No. 193/2000:</p> <p>(1) - Where it is ascertained the use of pre-formulated standard contracts comprising unfair terms, the control bodies provided for in Article 8 (<i>i.e.</i>, the authorised representatives of the NACP, as well as the specialists of other bodies of the public administration) shall refer the matter to the court of the domicile or, where appropriate, of the main office of the undertaking, requesting to order the latter to alter all contracts in progress by removing the unfair terms.</p> <p>[...]</p> <p>Article 13 paragraph (1) of Law No. 193/2000:</p> <p>(1) - The court, in case it finds the existence of unfair terms in the contract, orders the undertaking to alter all the</p>

DIRECTIVE 93/13/EC ON UNFAIR TERMS IN CONSUMER CONTRACTS		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		pre-formulated standard contracts in progress, as well as to remove the unfair terms from the standard contracts intended to be used in his professional activity. [...]
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article 13 paragraphs (1) and (2) of Law No. 193/2000	Article 13 paragraphs (1) and (2) of Law No. 193/2000: (1) - The court, in case it finds the existence of unfair terms in the contract, orders the undertaking to alter all the pre-formulated standard contracts in progress, as well as to remove the unfair terms from the standard contracts intended to be used in his professional activity. (2) - In the case mentioned at paragraph (1) above, the court shall also apply the administrative fine ranging from RON 200 to RON 1,000, as per the provisions of Article 16. [...]
	Article 287 paragraph (1) of the Criminal Code	Article 287 paragraph (1) of the Criminal Code: Failure to comply with a court decision, by means of which a specific obligation was imposed, is deemed a criminal deed and may be sanctioned with imprisonment from 3 months to 2 years or with a fine. [...]

In Romania, the Directive 2011/83 /EC is implemented by GEO No. 34/2014. The general enforcement of the Romanian legislation on abusive clauses in contracts is handled by the NAPC and the National Regulatory Authority for Communications and Information Technology (“**NRACIT**”). Organization, powers and responsibilities of NRACIT are set forth under (i) the Government Emergency Ordinance No. 22/2009 on the setting-up of NRACIT, as published in the

Official Gazette of Romania, Part I No. 174 dated 19 March 2009, as subsequently amended and completed (“**GEO No. 22/2009**”), as well as under (ii) the Government Emergency Ordinance No. 111/2011 on electronic communications, as published in the Official Gazette of Romania, Part I No. 925 dated 27 December 2011, as subsequently amended and completed.

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6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 28 paragraph (4) of GEO No. 34/2014 Article 120 paragraphs (1) and (6) of GEO No. 111/2011	<u>Article 28 paragraph (4) of GEO No. 34/2014:</u> (1) - With a view to fulfil its duties provided hereunder, NRACIT may request information from the service providers, as per the provisions of Article 120 of GEO 111/2011. [...] <u>Article 120 paragraphs (1) and (6) of GEO No. 111/2011:</u> (1) - NRACIT has the right to request from the entities providing or that provided electronic communications networks or services, information (including of financial nature) that are deemed necessary in view of fulfilling the duties provided by the present Government Ordinance, by the specific legislation or by the consumer protection legislation, in case the competences to monitor and verify such obligations also lies with NRACIT. [...] (6) - The persons indicated at paragraph (1) have the obligation to provide the requested information, with the observance of the deadline and under the terms and conditions indicated by NRACIT, as the case may be.

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	Article 3 paragraph (1), letter i) of GD No. 700/2012	<p>Article 3, paragraph (1), letter i) of GD No. 700/2012:</p> <p>(1) - NACP has the following main duties:</p> <p>[...]</p> <p>i) controls the observance of the legal provisions regarding consumer protection, concerning the security of products and services, as well as the protection of the legitimate rights of the consumers, by carrying out market controls with the producers, the importers, the distributors, the sellers, the service providers, including financial services, and in customs units, having access to the places where products are manufactured, stored or traded or where the services are rendered, as well as to the related documents, excepting the hygienic-sanitary controls or the sanitary-veterinary controls with the manufacturers, in case of food products;</p> <p>[...]</p>
	Article 4 of GD No. 700/2012	<p>Article 4 of GD No. 700/2012:</p> <p>(1) - In view of exercising its duties, NACP works with ministries, other specialized bodies of the central and local public administration, as well as with non-governmental organisations.</p> <p>(2) - In order to fulfil its duties set forth under the law, NACP has access to necessary information from the National Office of Trade Registry, the National Customs Authority, the National Agency for Fiscal Administration, the General Inspectorate of the Border Police, under a Protocol signed with these institutions, as well as from the banking financial institutions, under the terms of the law;</p> <p>(3) - The institutions mentioned at paragraph (2) above shall provide the requested information and shall issue certified copies of the documents deemed necessary to finalise the inspection, under the terms of the law.</p>
	Article 85 paragraph (2) of Law No. 296/2004	<p>Article 85 paragraph (2) of Law no. 296/2004:</p> <p>[...]</p> <p>(2) - The personnel empowered with control activities in the field of consumer protection (<i>thus including the</i></p>

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		<i>personnel of NACP</i> is authorized to make copies of the materials and documents related to the subject of the inspection and that are in the possession of the traders, and also to request references in relation thereto, but only where an infringement has already been assessed.
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 28 paragraph (4) of GEO No. 34/2014 Article 120 paragraphs (1) and (6) of GEO No. 111/2011	<p><u>Article 28 paragraph (4) of GEO No. 34/2014:</u></p> <p>(1) - With a view to fulfil its duties provided hereunder, NRACIT may request information from the service providers, as per the provisions of Article 120 of GEO 111/2011.</p> <p>[...]</p> <p><u>Article 120 paragraphs (1) and (6) of GEO No. 111/2011:</u></p> <p>(1) - NRACIT has the right to request from the entities providing or that provided electronic communications networks or services, information (including of financial nature) that are deemed necessary in view of fulfilling the duties provided by the present Government Ordinance, by the specific legislation or by the consumer protection legislation, in case the competences to monitor and verify such obligations also lies with NRACIT.</p> <p>[...]</p> <p>(6) - The persons indicated at paragraph (1) have the obligation to provide the requested information, with the observance of the deadline and under the terms and conditions indicated by NRACIT, as the case may be.</p>
	Article 4 of GD No. 700/2012	<p><u>Article 4 of GD No. 700/2012:</u></p> <p>(1) - In view of exercising its duties, NACP works with ministries, other specialized bodies of the central and local public administration, as well as with non-governmental organisations.</p> <p>(2) - In order to fulfil its duties set forth under the law, NACP has access to necessary information from the National Office of Trade Registry, the National Customs Authority, the National Agency for Fiscal Administration, the General Inspectorate of the Border Police, under a Protocol signed with these institutions, as well as from the banking financial institutions, under the terms of the law;</p> <p>(3) - The institutions mentioned at paragraph (2) above shall provide the requested information and shall issue certified copies of the documents deemed necessary to finalise the inspection, under the terms of the law.</p>

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(c) to carry out necessary on-site inspections;	<p>Article 28 paragraph (3) of GEO No. 34/2014</p> <p>Article 137 and Article 138 of GEO No. 111/2011</p>	<p>Article 28 paragraph (3) of GEO No. 34/2014:</p> <p>[...]</p> <p>(3) – The provisions of Article 137, Article 138 and Article 141 paragraphs (1) and (2) letters b) and f), Article 144, Article 146, Article 147 letter a), Article 149 and Article 151 of GEO No. 111/2011, shall also be applied with respect to the administrative deeds assessed by NRACIT as a result of the breach of the provisions of the present Government Ordinance.</p> <p>[...]</p> <p><u>Article 137 of GEO No. 111/2011:</u></p> <p>(1) - The verification of the compliance with the provisions of this Emergency Ordinance, of the specific legislation in the electronic communications field and of the normative or individual acts issued by NRACIT in accordance with this Emergency Ordinance or the specific legislation in the electronic communications field, as well as the control of the compliance by the providers of electronic communications networks or services with their obligations deriving from the regulations of the European Union, where the competence of monitoring or verification of the compliance with these obligations by the national regulatory authority is established, shall lie with NRACIT, which acts through its specialized personnel empowered for this purpose, hereinafter referred to as control personnel.</p> <p>(2) - The control personnel and their attributions shall be established by decision of the NRACIT president.</p> <p><u>Article 138 of GEO No. 111/2011:</u></p> <p>(1) - The control personnel may undertake control actions, including unexpected ones, during which they may request, specifying the legal ground and the purpose therefore, any documents necessary to carry out the control, may take copies of any registers, financial-accounting and commercial documents or any other</p>

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		<p>documents, in accordance with the legal provisions in force.</p> <p>(2) - During the control actions, the control personnel may request and receive, immediately or in a specified timeframe, any information necessary to carry out the control and may set out timescales for the provision of this information subject to the sanction laid down in Article 151 paragraph (1) letter c), in accordance with the legal provisions in force.</p> <p>(3) - The result of the control actions shall be written down in a control statement, except for the cases provided for in Article 144.</p>
	Article 3 paragraph (1), letter i) of GD No. 700/2012	<p><u>Article 3, paragraph (1), letter i) of GD No. 700/2012:</u></p> <p>(1) - NACP has the following main duties:</p> <p>[...]</p> <p>i) controls the observance of the legal provisions regarding consumer protection, concerning the security of products and services, as well as the protection of the legitimate rights of the consumers, by carrying out market controls with the producers, the importers, the distributors, the sellers, the service providers, including financial services, and in customs units, having access to the places where products are manufactured, stored or traded or where the services are rendered, as well as to the related documents, excepting the hygienic-sanitary controls or the sanitary-veterinary controls with the manufacturers, in case of food products;</p> <p>[...]</p>
	Article 85 paragraphs (1) and (2) of Law No. 296/2004	<p><u>Article 85 paragraphs (1) and (2) of Law no. 296/2004:</u></p> <p>(1) - All inspections and market surveillance actions shall be carried out by the personnel empowered by the central and territorial public authorities having duties in the field of consumer protection (<i>thus including the personnel of NACP</i>), as per their specific competencies.</p>

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		(2) - The personnel empowered with control activities in the field of consumer protection (<i>thus including the personnel of NACP</i>) is authorized to make copies of the materials and documents related to the subject of the inspection and that are in the possession of the traders, and also to request references in relation thereto, but only where an infringement has already been assessed. [...]
(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 128 paragraph (3) of GEO No. 34/2014 Article 149 paragraph (1) of GEO No. 111/2011	Article 128 paragraph (3) of GEO No. 34/2014: [...] (3) – The provisions of Article 137, Article 138 and Article 141 paragraphs (1) and (2) letters b) and f), Article 144, Article 146, Article 147 letter a), Article 149 and Article 151 of GEO No. 111/2011, shall also be applied with respect to the administrative deeds assessed by NRACIT as a result of the breach of the provisions of the present Government Ordinance. [...] <u>Article 149 paragraph (1) of GEO No. 111/2011:</u> (1) - Where discovering an administrative deed, NRACIT may dispose: a) the cessation of the infringement either immediately or in a reasonable timeframe, as well as any other measures necessary to ensure the cessation of the infringement and the remediation of the occurred situation. The measures shall be proper and proportionate to the committed breach and shall provide a term within which the provider must comply with them; b) the suspension or postponement of the provision of a service or of a package of services, if the provision would significantly prejudice competition, until the cessation of the infringement of the access or interconnection obligations imposed pursuant to the provisions of Chapter VII.

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(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 141 paragraph (1) of GEO No. 111/2011 Article 146 of GEO No. 111/2011	Article 141 paragraph (1) of GEO No. 111/2011: (1) - Where discovering the non-compliance by a provider of electronic communications networks or services with an obligation laid down herein or in the special legislation in the electronic communications field, in the normative or individual acts issued by NRACIT pursuant to the provisions of this Emergency Ordinance or to the special legislation in the electronic communications field or with an obligation deriving from the regulations of the European Union, when the competence of monitoring and verification of this obligation belongs to the national regulatory authority, before applying the sanction, NRACIT shall notify the provider in question on the assessed infringement and applicable sanction, giving that provider a time period to submit a point of view. [...] <u>Article 146 of GEO No. 111/2011:</u> NRACIT may decide to enforce the administrative sanction under Article 143 paragraph (1) notwithstanding that the assessed breach has been rectified, with the observance of the period of time granted to the provider pursuant to Article 141 paragraph (1).
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article 28 paragraph (3) of GEO No. 34/2014 Article 149 of GEO No. 111/2011	Article 28 paragraph (3) of GEO No. 34/2014: [...] (3) – The provisions of Article 137, Article 138 and Article 141 paragraphs (1) and (2) letters b) and f), Article 144, Article 146, Article 147 letter a), Article 149 and Article 151 of GEO No. 111/2011, shall also be applied with respect to the administrative deeds assessed by NRACIT as a result of the breach of the provisions of the present Government Ordinance. [...]

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		<p>Article 149 of GEO No. 111/2011:</p> <p>(1) - Where discovering a contravention in accordance with Articles 144 or 145, NRACIT may dispose:</p> <p>a) the cessation of the infringement either immediately or in a reasonable timeframe, as well as any other measures necessary to ensure the cessation of the infringement and the remediation of the occurred situation. The measures shall be proper and proportionate to the committed breach and shall provide a term within which the provider must comply with them;</p> <p>b) the suspension or postponement of the provision of a service or of a package of services, if the provision would significantly prejudice competition, until the cessation of the infringement of the access or interconnection obligations imposed pursuant to the provisions of Chapter VII.</p> <p>(2) - Where the providers' non-compliance with the obligations laid down in Article 141 paragraph (1) may create serious problems of economic or operational nature to other providers of electronic communications networks or services or to the users, NRACIT may take urgent provisional measures to remedy the situation.</p> <p>(3) - Where the providers' non-compliance with the obligations laid down in Article 141 paragraph (1) presents a serious and imminent danger to national defense, public order, national safety or public health, NRACIT shall notify and, if necessary, shall cooperate with the judicial bodies, as well as with the competent institutions in the field of national defense and safety, public order or public health, to ensure the observance of the legal provisions. NRACIT may take urgent, proportionate and provisional measures to remedy the situation, with the consultation or at the reasoned request of these institutions, as the case may be.</p> <p>(4) - When deeming necessary, NRACIT may maintain the measures decided according to paragraphs (2) and (3) for a period of maximum 90 days. Where their enforcement requires a longer period of time, NRACIT may decide to extend the applicability for an additional maximum period of 90 days. The provider in question shall be granted the possibility to present its opinion and propose solutions for the definitive remediation of the situation created.</p>

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		(5) - The measures referred to in paragraphs (2) and (3) shall be established by decision of the NRACIT president.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article 28 paragraph (3) of GEO No. 34/2014 Article 151 of GEO No. 111/2011	<p>Article 28 paragraph (3) of GEO No. 34/2014:</p> <p>[...]</p> <p>(3) – The provisions of Article 137, Article 138 and Article 141 paragraphs (1) and (2) letters b) and f), Article 144, Article 146, Article 147 letter a), Article 149 and Article 151 of GEO No. 111/2011, shall also be applied with respect to the administrative deeds assessed by NRACIT as a result of the breach of the provisions of the present Government Ordinance.</p> <p>[...]</p> <p>Article 151 of GEO No. 111/2011:</p> <p>(1) - NRACIT may enforce administrative fines amounting to RON 30,000 for each day of delay, establishing also the date from when these are calculated, to determine:</p> <p>a) the correct and complete provision of the information requested by NRACIT pursuant to the provisions herein or under the special legislation in the electronic communications field, as well as of the information established in the normative or individual acts issued by NRACIT in accordance with the provisions herein or under the special legislation in the electronic communications field;</p> <p>b) the level of public awareness under the terms of Article 47 paragraph (2), the submission to the security audit referred to in Article 49 paragraph (1) letter b) or the transmission of the results of the audit mentioned in Article 49 paragraph (1) letter b);</p> <p>c) the submission to the control provided for in Articles 137 and 138;</p> <p>d) the compliance with the transparency obligation laid down in Article 106;</p> <p>e) the compliance with the measures set out in accordance with Article 73 paragraphs (3) and (4), Articles 116,</p>

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		<p>117, 139 and 149.</p> <p>(2) - The decision of the NRACIT president enforcing the sanctions referred to in paragraph (1) shall have executory title, without any other formality.</p> <p>(3) - The amounts resulted from the administrative fines set out in paragraph (1) shall be integrally deemed own revenues, with a permanent title, at the NRACIT disposal, and shall be used in accordance with the provisions of the income and expenditure budget approved according to the law.</p>

In Romania, the Directive 2006/114/EC is implemented by Law No. 158/2008. The general enforcement of the Romanian legislation on abusive clauses in contracts is handled by the NAPC.

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6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 9 of Law No. 158/2008	<p>Article 9 of Law No. 158/2008:</p> <p>(1) – Upon the intimation of the traders or of the consumers, of the associations and of the organisations that may justify a legitimate interest or ex officio, the Ministry of Finance or NACP, as the case, shall request the trader that benefits from advertising to provide all elements of proof necessary to determine the accuracy of its statements, indications or presentations, as such are laid out within the content of the marketing material.</p> <p>(2) – The representatives of the Ministry of Finance or of NACP, as the case, shall request the traders that benefit from advertising to provide the elements of proof mentioned in paragraphs (1) and (3), taking into account the legitimate interest of these traders, as well as the legitimate interests of the traders or of the injured consumers, as the case.</p> <p>(3) - The trader that benefits from advertising has the obligation to submit with the representatives of the Ministry of Finance or, as the case, with the representatives of the NACP, on the dates and under the format imposed by the latter, all documents, data and information required to prove the accuracy of the statements indicated within</p>

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		<p>the marketing materials.</p> <p>(4) – In case of comparative advertising, the trader who benefits from advertising has the obligation to timely submit with the representatives of the Ministry of Finance or, as the case, with the representatives of NACP, the proves, documents, data and information detailed in the present Article.</p> <p>(5) – In case the requested elements of proof are not submitted by the trader or the submitting of such is completed after the expiry of the term established by the Ministry of Finance or, as the case may be, by NACP, or if such elements of proof are assessed as incomplete or insufficient, the statements made in the advertising material shall be referred to as inaccurate.</p>
	Article 3 paragraph (1), letter i) of GD No. 700/2012	<p><u>Article 3, paragraph (1), letter i) of GD No. 700/2012:</u></p> <p>(1) - NACP has the following main duties:</p> <p>[...]</p> <p>i) controls the observance of the legal provisions regarding consumer protection, concerning the security of products and services, as well as the protection of the legitimate rights of the consumers, by carrying out market controls with the producers, the importers, the distributors, the sellers, the service providers, including financial services, and in customs units, having access to the places where products are manufactured, stored or traded or where the services are rendered, as well as to the related documents, excepting the hygienic-sanitary controls or the sanitary-veterinary controls with the manufacturers, in case of food products;</p> <p>[...]</p>
	Article 4 of GD No. 700/2012	<p><u>Article 4 of GD No. 700/2012:</u></p> <p>(1) - In view of exercising its duties, NACP works with ministries, other specialized bodies of the central and local</p>

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		<p>public administration, as well as with non-governmental organisations.</p> <p>(2) - In order to fulfil its duties set forth under the law, NACP has access to necessary information from the National Office of Trade Registry, the National Customs Authority, the National Agency for Fiscal Administration, the General Inspectorate of the Border Police, under a Protocol signed with these institutions, as well as from the banking financial institutions, under the terms of the law;</p> <p>(3) - The institutions mentioned at paragraph (2) above shall provide the requested information and shall issue certified copies of the documents deemed necessary to finalise the inspection, under the terms of the law.</p>
	Article 85 paragraph (2) of Law No. 296/2004	<p>Article 85 paragraph (2) of Law no. 296/2004:</p> <p>[...]</p> <p>(2) - The personnel empowered with control activities in the field of consumer protection (<i>thus including the personnel of NACP</i>) is authorized to make copies of the materials and documents related to the subject of the inspection and that are in the possession of the traders, and also to request references in relation thereto, but only where an infringement has already been assessed.</p> <p>[...]</p>
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 9 of Law No. 158/2008	<p>Article 9 of Law No. 158/2008:</p> <p>(1) – Upon the intimation of the traders or of the consumers, of the associations and of the organisations that may justify a legitimate interest or ex officio, the Ministry of Finance or NACP, as the case, shall request the trader that benefits from advertising to provide all elements of proof necessary to determine the accuracy of its statements, indications or presentations, as such are laid out within the content of the marketing material.</p> <p>(2) – The representatives of the Ministry of Finance or of NACP, as the case, shall request the traders that benefit from advertising to provide the elements of proof mentioned in paragraphs (1) and (3), taking into</p>

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		<p>account the legitimate interest of these traders, as well as the legitimate interests of the traders or of the injured consumers, as the case.</p> <p>(3) - The trader that benefits from advertising has the obligation to submit with the representatives of the Ministry of Finance or, as the case, with the representatives of the NACP, on the dates and under the format imposed by the latter, all documents, data and information required to prove the accuracy of the statements indicated within the marketing materials.</p> <p>(4) – In case of comparative advertising, the trader who benefits from advertising has the obligation to timely submit with the representatives of the Ministry of Finance or, as the case, with the representatives of NACP, the proves, documents, data and information detailed in the present Article.</p> <p>(5) – In case the requested elements of proof are not submitted by the trader or the submitting of such is completed after the expiry of the term established by the Ministry of Finance or, as the case may be, by NACP, or if such elements of proof are assessed as incomplete or insufficient, the statements made in the advertising material shall be referred to as inaccurate.</p>
	Article 4 of GD No. 700/2012	<p><u>Article 4 of GD No. 700/2012:</u></p> <p>(1) - In view of exercising its duties, NACP works with ministries, other specialized bodies of the central and local public administration, as well as with non-governmental organisations.</p> <p>(2) - In order to fulfil its duties set forth under the law, NACP has access to necessary information from the National Office of Trade Registry, the National Customs Authority, the National Agency for Fiscal Administration, the General Inspectorate of the Border Police, under a Protocol signed with these institutions, as well as from the banking financial institutions, under the terms of the law;</p> <p>(3) - The institutions mentioned at paragraph (2) above shall provide the requested information and shall issue certified copies of the documents deemed necessary to finalise the inspection, under the terms of the law.</p>
(c) to carry out necessary on-	Article 3 paragraph (1), letter i) of GD No.	<u>Article 3, paragraph (1), letter i) of GD No. 700/2012:</u>

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site inspections;	700/2012	(1) - NACP has the following main duties: [...] i) controls the observance of the legal provisions regarding consumer protection, concerning the security of products and services, as well as the protection of the legitimate rights of the consumers, by carrying out market controls with the producers, the importers, the distributors, the sellers, the service providers, including financial services, and in customs units, having access to the places where products are manufactured, stored or traded or where the services are rendered, as well as to the related documents, excepting the hygienic-sanitary controls or the sanitary-veterinary controls with the manufacturers, in case of food products; [...]
	Article 85 paragraphs (1) and (2) of Law No. 296/2004	Article 85 paragraphs (1) and (2) of Law no. 296/2004: (1) - All inspections and market surveillance actions shall be carried out by the personnel empowered by the central and territorial public authorities having duties in the field of consumer protection (this including the personnel of NACP), as per their specific competencies. (2) - The personnel empowered with control activities in the field of consumer protection (<i>thus including the personnel of NACP</i>) is authorized to make copies of the materials and documents related to the subject of the inspection and that are in the possession of the traders, and also to request references in relation thereto, but only where an infringement has already been assessed. [...]
(d) to request in writing that the seller or supplier	Article 11 of Law No. 158/2008	Article 11 of Law No. 158/2008: (1) – In case it is assessed that the trader who benefits from advertising has breached the provisions of Articles

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concerned cease the intra-Community infringement;		4 and 6, taking into account all interests at stake and, particularly, the public interest, the Ministry of Finance or, as the case may be, the NACP may dispose, simultaneously with the administrative sanctions stipulated under Article 10 paragraph (1) , the following complementary measures: a) the cessation of the misleading advertising or of the illegal comparative advertising; b) the prohibition of misleading advertising or of the comparative advertising that is in breach with the provisions of the present law, in case such was not disseminated to public, but such dissemination is imminent. (2) – The measures indicated in paragraph (1) become applicable without being necessary to prove a real damage, the intention or the negligence of the traders who benefits from advertising. (3) – The measures mentioned in paragraph (1) shall be disposed by means of an urgent procedure, in the sense that such will be implemented by the trader in breach within 5 days as of the date when the ascertaining minutes providing the measures disposed is communicated to the respective trader.
	Article 13 paragraph (1) of Law No. 363/2007	<u>Article 13 paragraph (1) of Law No. 363/2007:</u> (1) - To the extent deemed necessary, taking into account all the interests involved and in particular, the public interest, the competent courts of law or the NACP shall order, under an emergency procedure, even in absence of evidence of a loss or of an actual damage, as well as of the intention or the negligence of the trader, one of the following measures: a) cessation or establishing the appropriate legal procedures for terminating the unfair commercial practices; b) prohibiting or establishing the appropriate legal procedures for the cessation of the unfair commercial practices, even if such have not been yet implemented, but this is imminent; c) the submission with the National Audiovisual Council, within 5 working days from receiving the request, of the identification data of the natural persons or of the legal entities involved in making the audiovisual advertising, considered to be an unfair commercial practice, as well as a copy of the broadcasted advertising material.

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		[...]
	Article 3 paragraph (1) letter hh) of GD No. 700/2012	<p><u>Article 3 paragraph (1) letter hh) of GD No. 700/2012:</u></p> <p>(1) - NACP has the following main duties:</p> <p>[...]</p> <p>hh) orders the appropriate legal proceedings for the cessation of the unfair commercial practices;</p> <p>[...]</p>
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 12 and Article 13 paragraphs (2) and (3) of Law No. 363/2007	<p><u>Article 12 of Law No. 363/2007:</u></p> <p>(1) - NACP may impose measures under the present law, by order issued by the head of the NACP or by decision issued by heads of the units with legal personality subordinated to NACP.</p> <p>(2) - The order or decisions issued as per paragraph (1) above shall be motivated.</p> <p>(3) - The order or decision issued as per paragraph (1) may be challenged in front of the administrative courts of law, in accordance with the Law No. 554/2004 on administrative litigations, as subsequently amended and completed.</p> <p>(4) - Challenging an order or the decisions in front of the administrative courts of law shall not conduct to the suspension by law of the enforcement of the measures imposed.</p> <p><u>Article 13 paragraphs (2) and (3) of Law No. 363/2007:</u></p> <p>[...]</p> <p>(2) - Where, with a view to eliminate the effects of the unfair commercial practices, the cessation or prohibition thereof has been ordered, and the court judgment ordering the measure became final or the order or decision issued has not been challenged as per Article 12 paragraph (3), the court which issued the final judgment or NACP may dispose:</p> <p>a) publication of the respective court judgment or of the decision, in full or in part, in the form they deem</p>

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		<p>adequate;</p> <p>b) the publication of a corrective statement. The corrective statement must indicate the trader's registered office and its other identification details, the unfair practice committed, the date on which that practice was committed and the measures ordered.</p> <p>(3) - The information that the publication of which has been required pursuant to paragraph (2) shall be published, in all cases, in a widely circulated newspaper, at the trader's expense.</p> <p>[...]</p>
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article 11, Article 12 and Article 14 of Law No. 158/2008	<p><u>Article 11 of Law No. 158/2008:</u></p> <p>(1) – In case it is assessed that the trader who benefits from advertising has breached the provisions of Articles 4 and 6, taking into account all interests at stake and, particularly, the public interest, the Ministry of Finance or, as the case may be, the NACP may dispose, simultaneously with the administrative sanctions stipulated under Article 10 paragraph (1) , the following complementary measures:</p> <p>a) the cessation of the misleading advertising or of the illegal comparative advertising;</p> <p>b) the prohibition of misleading advertising or of the comparative advertising that is in breach with the provisions of the present law, in case such was not disseminated to public, but such dissemination is imminent.</p> <p>(2) – The measures indicated in paragraph (1) become applicable without being necessary to prove a real damage, the intention or the negligence of the traders who benefits from advertising.</p> <p>(3) – The measures mentioned in paragraph (1) shall be disposed by means of an urgent procedure, in the sense that such will be implemented by the trader in breach within 5 days as of the date when the ascertaining minutes providing the measures disposed is communicated to the respective trader.</p> <p><u>Article 12 of Law No. 158/2008:</u></p> <p>(1) – In view of eliminating the long-term effects of the misleading advertising or of the illegal comparative</p>

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		<p>advertising, the cessation or prohibition of which was disposed by means of ascertaining minutes, which was not challenged in court, or by means of a final judgement of a court of law, the Ministry of Finance or, as the case may be, NACP may request the respective trader:</p> <p>a) to publish the ascertaining minutes or the judgement of the court of law, in full or in part;</p> <p>b) to publish a corrective statement, that must indicate the identification details of the trader in breach, the administrative deed, the date when the administrative deed was committed, as well as the measures ordered.</p> <p>(2) – In all cases, the publication shall be done on the expense of the trader in breach, both by means of a widely circulated newspaper, as well as by means of a communication tool used for disseminating the prohibited advertising material, within 5 days as of communication.</p> <p><u>Article 14 of Law No. 158/2008:</u></p> <p>(1) - In case the Ministry of Finance or, as the case, NACP dispose, as per the provisions of Article 11 paragraph (1) letter a), the cessation of the misleading advertising or of the illegal comparative advertising, the measure shall be immediately communicated to the National Audiovisual Council.</p> <p>(2) - As per its competencies, the National Audiovisual Council shall verify if the respective misleading advertising or the illegal comparative advertising is disseminated by means of audiovisual services, as part of a commercial audiovisual communication.</p> <p>(3) – In the situation described at paragraph (2) above, the National Audiovisual Council shall dispose, by decision, as per its competencies, the cessation from broadcasting of the respective commercial audiovisual communication, shall monitor the application of the decisions and, in case of non-observance, it shall apply the sanctions provided under the Law No. 504/2002, as subsequently amended and completed.</p> <p>(4) - If the National Audiovisual Council appreciates that a commercial audiovisual communication contains the elements required for a misleading advertising or for an illegal comparative advertising, it shall notify the Ministry</p>

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		of Finance or, as the case may vne, NACP.
	Article 12 and Article 13 paragraphs (2) and (3) of Law No. 363/2007	<p>Article 12 of Law No. 363/2007:</p> <p>(1) - NACP may impose measures under the present law, by order issued by the head of the NACP or by decision issued by heads of the units with legal personality subordinated to NACP.</p> <p>(2) - The order or decisions issued as per paragraph (1) above shall be motivated.</p> <p>(3) - The order or decision issued as per paragraph (1) may be challenged in front of the administrative courts of law, in accordance with the Law No. 554/2004 on administrative litigations, as subsequently amended and completed.</p> <p>(4) - Challenging an order or the decisions in front of the administrative courts of law shall not conduct to the suspension by law of the enforcement of the measures imposed.</p> <p>Article 13 paragraphs (2) and (3) of Law No. 363/2007:</p> <p>[...]</p> <p>(2) - Where, with a view to eliminate the effects of the unfair commercial practices, the cessation or prohibition thereof has been ordered, and the court judgment ordering the measure became final or the order or decision issued has not been challenged as per Article 12 paragraph (3), the court which issued the final judgment or NACP may dispose:</p> <p>a) publication of the respective court judgment or of the decision, in full or in part, in the form they deem adequate;</p> <p>b) the publication of a corrective statement. The corrective statement must indicate the trader's registered office and its other identification details, the unfair practice committed, the date on which that practice was committed and the measures ordered.</p>

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		(3) - The information that the publication of which has been required pursuant to paragraph (2) shall be published, in all cases, in a widely circulated newspaper, at the trader's expense. [...]
	Article 3 paragraph (1) letter hh) of GD No. 700/2012	Article 3 paragraph (1) letter hh) of GD No. 700/2012: (1) - NACP has the following main duties: [...] hh) orders the appropriate legal proceedings for the cessation of the unfair commercial practices; [...]
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Article 10 of Law No. 158/2008	Article 10 of Law no. 158/2008: (1) - Failure of traders to comply with the legal provisions regarding the misleading and comparative advertising shall be deemed an administrative deed and shall be sanctioned with a fine ranging from RON 3,000 to RON 30,000. (2) - The administrative deeds shall be ascertained and the sanctions shall be applied by the representatives of Ministry of Public Finance or of the NACP.
	Article 15 paragraph (2) of Law No. 363/2007	Article 15 paragraph (2) of Law No. 363/2007: [...] (2) - Failure to comply with the measures ordered by the order or decision referred to in Article 12 paragraph (1) is sanctioned with fine ranging from RON 50,000 to RON 100,000. [...]

MEMBER STATE: SLOVENIA

LEGAL FRAMEWORK

The Consumer Protection Act (CPA) (Official Gazette of RS, No. 98/2004, 126/2007, 86/2009, 78/2011, 38/2014) was adopted in 1998 and implements a large number of Directives covered by the CPC Regulation, namely Directive 93/13 (unfair terms and conditions in contracts between consumers and enterprises), Directive 97/7 (protecting consumers in respect of distance contracts). As for the Directive 2006/114/EC on comparative advertising, the Consumer Protection Act only makes reference to the repealed Directive 84/450/EEC.

The CPA, describing the Market Inspectorate of Slovenia as a surveillance authority for market activities, was adopted in 1998 and has been subsequently amended. Each amendment of the aforementioned act, usually a consequence of harmonisation procedures of national legislation with EU legislation, has only increased the scope of responsibilities delegated to the Market Inspectorate. Thus the adoption of the Consumer Credit Act in 2002 delegated to the Market Inspectorate an entirely new area of surveillance, i. e. protection of consumer rights in relation to creditors (other than banks). The Market Inspectorate is the control body within the Ministry of Economic Development and Technology and it is one of the competent authorities in the Republic of Slovenia and is responsible for overseeing the majority of the regulations (12) listed in Annex 1 to the Regulation.

The Post and Electronic Communications Agency is an independent body that regulates and oversees the electronic communications market and is in charge of overseeing the implementation of Directive 2000/31/EC on electronic commerce. Directive 2000/31/EC has been implemented through the general provisions of the Consumer Protection Law (ZVPot-UPB2) - examined below - and with with *Zakon o elektronskem poslovanju na trgu (ZEPT)* the Electronic Commerce Law.

Inspections are carried out according to the Slovene Inspection Act which is applicable to all the public bodies carrying out inspections activities.

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6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;	Article 19, p, 2007 Inspection Act	Article 19 In conducting an inspection relating to a natural or legal person, the inspector shall have the right to: (...) <ul style="list-style-type: none"> - inspect books of account, contracts, papers and other documents as well as business operations and documentation, kept and stored in electronic format, and request their written copy to verify the electronic form; - question parties and witnesses in the administrative procedure; - examine papers disclosing the identity of persons; - obtain, free of charge, and use personal and other data from official records and other databases, which are necessary for conducting inspection; - take samples of goods free of charge and examine the samples taken;

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		<ul style="list-style-type: none"> -take samples of materials and equipment free of charge for the purposes of examination; -take photographs of persons, premises, buildings, installations, fittings and other objects referred to in the first indent, or record them on any other visual medium for data storage; -copy papers, audio-visual records and other documents; -seize objects, documents and samples to secure evidence;
(b) to require the supply by any person of relevant information related to the intra-Community infringement;	Article 19, paragraph 2, 2007 Inspection Act	<p>Article 19, paragraph 2</p> <p>Legal and natural persons who are not subject to an inspection procedure and have at their disposal any alleged evidence or other information required for conducting the inspection, including personal data, shall, at the request of an inspector, provide such evidence and information, including personal data, or enable the questioning of witnesses in order that such evidence or information, including personal data, be obtained not later than three days following the receipt of the request.</p> <p>In performing inspection duties, an inspector may, for no more than 15 days, seize the documentation required to establish the actual state of affairs in a case if he or she believes there are reasonable grounds to suspect violations of laws or other regulations, provided this does not impede the activities of a natural or legal person. The inspector shall issue a receipt for the documents seized. The inspector shall not seize state authorities' documents classified as confidential.</p>
(c) to carry out necessary on-	Part IX, <i>Inspection and Administrative</i>	Article 70 of ZVPot-UPB2:

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site inspections;	<p><i>Measures, art. 70 on Consumer Protection Law (ZVPot-UPB2)</i></p> <p>Article 19 Inspection Act</p> <p>Article 20 Inspection Act</p>	<p>Trade Inspectorate and other relevant Inspection Authorities, in accordance with their respective responsibilities, supervise the implementation of this Act and impose the measures in accordance with the law.</p> <p>Article 19 inspect premises, buildings, installations, facilities, means of work, fittings, objects, goods, substances, books of account, contracts, papers and other documents as well as the business operations and documents of state authorities, companies, institutions, other organisations and communities and private persons; – enter the property and land of natural and legal persons;</p> <p>Article 20 (Entry into premises and buildings and access to the facilities of the person liable) Unless otherwise provided by law, an inspector shall have the right to enter the premises, buildings, land and access equipment and facilities referred to in the preceding Article without prior notification and without the permission of the person liable or the responsible person acting on behalf of the person liable and regardless of working hours. The person liable may deny an inspector an entry into the residential premises if the inspector does not have a decision of the competent court. If the person liable unjustifiably denies an inspector an entry into the premises or buildings where the activity is performed, the inspector shall have the right to enter the premises against the will of the person liable with the assistance of the police. Any costs and damage arising from the entry shall be borne by the person liable.</p>

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(d) to request in writing that the seller or supplier concerned cease the intra-Community infringement;	Article 33 of Inspection Act	Article 33 Should an inspector, in the course of an inspection, identify any irregularities and, given the significance of the offence, consider that a warning is a sufficient measure, the inspector shall orally point out irregularities and their consequences and set the time limit for their elimination. In the official record, the inspector shall set out the observations, the pronounced warning and the time limit for the elimination of irregularities. If irregularities are not eliminated within the determined time limit, the inspector shall impose other measures in accordance with the law.
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Article 137 of the General Administrative Procedure Act 2011	1. Article 137 (1) If two or more than two parties with opposing claims participate in a proceeding the agency which conducts the proceeding must try all the time during the proceeding to achieve a settlement between the parties, either in entirety or at least concerning single disputed points. (2) A settlement must always be clear and definite and must not harm public benefits, public morals or the legal benefits of others. The agency which conducts the

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		proceeding must pay attention to this by virtue of its office. If it is established that a settlement could harm public benefits, public morals or the legal benefits of others, the agency who conducts the proceeding shall not agree on the settlement and may issue on this a special order. (3) A settlement shall be entered into the record. The settlement shall be achieved when the parties read the record on the settlement and sign it. The parties shall be given an authenticated copy of the record at their request. (4) Settlement shall have the force of an executable decision reached in administrative procedure. (5) The agency before which a settlement was achieved shall issue an order by which it, if needed, entirely or partially discontinue the proceeding. (6) If an order on the discontinuation or continuation of a proceeding is not in conformity with the achieved settlement, a special appeal shall be allowed against this order. (7) If a settlement is included in a decision, an appeal shall not be allowed against that part of the decision relating to the settlement.
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Article 12(2) Law against Unfair Commercial Practices	Article 12 (2) If the trade inspectorate or other competent inspection body establishes that the company used unfair business practices or is about to use it, the company issue a decision prohibiting the use of such practice, if it judges that might cause harm to consumers irrespective of the form of guilt of the company.

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	Article 34 of 2007 Inspection Act	<p>Article 34</p> <p>If the person liable fails to eliminate identified irregularities and deficiencies within the time limit set in an inspector's decision, the inspector may, if necessary, and until elimination of irregularities or until necessary, issue a decision prohibiting performance of an activity, seizing the objects and documents, or ordering sealing of machines, means, objects or equipment, used for violations or arising from violations.</p> <p>The inspector shall prohibit the performance of an activity or seize the objects and documents used by the person liable and intended for violations, or which arise from violations, without first setting a time limit for eliminating irregularities if this is necessary to avert an immediate danger to human life or health or animal health or an immediate danger of causing damage to the natural and living environment or to property.</p> <p>The inspector may, by means of a decision, also seize objects and documents used by the person liable and intended for violations or arising from violations if it is established that the person liable has again committed the violation despite the decision issued.</p> <p>Article 36</p> <p>If the inspector deems it necessary for the protection of rights of other persons, the inspector may publish or, with a decision, order the publication of this decision or its summary for a definite time in a visible place on the business premises of the person liable, at the entrance to these business premises, in public media or in any other appropriate way. The publication costs shall be borne by the person liable.</p> <p>An appeal may be lodged against the decision from the previous paragraph within fifteen days of its being</p>

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	Article 36 of 2007 Inspection Act Part IX, <i>Inspection and Administrative Measures</i> , Article 71 of <i>Consumer Protection (ZVPot-UPB2)</i> , paragraphs (1), (2), (3)	served. Any appeal against the decision does not stay its execution. Article 71 of ZVPot-UPB2: <ol style="list-style-type: none"> 1. If an enterprise unjustifiably rejects the consumer's request to replace defective goods with new goods or the amount paid for the goods or to remedy to the defect, the competent Trade Inspectorate or other competent Inspection Authority on the consumer may issue a decision, which order the company to grant the request of replacing; 2. Decisions referred to in the previous paragraph shall be issued by the competent Authority only if the parties did not dispute the existence of a defect or if the consumer submitted an evaluation, or if there is another way clearly demonstrated; 3. The provisions of the preceding paragraphs shall apply mutatis mutandis to the provision of services. Art. 72 of ZVPot-UPB2: If the Trade Inspectorate or other Competent Inspection Authority establishes that: <ul style="list-style-type: none"> • The price of goods or services are not marked or not marked visually (72)

(72) Part V, *Terms of Contracts*, Art. 26, point 1: "The Company shall clearly indicates the price, in respect of goods or services offered, including the value added tax if that the company is liable for it."

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	Part IX, Art 72, <i>Inspection and Administrative Measures</i> on Consumer Protection Law (ZVPot-UPB2)	<ul style="list-style-type: none"> • The price of goods or services are not marked in SIT (73) • The highest percentage reductions in the price of goods on sale is placed in a range which doesn't include at least one quarter of the value of goods on sale (74) • Defective goods are not physically separated from the regular sale of goods without defects or the company is not prominent in warning the sale of defective goods or each piece of defective goods is not specifically designated (75) • Prescribed expiry date of a product is not visibly and legibly marked (76) • The company has offered for sale or it hasn't blocked the sale of goods that, because of their characteristics, are not suitable for ordinary use, or for the purposes for which these characteristics are useful (77) • Goods which, for their proper application require a specific procedure, or goods that could cause with an improper use harm to the consumers or other people, or (goods) which could pollute the

(73) Part V, *Terms of Contracts*, Art. 26, point 2: "The prices of goods or services must be indicated in SIT."

(74) Part VI, *Sales of Goods and Services*, Art.28, point 3: "If among the percentage of reductions announced in the range, the highest percentage reduction covers at least one-quarter of the value of all goods on sale."

(75) Part VI, *Sales of Goods and Services*, Art. 30: "The Company, which sells defective goods physically separated from the regular sale of goods without defects and gives a visual indication of a sale of defective goods, and each piece of such goods specially marked."

(76) Part VI, *Sales of Goods and Services*, Art. 31, point 2: "Where goods are prescribed expire date, that period should be visibly and legibly marked."

(77) Part VI, *Sales of Goods and Services*, Art. 31, point 3

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	<p>Part X, <i>PREMOŽENJSKOPRAVNO PROTECTION</i>, Art. 74, paragraphs (1) and (2), <i>Consumer Protection Law (ZVPot-UPB2)</i></p> <p>Part IX, <i>Inspection and Administrative Measures</i>, Art 73 of <i>Consumer Protection Law (ZVPot-UPB2)</i></p>	<p>environment and that don't have a package leaflet in accordance with article 33 of this Law (78)</p> <ul style="list-style-type: none"> The company in respect of goods destined for sale to consumers in retail stores, sale of goods, concluded distance contracts without a registered name, a certificate, a declaration of conformity, a warranty card, technical instructions, a list of authorized service agents and other accompanying documents. <p>It shall issue a decision prohibiting the sale of such goods or services to address deficiencies.</p> <p><u>Art 74bis of ZVPot-UPB2:</u> In the dispute, because of misleading or comparative advertising under Article n74 of this Act, the Court, on request of the applicant under the provisions of the Law regulating insurance issues, an interim decision ordering the cessation of misleading advertising or unlawful comparative advertising or to prohibit the publication of misleading or comparative advertisement, if not yet published, but just before the public announcement.</p> <p><u>Art. 73 of ZVPot-UPB2:</u> If the Trade Inspectorate or other competent inspection Authority establishes that:</p> <ol style="list-style-type: none"> Company advertises goods or services in a manner that is contrary to Articles 12, 12A and 12B of this Act;

(78) Part VI, *Sales of Goods and Services*, Art. 33: "(point 1) Goods which, for their proper application require a specific procedure or goods that could cause with an improper use harm to the consumers or other people or (goods) which could pollute the environment and that don't have package leaflet in accordance with article 33 of this Law; (point 2) The contents of the instructions for use must be easily understandable for the consumer and it must allow the proper use of the product. Where goods stand for sale in the territory of the Republic of Slovenia, should be used Slovenian language; (point 3) User is also obliged to include a company selling goods to consumers."

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		2. Undertaking comparative advertising of goods or services is contrary to the provisions of this Act (Art 12 quater) 3. The advertisement shall contain ingredients that cause or could cause physical, mental or other harm to children, or components that are exploited or could exploit their trusting nature or inexperience (Art 15) It can issue a temporary decision to prohibit such advertising of goods or services or to prohibit the publication of such advertisements if this had not yet been published, but just before the public announcement.
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Part XI, <i>Penalty Provisions</i> , Art. 77, Paragraphs (1) and (2) of <i>Consumer Protection Law (ZVPot-UPB2)</i> Part XI, <i>Penalty Provisions</i> , Art. 78, Paragraphs (1) and (2) of <i>Consumer Protection Law (ZVPot-UPB2)</i>	<u>Art.77 of ZVPot-UPB2:</u> 1. A single producer shall be punished with a fine of SIT 1,000,000 to 5,000,000 and a legal person to a fine of SIT 3,000,000 to 10,000,000 SIT if: [...] 2. A fine of 300,000 to 1,000,000 SIT shall be imposed on the responsible person of the legal entity or the responsible person of an entrepreneur who commits an offense referred to the previous paragraph. <u>Art.78 of ZVPot-UPB2:</u> 1. A single owner shall be liable with a fine of SIT 200,000 to be recovered immediately on the spot, the legal person shall be fined between SIT 300,000 to be recovered immediately if: [...]

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS DIRECTIVE 2006/114/EC ON COMPARATIVE ADVERTISING		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Article 15 of the Law against the Unfair Commercial Practices	2. A fine of SIT 1100,000 shall be imposed on the responsible person of the legal entity or the responsible person of an entrepreneur who commits an offense referred to in the previous paragraph. Article 15 (Offences) (1) A fine of 3,000 to 40,000 euros shall be imposed on a legal person or an individual entrepreneur or private individual entrepreneur (hereinafter: the individual entrepreneur) to use: - Misleading business practices by misleading conduct (Article 5); - Misleading business practices by misleading omission (Article 6); - Misleading business practice, which all circumstances considered unfair (Article 7); - Aggressive business practices (Article 8); - Aggressive commercial practices that are in all circumstances considered unfair (Article 10). (2) A fine of 300 to 2,000 euros shall be imposed on the responsible person of the legal person and individual sole trader who commits the act referred to in the preceding paragraph. (3) A fine of 1,200 to 15,000 euros shall be imposed on any individual or individuals who in connection with the independent activity commit the offense from the first paragraph of this article.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 2011/83/EU ON CONSUMER RIGHTS DIRECTIVE 2006/114/EC ON COMPARATIVE ADVERTISING		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		

Directive 2000/31/EC was implemented via the CPA and Electronic Commerce Law. The competent enforcement authority is the Market Inspectorate together with the Electronic Communications Agency. Therefore, the table reports only the provisions which include different powers from the CPA and from the Inspection Act, and which are applicable to both the competent authorities.

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
6. The powers referred to in paragraph 3 shall only be exercised		

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:		
(a) to have access to any relevant document, in any form, related to the intra-Community infringement;		
(b) to require the supply by any person of relevant information related to the intra-Community infringement;		
(c) to carry out necessary on-site inspections;	Chapter IV, <i>Implementation and Control</i> , Art. 16, <i>Inspection</i> , paragraphs (1) and (2) of <i>Electronic Commerce Law (ZEPT)</i> ⁽⁷⁹⁾	<u>Art. 16 of ZEPT:</u> <ol style="list-style-type: none"> 1. The Inspection of the implementation of this Act is entitled to the commissioner or inspector responsible for the market 2. The inspector sends a final decision from the previous paragraph to the Ministry
(d) to request in writing that the seller or supplier		

(79) Zakon o elektronskem poslovanju na trgu (ZEPT), Gazzetta ufficiale: Uradni list RS; Numero GU: 61/2006; Data di pubblicazione: 2006-06-13; Pagina: 06601-06605

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
concerned cease the intra-Community infringement;		
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking		
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	<p>Chapter IV, <i>Implementation and Control</i>, Art. 17, <i>Judicial Review</i> paragraph (1) and (2) <i>Inspection of Electronic Commerce Law (ZEPT)</i></p> <p>Chapter IV, <i>Implementation and Control</i>, Art. 18, <i>Temporary Injunction</i> paragraph (1) and (2) <i>Inspection of Electronic Commerce Law (ZEPT)</i></p>	<p><u>Art. 17 of ZEPT:</u></p> <ol style="list-style-type: none"> Whoever believes that the service provider violates their rights, may request judicial protection in front of the competent Court in accordance with the Law; The Court issues a final decision on matters referred to in the previous paragraph to the Ministry <p><u>Art 18 of ZEPT:</u></p> <ol style="list-style-type: none"> Whoever believes that the service provider violates his own rights may appeal to the competent Courts a temporary injunction. If this law doesn't specify otherwise, the proceedings for interim relief provisions of the Act governing the enforcement and insurance. The Court may, by an interim order, in particular:

DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		<ul style="list-style-type: none"> • Prohibit the imminent infringements or infringements already committed ; • Restrict the provisions of information society services, imposing to a service provider the removal of the access to the data it holds. <ol style="list-style-type: none"> 3. (...) 4. (...) 5. (...)
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.	Chapter V, <i>Penalty Provisions</i> , Art. 20 <i>Offences</i> , paragraphs (1), (2) (3) of <i>Electronic Commerce Law</i>	<p>Art 20 of ZEPT:</p> <ol style="list-style-type: none"> 1. A fine of 3000,000 SIT to 10.000,000 SIT shall be imposed on the service provider, which operates as a legal entity if: (...) 2. A fine between 1.000, 000 and 5.000,000 SIT shall be imposed in the preceding paragraph provider, which operates a single owner; 3. A fine of 300,000 to 1.000,000 SIT for an offense from the first paragraph of this article imposed on the responsible person of the legal entity or the responsible person of an entrepreneur.

MEMBER STATE: SWEDEN

LEGAL FRAMEWORK

Article 4(6) of the CPC Regulation has been implemented into Swedish law by virtue of Ordinance (2009:607) containing instructions for the Consumer Agency adopted on 28 May 2009,⁸⁰ (hereinafter referred to as “Ordinance (2009:607)”). The provisions of Ordinance (2009:607), identified and designated the Swedish Consumer Agency/Consumer Ombudsman (*Konsumentverket/Konsumentombudsmannen*) as competent authority.⁸¹ The Consumer Agency/Consumer Ombudsman is therefore responsible for enforcing all legal acts listed in the Annex to the Regulation and has therefore also been designated as the single liaison office. The responsibilities of the enforcement authority are, however, shared with the Financial Supervisory Authority with regard to Directive 87/102/EEC on consumer credit, and with the Medical Products Agency with regard to Directive 2001/83/EC on the Community code relating to medicinal products for human use.

The main implementing provisions can be found in the Marketing Act (2008:486) adopted on 5 June 2008⁸² (hereinafter referred to as “the Marketing Act”). The Marketing Act contains provisions laying down the investigative and enforcement powers of the Consumer Ombudsman, as well as the penalties that may be applied in the event of infringements. Section 2 of the Marketing Act specifically states that the Act is also applicable when the Consumer Ombudsman fulfils his/her obligations under the CPC Regulation. In Sweden, the Government’s preparatory documents for new legislation are a source of law and can therefore be used to interpret the law. The preparatory work implementing the relevant CPC provisions in the Marketing Act can be found in Government Bill 2006/07:6.⁸³

⁸⁰ Ordinance (2009:607) containing instructions for the Consumer Agency, adopted on 28 May 2009 (*Förordning (2009:607) med instruktion för Konsumentverket*), available at: <http://www.notisum.se/rnp/sls/lag/20090607.htm>

⁸¹ Two other authorities have also been identified and designated as competent authorities: the Swedish Financial Supervisory Authority and the Swedish Medical Products Agency. However, these two are competent authorities for Directives not covered by this study and will therefore not be part of the study.

⁸² Marketing Act (2008:486) adopted on 5 June 2008 (*Marknadsföringslag (2008:486)*), available at: <http://www.notisum.se/rnp/sls/lag/20080486.HTM>

⁸³ Government Bill 2006/07:6 Supplementary Provisions to the CPC Regulation (*Regeringens Proposition 2006/07:6 Kompletterande bestämmelser till EG-förordningen om konsumentskydssamarabete*), available at: <http://data.riksdagen.se/fil/32695E92-F9A5-4194-9431-FF7A76E0C185>

While the Consumer Ombudsman is the enforcement authority, IT has limited powers to issue orders. The legislator has designated two courts to issue orders relating to breach of provisions implementing Article 4(6) of the CPC Directive. The competent courts are the Market Court (*Marknadsdomstolen*) and the Stockholm district court (*Stockholms tingsrätt*). The Consumer Ombudsman and selected parties may bring an action before these courts for cases regarding infringements under the Marketing Act. The Consumer Ombudsman has limited powers with regard to injunctions, and can only exert it if the case is minor and if the trader agrees to it. In all other cases, the orders are issued by the courts.

The Swedish Consumer Agency is headed by a Director General who is also Consumer Ombudsman, KO (Konsumentombudsmannen). The Agency/the Consumer Ombudsman is responsible for the enforcement of consumer legislation and pursues legal action in court in the consumer interest.

The Consumer Ombudsman has the possibility to either bring an action against a trader in the Market court or to issue an information or prohibition order. If the trader accepts and signs an information or a prohibition order it has same legal effect as a judgment rendered by a court. These orders are always combined with a fine. In severe cases the Consumer ombudsman may ask the Market court to issue a market disruption fee.

The enforcement powers of the Consumer Ombudsman are presented in detail in the table below.

<p>DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 97/7/EC ON DISTANCE CONTRACTS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING</p>		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)

Article 4(6)		
<p>6. The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:</p>		
<p>(a) to have access to any relevant document, in any form, related to the intra-Community infringement;</p>	<p>Section 42 of the Marketing Act (2008:486) adopted on 5 June 2008 (hereinafter referred to as "the Marketing Act")</p>	<p><u>Section 42 of the Marketing Act:</u> At the request of the Consumer Ombudsman:</p> <ol style="list-style-type: none"> 1. Each person shall be heard and provide the information required in a matter concerning the application of this law. 2. A trader shall provide the documents, samples and the like that may be relevant to the investigation of a case where a prohibition decision or order pursuant to sections 23, 24 or 25⁸⁴ can be assumed to come to question.
<p>(b) to require the supply by any person of relevant information related to the intra-Community infringement;</p>	<p>See above</p>	<p>See above</p>
<p>(c) to carry out necessary on-site inspections;</p>	<p>Section 44 of the Marketing Act</p>	<p><u>Section 44 of the Marketing Act:</u> If it is necessary for the supervision of a matter referred to in section 42 2 or section 43, the Consumer Ombudsman may call upon the trader to make the premises or corresponding areas where business activity is exercised, except dwellings, available for inspection.</p> <p>Section 45</p>

⁸⁴ Section 23 relates to unfair marketing, section 24 relates to instruction to supply information, and section 25 relates to instruction to provide technical aids.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 97/7/EC ON DISTANCE CONTRACTS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		[...]
(e) to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking	Section 28 of the Marketing Act	<p><u>Section 28 Orders and injunctions</u></p> <p>In cases of minor importance, the Consumer Ombudsman may issue orders and injunctions concerning</p> <ol style="list-style-type: none"> 1. prohibitions as referred to in Section 23 (injunctions), 2. orders as referred to in Section 24 (information orders), or 3. orders as referred to in Section 25. <p>The order or injunction shall be subject to a conditional financial penalty.</p> <p>In order for it to be valid, the trader must accept the order or injunction immediately or within a certain period. If the order has been accepted it applies as a final and non-appealable judgment.</p> <p>Acceptance after the stipulated period is not valid.</p>
(f) to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;	Section 23 of the Marketing Act S	<p><u>Section 23 of the Marketing Act:</u></p> <p>A trader whose marketing is unfair may be prohibited to continue with the marketing or any other similar measure.</p> <p>A prohibition according to the first paragraph may also be notified to:</p> <ol style="list-style-type: none"> 4. An employee of the trader, 5. Another person acting on behalf of the trader, and 6. Everyone who otherwise has substantially contributed to the marketing.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 97/7/EC ON DISTANCE CONTRACTS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
	Section 47 of the Marketing Act	<p><u>Section 47 of the Marketing Act:</u> Legal action on injunctions and information orders under sections 23, 24 and 25 are brought before the Market Court. [...]</p> <p>Legal action on injunctions and information orders may be brought before the court by:</p> <ol style="list-style-type: none"> 1. The Consumer Ombudsman, 2. A trader affected by the marketing, and 3. An association of consumers, traders or employees. <p>[...]</p>
(g) to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under	Section 29 of the Marketing Act	<p><u>Section 29 of the Marketing Act:</u> A trader may be ordered to pay a special fee (market disruption fee) if the trader, or a person acting on behalf of the trader, intentionally or negligently violated:</p> <ul style="list-style-type: none"> - Section 7, - Section 8 and any of the provisions of sections 9, 10, 12-17,

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 97/7/EC ON DISTANCE CONTRACTS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
national legislation, in the event of failure to comply with the decision.	Section 37 of the Marketing Act	<ul style="list-style-type: none"> - Section 18, - Section 20,85 or - Any of the provisions of Annex I to Directive 2005/29/EC. [...] <p>What is said in the first and second paragraphs also applies to a trader who intentionally or through negligence materially contributed to the infringement.</p> <p>The fee goes to the State.</p> <p><u>Section 37 of the Marketing Act:</u></p> <p>Anyone who intentionally or negligently violates a prohibition or information order that has been issued under sections 23, 24 or 25, or under sections 7 or 8 and any of the provisions of sections 9, 10, 12-17, or against any of the provisions in sections 18-22a,86 or against any of the items listed in Annex I to Directive 2005/29/EC, must compensate the damage caused thereby to a consumer or another trader.</p>

⁸⁵ Section 7 relates to aggressive marketing, section 8 is on misleading advertising, section 9 relates to promotional identification, section 10 is on the prohibition of misleading advertising, section 12 is on purchase offers, section 13 is on misleading packaging sizes, section 14 is on misleading imitations, section 15 is on bankruptcy sales, section 16 is on clearance sales, section 17 on sales, section 18 is on comparative advertising and section 20 is on marketing with electronic email.

⁸⁶ Section 18 relates to comparative advertising, sections 19-21 are on unsolicited advertising, and section 22a is on information provided before a consumer contract has been concluded.

DIRECTIVE 2005/29/EC ON UNFAIR COMMERCIAL PRACTICES DIRECTIVE 2000/31/EC ON ELECTRONIC COMMERCE DIRECTIVE 93/13/EEC ON UNFAIR CONTRACT TERMS DIRECTIVE 97/7/EC ON DISTANCE CONTRACTS DIRECTIVE 2006/114/EC ON MISLEADING AND COMPARATIVE ADVERTISING		
PROVISION CPC REGULATION	REFERENCE TO NATIONAL LAW (ARTICLE, PARAGRAPH, LAW)	PROVISION NATIONAL LAW (QUOTATION OR SUMMARY)
Article 4(6)		
		[...]

Annex II

1. AUSTRIA

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in Austria (specify authority and legal act)
Start investigation ex officio	<p>Federal Competition Authority – § 11 Federal Act on the Establishment of the Federal Competition Authority (WettbG): Investigation ex officio (this power is only applicable regarding cartel infringements)</p> <p>Austrian Communications Authority - only for private audiovisual media service provider: § 61 Federal Act on Audio-visual Media Services (Audio-visual Media Services Act – AMD-G): Ex officio decision on infringements. - § 2 (2) 7 Federal Act on the establishment of an Austrian Communications Authority ("KommAustria") – KOG (Concerning all audiovisual media service provider - private and public service broadcaster): ex officio monitoring on a at least monthly base</p>
Tackle past infringements (short-term practices, which are finished but which effects continue)	<p>Federal Competition Authority - § 36 (2) in conjunction with § 28 Federal Act against Cartels and Restraints of Trade (KartG 2005): If an infringement has already been ceased, the power to make an application for declaration that the infringement took place (this power is only applicable regarding cartel infringements)</p> <p>Federal Cartel Prosecutor - § 36 (2) in conjunction with § 28 Federal Act against Cartels and Restraints of Trade (KartG 2005): If an infringement has already been ceased, the power to make an application for declaration that the infringement took place (this power is only applicable regarding cartel infringements)</p> <p>Austrian Communications Authority - § 62 Federal Act on Audio-visual Media Services (Audio-visual Media Services Act – AMD-G): Decision whether and by what facts a provision of the Federal Act has been violated - For the public service</p>

	broadcaster only due to a complain.
Mystery shopping	Not provided
Test purchases	Not provided
Adopt interim measures	Interim measures may be imposed by the court
Naming of infringing traders	Austrian Communications Authority - § 62 (3) Federal Act on Audio-visual Media Services (Audio-visual Media Services Act – AMD-G for private audiovisual media service provider): Instruction to the media service provider when, in what form and on which channel or media service he has to publish the authority's decision (for public service broadcaster: § 37 (4) ORF-G
Take down websites/domains	Only if ordered by the court
Withdraw/ suspend trade activity	Austrian Communications Authority - § 63 Federal Act on Audio-visual Media Services (Audio-visual Media Services Act – AMD-G): Withdrawal of the license or prohibition of the audio-visual media service
To sanction the infringer	Austrian Communications Authority - § 64 Federal Act on Audio-visual Media Services (Audio-visual Media Services Act – AMD-G for private audiovisual media service providers) and § 38 (1) 2 ORF-G (for the public service broadcaster): Impose fines (administrative Penalties) Telecommunication offices - § 109 Federal Act enacting the Telecommunications Act (Telecommunications Act – TKG 2003): Impose fines (administrative Penalties)
Facilitate/Order consumer compensation	Not provided

2. BULGARIA

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	Yes Article 68k (4) CPA The Chairperson of the Commission for Consumer Protection shall take the measures referred to in Paragraphs (1) to (3) proprio motu or acting on a request submitted by a consumer.
Tackle past infringements (short-term practices, which are finished but which effects continue)	Not expressly provided. However, article 186(10) provides that the Commission for Consumer Protection may also bring actions for cessation or for prohibition of acts or commercial practices infringing the collective interests of consumers. Actions for damage and redress only compete to consumer association. It seems that only for on-going infringement it is possible the action of CCP
Mystery shopping	Not expressly provided
Test purchases	Article 83 CPA. Notwithstanding the type or nature of the product or service, the competent control authority referred to in Article 83 herein shall be entitled to: 1. organize, even after the product or service has been placed on the market as being safe, appropriate checks on its safety properties, on an adequate scale and at each stage of sale up to the final stage of use or consumption; 2. take samples of the products for performance of safety checks; 3. require all necessary information from the parties concerned; 4. gather evidence.
Adopt interim measures	Not included in the list of the powers of the Article 192a CPA. The interim measures may be obtained before the court in the context of an injunction action under Article 186(10) CPA obtained by CCP
Naming of infringing traders	Not provided
Take down websites/domains	Not provided by ECA
Withdraw/ suspend trade activity	Article 232 CPA. (1) In the cases of any violation under this Act sanctioned by an effective penalty decree, the control authority shall recommend to the authority that has issued the licence and/or authorization for practice of business that the said authority revokes the licence and/or authorization. (2) The authority that has issued the licence and/or the authorization for practice of business shall rule on the recommendation by a reasoned decision and shall

	<p>immediately notify the control authority referred to in Paragraph (1) herein of the results of the said decision, and in case the issuing authority is revoking the licence or authorization as issued, it shall specify the date and the grounds for the revocation thereof.</p>
<p>To sanction the infringer</p>	<p>Yes, Article 195 CPA and following provides for the fines that may be imposed by the authority.</p> <p>Article 195. (Supplemented, SG No. 108/2006) The fines and sanctions collected under this Act shall be administered under the budget of the Ministry of Economy, Energy and Tourism with the exception of the fines and sanctions under punitive decrees, issued by the mayors of municipalities or officials empowered by them, which are transferred to the respective municipal budget</p> <p>Unfair, misleading, aggressive commercial practices including advertising</p> <p>Article 210a. (New, SG No. 64/2007, amended and supplemented, SG No. 102/2008) Any natural person, who violates Article 68c, Article 68d, Items 1 to 11, 13, 15, 18 to 23 of Article 68g and Items 3 to 6 of Article 68j herein, shall be liable to a fine, and any such sole trader and legal person shall be liable to a pecuniary penalty, of BGN 500 or exceeding this amount but not exceeding BGN 10,000. Article 210b. (New, SG No. 64/2007) Any natural person, who violates Items 12, 14, 16 and 16 of Article 68g and Items 1, 2, 7 and 8 of Article 68j herein, shall be liable to a fine, and any such sole trader and legal person shall be liable to a pecuniary penalty, of BGN 1,000 or exceeding this amount but not exceeding BGN 15,000. Article 210c. (New, SG No. 102/2008) Any [natural] person, who fails to execute an order referred to in Article 68k (1) herein or a directive referred to in Article 68k (3) herein, shall be liable to a fine, and any such sole trader and legal person shall be liable to a pecuniary penalty, of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000. Article 211. Any natural person, who violates the provision of Article 69 (1) herein, shall be liable to a fine, and any such sole trader and legal person shall be liable to a pecuniary penalty, of BGN 5,000 or exceeding this amount but not exceeding BGN 25,000.</p> <p>ECA (DIRECTIVE 2000/31/EC)</p>

	<p>Article 23. (1) Service provider who have violated or allowed a violation of Article 4, Article 5, paragraph (3), Article 8, paragraph (1), Article 9 and Article 10 shall be imposed a fine in amount from BGN 200 to 1,000, unless the act constitutes a criminal offence. (2) In the cases referred to in paragraph (1) if the offender is a legal person or a sole proprietor, a property sanction amounting from BGN 500 to 2,500 shall be imposed. (3) In case of repeated violation the fine under paragraph (1) shall be amounting from BGN 500 to 1,500 and the property sanction under paragraph (2) - from BGN 1,000 to 4,000.</p> <p>Article 24. (1) Service provider who have violated or allowed a violation of Article 6, paragraphs (1), (3) or (4) shall be imposed a fine in amount from BGN 250 to 1,500, unless the act constitutes a criminal offence. (2) In the cases referred to in paragraph (1) if the offender is a legal person or a sole proprietor, a property sanction amounting from BGN 500 to 2,000 shall be imposed. (3) In case of repeated violation the fine under paragraph (1) shall be amounting from BGN 500 to 2,500 and the property sanction under paragraph (2) - from BGN 1,000 to 4,000</p>
<p>Facilitate/Order consumer compensation</p>	<p>Article 182 CPA. (1) The Minister of Economy, Energy and Tourism shall establish conciliation committees, which shall assist in the resolution of disputes between consumers and traders, including such in connection with guarantee liability, the right to complain of goods or services and unfair terms in contracts, commercial practices and contracts concluded with consumers</p>

3. CYPRUS

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	<p>Article 11 Consumer Protection Law</p> <p>11.-(1) The Authorised Service shall be obliged to examine and responsible for examining any breaches of the provisions of this Law following complaints submitted or acting on own initiative.</p> <p>Article 24(1) Law 133(I)2013</p> <p>Where the Authorised Agency, in accordance with subsection (1) this Article complaint investigation or an ex officio investigation finds violation of this Law, has the authority to make the following actions(...)</p>
Tackle past infringements (short-term practices, which are finished but which effects continue)	The legislation does not make reference to the on-going infringement. According to Article 11, the authority must ascertain the infringement to the legislation and take appropriate measures in case of breach of law
Mystery shopping	Not expressly provided
Test purchases	Not provided by the legislation
Adopt interim measures	<p>Interim measures are adopted by the Court upon a request of the Authority</p> <p>13.-(1) The court which hears any petition under Article 11(2)(f) and Article 17 of this Law shall be empowered, without prejudice to the provisions of the Civil Procedure Law, the Courts Law and the Civil Procedure Rules of Procedure and any other laws or regulations which amend or replace them, to issue a prohibitive decree or direct order including any interim decree which may order</p> <p>Article 20 Law 156(I)/2004</p> <p>(2) When the Competent Authority considers that an infringement has occurred, following an examination conducted in accordance with subsection (1), it may, if it deems it appropriate, apply to the Court for an injunction, including also a temporary order, against any person who in his judgment is liable or responsible for the infringement</p> <p>Article 24(1) Law 133(I)2013</p>

	(F) request by application to the Court, in accordance with the Article 26 of this Law, issue prohibitive, or peremptory order, including an interim order against any person which, at its discretion, involved in the infringement or responsible for that infringement;
Naming of infringing traders	Not provided
Take down websites/domains	Not provided
Withdraw/ suspend trade activity	Article 232 CPA. (1) In the cases of any violation under this Act sanctioned by an effective penalty decree, the control authority shall recommend to the authority that has issued the licence and/or authorization for practice of business that the said authority revokes the licence and/or authorization. (2) The authority that has issued the licence and/or the authorization for practice of business shall rule on the recommendation by a reasoned decision and shall immediately notify the control authority referred to in Paragraph (1) herein of the results of the said decision, and in case the issuing authority is revoking the licence or authorization as issued, it shall specify the date and the grounds for the revocation thereof.
To sanction the infringer	Power of the Commission for Consumer Protection Article 11(d) CPA (d) to impose an administrative fine depending on the nature, seriousness and duration of the breach, the level of which shall be up to 5% of the perpetrator's turnover during the year preceding the breach or a fine of up to £150 000; provided however that in relation to a foundation or organization deemed not to have turnover, in order to calculate the said administrative fine the basis for calculation shall be 5% of its assets Instead of its turnover; provided further that in relation to an insurance company, the basis for calculating the said administrative fine shall be the value of its gross premiums during the previous year instead of turnover, which includes all monies collected and to be collected under insurance policies which have been collected by the insurance company or on its behalf, including premiums which have been assigned to reinsurers, after the VAT and other tax deduction directly associated Law 156(I)/2004 Any violation of the provisions of sections 8, 9 and 10 shall be

	<p>punishable in the event of a conviction by a fine not exceeding CY5 000. The fine may be doubled for a second or third conviction.</p> <p>Article 24(1) Law 133(i) 2013 (D) to impose an administrative fine, after approval of Director General of the Department of Energy, Commerce, Industry and Tourism, according to the nature, gravity and duration of the infringement, of up to five per cent (5%) of the offender's turnover in the immediately previous year of infringement or a fine up two hundred thousand euros (€ 200,000): Provided that, in relation to an institution deemed no turnover for the calculation of the above board fine used, as a basis, instead of turnover, five per cent (5%) of the total assets of: Provided further that in any case the board fine not exceeding two hundred thousand euros (€ 200,000) · (E) to decide that if the infringement continues, will imposed an administrative fine of up to one thousand euro (€ 1000), for each day the violation continues, depending on the severity thereof;</p>
<p>Facilitate/Order consumer compensation</p>	<p>Not provided by the legislation</p>

4. CROATIA

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	State Inspection - Article 131 of the Consumer Protection Act (4) The provisions of paragraphs 1 to 3 of this Article are without prejudice to the authority of the State Inspectorate or other competent body to initiate proceedings on its own initiative against the persons mentioned in paragraphs 1 to 3 of this Article who act in contravention of the provisions of this Act and other regulations listed in paragraph 1 of this Article.
Tackle past infringements (short-term practices, which are finished but which effects continue)	State Inspection - Article 131 of the Consumer Protection Act. There is no express reference to past infringements
Mystery shopping	Not provided
Test purchases	Not provided but the Inspectorate may seize objects during inspections and can take sample under Article 36 Inspectorate Act 2008 (...) the inspector of these products can take samples and have them sealed and properly labeled for testing and conformity assessment, by an expert institution authorized for testing (hereinafter professional institution).
Adopt interim measures	State Inspection - Article 139 of the Consumer Protection Act (1) The competent inspector is authorised to provisionally order, pending a final decision, the cessation of a certain conduct that is reasonably suspected to be contrary to the provisions of this Act and other regulations, listed in Article 131 of this Act. (2) An appeal against the decision referred to in paragraph 1 of this Article will not defer enforcement.
Naming of infringing traders	Not provided
Take down websites/domains	Not provided
Withdraw/ suspend trade activity	State Inspection - Article 137 of the Consumer Protection Act
To sanction the infringer	State Inspection – Articles 138 - 140 of the Consumer Protection Act
Facilitate/Order consumer compensation	Not provided

5. DENMARK

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	<p>The relevant legal act is the Danish Marketing Practices Act (currently Consolidated Act No. 1216 of 25 September 2013 with amendments) (hereinafter referred to as the "MPCA"). An executive order on the Danish Consumer Ombudsman has been issued under the MPCA (currently Executive Order No. 1249 of 25 November 2014) (hereinafter referred to as the "Executive Order").</p> <p>The relevant authority is the Danish Consumer Ombudsman (hereinafter the "DCO").</p> <p>Section 1(1) of the Executive Order: "The Danish Consumer Ombudsman can initiate investigation activities on his own initiative or following a complaint submission. The Danish Consumer Ombudsman is not obliged to investigate all complaints submitted. On deciding whether to undertake investigation following a complaint submission, the Danish Consumer Ombudsman must primarily take into consideration his duty to prioritize consumer protection activities."</p>
Tackle past infringements (short-term practices, which are finished but which effects continue)	<p>The DCO is not granted any explicit authority hereto under the MPCA, but there have been cases, where the DCO has tackled past infringements, e.g. the DCO can tackle a case regarding illegal marketing after the end of the campaign. However, in Denmark the statute of limitation is two years regarding criminal violation and three years regarding other (civil) violation of legislation in general.</p>
Mystery shopping	<p>The DCO is not granted any explicit authority hereto under the MPCA.</p>
Test purchases	<p>The DCO is not granted any explicit authority hereto under the MPCA.</p>
Adopt interim measures	<p>Section 29(1) of the MPCA: "Where there is an obvious risk that the purpose of a prohibition as referred to in section 20(1) will be defeated if a court decision must be awaited, the Consumer Ombudsman may issue an interim prohibition. A case to affirm the prohibition shall be brought not later</p>

	<p>than the next working day. The rules in section 413(1)(ii), section 414, section 430 and section 641(1)-(3) and (5) of the Administration of Justice Act apply correspondingly, and the rules in section 636, section 638 and section 422(3) apply subject to the necessary exemptions.”</p>
Naming of infringing traders	<p>Section 2 of the Executive Order: “The Danish Consumer Ombudsman must keep the public informed about cases handled by the Consumer Ombudsman, the public prosecutor or the courts of general interest or of particular importance in accordance with the definition of the rules set out in the Danish Marketing Practices Act. The Consumer Ombudsman shall before publication inform the relevant business, unless the matter is specifically urgent.”</p>
Take down websites/domains	<p>The DCO does not have the authority of his own to force third parties to take down a business’ website/domain. But if relevant he might claim for this in injunction proceedings at the court</p>
Withdraw/ suspend trade activity	<p>DCO can initiate legal actions under the general rule in Section 20 (1) of the MPCA:</p> <p>Section 20 (1) of the MPCA “Actions in conflict with this Act may be prohibited by judgments. Concurrently with this or subsequently, such orders may be imposed by judgments as may be considered necessary to ensure</p> <ul style="list-style-type: none"> (i) compliance with the prohibition, including through provision that agreements entered into in conflict with a prohibition are invalid, and (ii) restitution of the state of affairs existing before the unlawful action, including destruction or recall of products and issue of information or correction of statements.” <p>Section 23(2) of the MPCA, cf. Section 23(1): “(1) The Consumer Ombudsman shall seek by negotiation to influence traders to act in accordance with the principles of good marketing practice and to observe this Act in other respects. (2) If a trader disregards an undertaking given to the Consumer Ombudsman after negotiation under subsection (1), the Consumer Ombudsman may impose such orders on the trader as may be considered necessary to ensure compliance with the undertaking.”</p> <p>Section 27(2) of the MPCA</p>

	<p>“(2) The Consumer Ombudsman may issue an order if an action is clearly in conflict with this Act and cannot be changed by negotiation.”</p> <p>Section 29(1) of the MPCA “(1) Where there is an obvious risk that the purpose of a prohibition as referred to in section 20(1) will be defeated if a court decision must be awaited, the Consumer Ombudsman may issue an interim prohibition. A case to affirm the prohibition shall be brought not later than the next working day. The rules in section 413(1)(ii), section 414, section 430 and section 641(1)-(3) and (5) of the Administration of Justice Act apply correspondingly, and the rules in section 636, section 638 and section 422(3) apply subject to the necessary exemptions.”</p>
<p>To sanction the infringer</p>	<p>The DCO has at this time not been granted the authority to sanction an infringer. The DCO can, however, initiate court proceedings or notify the police.</p> <p>A relatively new provision in the MPCA, cf. below, provides the possibility that the DCO may in the future be authorized to sanction specific types of infringements on certain conditions. To our knowledge, the DCO has not yet been granted any authority in this respect.</p> <p>Section 30a of the MPCA 30 a.-(1) The Minister for Business and Growth may, following negotiation with the Minister for Justice, lay down regulations specifying that the Consumer Ombudsman in specific cases on infringement of this Act or regulations issued pursuant to this Act, indicate in a fine notice that the case may be settled out-of-court if the party in contravention pleads guilty of the infringement and states that he is willing to pay a fine specified in the fine notice within a specified time limit. Such time limit may be extended by the Consumer Ombudsman if requested.</p> <p>(2) The rules of section 834(1)(ii) and (iii) and 834(2) of the Administration of Justice Act on requirements for the content of an indictment and on suspects not being under any obligation to make statements apply correspondingly to fine notices.</p> <p>(3) If the fine notice is accepted, any further prosecution will cease. Acceptance of a fine shall have the effect of a judgment.</p>
<p>Facilitate/Order consumer</p>	<p>The DCO may assist a group of consumers with a claim for damages</p>

compensation	<p>against a business at the courts, but cannot facilitate or order consumer compensation himself.</p> <p>Section 28 (1) of the MPCA (1) If a majority of consumers have a uniform claim for damages as a result of infringement of the provisions of this Act, the Consumer Ombudsman may, if requested, treat this as a single claim.</p>
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6. ESTONIA

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	The Consumer Protection Board (CPB) has right to exercise supervision and to initiate misdemeanour procedure (according to articles 61, 62, and 68-75 of the Consumer Protection Act and article 31 of the Code of Misdemeanour Procedure Act).
Tackle past infringements (short-term practices, which are finished but which effects continue)	The CPB may start proceedings for terminating activity harmful to consumers or initiate misdemeanour procedure (according to articles 64, 68-75 of the Consumer Protection Act and article 31 of the Code of Misdemeanour Procedure Act).
Mystery shopping	The CPB can only make purchases for monitoring compliance (according to article 63 of the Consumer Protection Act).
Test purchases	The CPB can make purchases for monitoring compliance with the law (according to article 63 of the Consumer Protection Act).
Adopt interim measures	When the CPB has submitted claim to civil court for terminating activity harmful to consumers, the CPB can also apply to court for implementing interim measures (according to article 377 (1) of the Code of Civil Procedure). In other cases the CPB does not have authority in that matter.
Naming of infringing traders	According to article 21 (2) point 4, the CPB has right to inform the public of the activities of a trader or producer which violate consumer rights or damage the legitimate interests of consumers which includes names of infringing traders.
Take down websites/domains	Not provided
Withdraw/ suspend trade activity	Not provided
To sanction the infringer	The infringer can be sanctioned by pecuniary punishment (according to articles 64, 66 and 68-75 of the Consumer

	Protection Act; articles 8 and 10 of the Substitutive Enforcement and Penalty Payment Act; article 15 of the Information Society Services Act; articles 33-35 of the Advertisement Act).
Facilitate/Order consumer compensation	Not provided

7. FINLAND

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	In Finland there are no explicit legal provisions on the matter. Please note, however, that lack of explicit provisions does not automatically mean that the described power is not possible.
Tackle past infringements (short-term practices, which are finished but which effects continue)	In Finland there are no explicit legal provisions on the matter. As described in the filled-in table for Finland, it is, however, possible to prohibit a party continuing or repeating infringing measures in certain cases.
Mystery shopping	In Finland there are no explicit legal provisions on the matter.
Test purchases	In Finland there are no explicit legal provisions on the matter.
Adopt interim measures	<p>In Finland the FCO, Evira and Valvira may impose a temporary injunctions in certain cases.</p> <p>Evira may prohibit the primary production, manufacture, import, export, placing on the market, serving or conveyance of a foodstuff or its use in food manufacture; order the operator to withdraw food from the market; inform the public at the expense of the operator; and/ or seize a foodstuff.</p> <p>Valvira may prohibit (also temporarily prior to the final settlement) placing alcoholic beverages on the market or without compensation oblige the party that has placed alcoholic beverages on the market to remove them from the market.</p> <p>Ficora may in certain cases terminate the operations representing a threat or serious hindrance or restrict the use of frequencies or order a comparable coercive measure.</p>
Naming of infringing traders	In Finland there are no explicit legal provisions on the matter.
Take down websites/domains	In Finland there are no explicit legal provisions on the matter.
Withdraw/ suspend trade activity	Please see section "adopt interim measures".
To sanction the infringer	In Finland the FCO, Evira, Fiva, Fimea, Valvira and Ficora can issue a notice of conditional fine in order to enhance compliance with a prohibition/order.
Facilitate/Order consumer compensation	In Finland there are no explicit legal provisions on the matter.

8. GREECE

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
<p>Start investigation ex officio</p>	<p>Please see the Introduction:</p> <p>The general competences of the CPD, which currently belongs to the General Directorate for Consumer Affairs and Market Surveillance (Geniki Dieuthinsi Prostatias tou Katanaloti kai Epopteias tis Agoras -), are described in article 63 of the Presidential Decree 116/2014 on the organization of the Ministry of Development and Competitiveness. According to its most relevant provisions:</p> <p>[...]</p> <p>2. The Consumer Protection Directorate (CPD) is divided into the following units:</p> <ul style="list-style-type: none"> (a) Consumer Products Unit (b) General and Special Services Unit (c) Financial Services Unit (d) Chemical Analysis and Organoleptic Tests Unit <p>The Consumer Products, General and Special Services and Financial Services Units are competent for:</p> <ul style="list-style-type: none"> (aa) Receiving, from consumers or consumer unions, complaints about and reports on violation of consumer protection rules, regarding goods and products; (bb) Investigating, after receiving a complaint or ex officio, for a violation of the above mentioned rules, regarding goods and products or transmitting the request to the competent authority in order to conduct the necessary investigation;
<p>Tackle past infringements (short-term practices, which are finished but which effects continue)</p>	<p>Not expressly provided.</p>
<p>Mystery shopping</p>	<p>Not provided</p>
<p>Test purchases</p>	<p>Not provided</p> <p>The competent authority, during inspection, according to Article 18 Law 4177/2012, may take samples without consideration of all the products for further examination and laboratory testing to detect their compliance with applicable legislation.</p>

Adopt interim measures	Not provided
Naming of infringing traders	<p>Article 13a par. 5 Law 2251/1994:</p> <p>The Minister of Development, in case of a violation of the provisions of this law, may, taking into account the nature and seriousness of the violation, as well as its effects to the consumers, to publish via press or any other means, the sanctions imposed according to previous paragraphs 2 and 3.</p>
Take down websites/domains	See below accordingly.
Withdraw/ suspend trade activity	<p>Article 13a par. 2 (c) Law 2251/1994:</p> <p>2. Without prejudice to the provisions of the Penal Code and the Rules for Product Market Regulation and Provision of Services and the provisions of other relevant laws, on the suppliers, who violate the provisions of this law, the following sanctions can be imposed by a decision of the Minister of Development and Competitiveness after a complaint or ex officio:</p> <p>[...]</p> <p>(c) Temporary shutdown of the undertaking or part of it for a period of three (3) months to one (1) year in case that against the same supplier more than three (3) fine imposing decisions have been issued.</p>
To sanction the infringer	<p>Article 13a par. 2 (b) Law 2251/1994:</p> <p>2. Without prejudice to the provisions of the Penal Code and the Rules for Product Market Regulation and Provision of Services and the provisions of other relevant laws, on the suppliers, who violate the provisions of this law, the following sanctions can be imposed by a decision of the Minister of Development and Competitiveness after a complaint or ex officio:</p> <p>[...]</p> <p>(b) A fine ranging from one thousand (1,500) to one million (1,000,000) Euros, In case that against the same supplier more than three (3) fine imposing decisions have been issued, the maximum limit of the fine is doubled.</p> <p>Article 13a par. 3 (b) and (c) Law 2251/1994: On the supplier, who doesn't respond to consumer's complaint according to paragraph 1, the Minister of Development can proceed with:</p> <p>(a) The issuing of a recommendation for compliance within a specified period escorted with a fine imposition warning.</p> <p>(b) The imposing of a fine ranging from five hundred (500) to five thousand (5,000) Euros.</p> <p>(c) The imposing of a fine ranging from five thousand (5,000) to fifty thousand (50,000) Euros, in</p>

	case of a repeated non answer.
Facilitate/Order consumer compensation	Not provided

9. HUNGARY

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	<p>Competition Authority</p> <p>Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition (Article 91/K⁸⁷, Article 70— Opening of Competition Control Proceedings Ex Officio)</p> <p>Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers (Article 26⁸⁸)</p>
Tackle past infringements (short-term practices, which are finished but which effects continue)	<p>Competition Authority</p> <p>(follow-up investigation)</p> <p>Act XLVII of 2008 on the Prohibition of Unfair Commercial</p>

⁸⁷ Article 91/K, "(1)Where information is requested from the Gazdasági Versenyhivatal (Hungarian Competition Authority) according to Article 6 of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council, competition control proceedings shall be opened for this purpose. These proceedings are concluded by the investigator's ruling adopted to verify transmission of the information obtained.

(2) If the investigator or the competent competition council issues a request for enforcement measures under Article 8 of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council, they may, on this ground, forego to open an investigation in connection with a complaint or notification, or terminate the competition control proceedings by way of a ruling.

(3) The investigator shall have powers to determine fulfillment of the conditions set out in **Article 8(4)** of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council, or to issue the notification referred to in Article 8(5) if the said conditions are not fulfilled."

⁸⁸ (1) Due to Article 26, "The investigator shall adopt a ruling ex officio in which to order that an investigation be held in connection with any activity, conduct or predicament which is suspected to violate the provisions on the prohibition of unfair commercial practices falling within the jurisdiction of the Hungarian Competition Authority."

(2) The Hungarian Competition Authority shall notify the consumer protection authority concerning the opening of proceedings in connection with any violation of the prohibition of unfair commercial practices, and shall supply the information necessary for identification of the case, meaning in particular the data for the identification of the business entity affected and of the person requesting the proceedings, supplied by that person, including the relevant facts of the case, or in connection with the commercial practices referred to in Subsection (2) of Section 10, the Authority.

	Practices against Consumers (Article 26/A on trial transactions)
Mystery shopping	Consumer Protection Authority Act CLV of 1997 on Consumer Protection (Article 77 ⁸⁹)
Test purchases	Competition Authority Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers (Article 26/A on trial transactions) <u>Article 26/A of the Act on the Prohibition of Unfair Commercial Practices:</u> (1) The Hungarian Competition Authority shall be entitled to

⁸⁹ Article 77, "(1) The Gazdasági Versenyhivatal (Hungarian Competition Authority) shall conduct *follow-up investigations ex officio to verify compliance with the competent competition council's enforcement order:*

a) having regard to fulfillment of the prior or subsequent condition set out in Subsection (3) of Section 30;

b) having regard to fulfillment of the obligation referred to in Subsection (3) of Section 30;

c) having regard to fulfillment of the commitment made under Section 75;

d) having regard to fulfillment of the obligation for carrying out a specific act, or to the performance of obligations either to perform or to refrain from certain activities other than the ones covered under Paragraphs *a)*-*c)*, if compliance cannot be determined from the information available.

(2) Requests for the amendment of the resolution under Section 32 or Section 75 shall be assessed within the framework of a follow-up investigation.

(3) In the course of a follow-up investigation the provisions on competition control proceedings shall duly apply, subject to the exceptions set out in this Section.

(4) A follow-up investigation may be opened after the date of performance prescribed in the resolution of the competent competition council, or in the case of continuing obligations or subsequent conditions under Subsection (3) of Section 30 after the last day of the obligation or condition as prescribed in the resolution, failing this within five years after the resolution enters into effect. That time limit shall not include the period during which the resolution cannot be executed.

(5) The decision for the conclusion of the follow-up investigation shall be adopted, and its publication shall be provided for within three months from the date it was ordered, which time limit may be extended before it expires in justified cases once, by up to three additional months.

(6) On the strength of the investigator's report on the follow-up investigation, the competent competition council shall:

a) in the case provided for in Paragraph *a)* of Subsection (1), adopt a ruling in establishing fulfillment of the condition and shall terminate the follow-up investigation, or, in the event of non-compliance, shall adopt a resolution and - if the merger was executed - decide on the application of the measure specified in Section 31;

b) in the case provided for in Paragraph *b)* of Subsection (1), terminate the follow-up investigation if the obligation is fulfilled, in other cases it shall decide on the withdrawal or amendment of the resolution as provided for in Section 32, and may impose a fine;

c) in the case provided for in Paragraph *c)* of Subsection (1), decide on the withdrawal or amendment of the resolution as provided for in Section 75, or failing this, it shall terminate the follow-up investigation;

d) in the case provided for in Paragraph *d)* of Subsection (1), terminate the follow-up investigation if it is established that the decision is satisfied and fulfilled voluntarily, otherwise it shall open the enforcement procedure.

	<p>conclude trial transactions in the interests of ascertaining the relevant facts of a case.</p> <p>(2) The Hungarian Competition Authority shall have the right to employ an auxiliary agent for the execution of trial transactions. The Hungarian Competition Authority shall supply a letter of authorization to its auxiliary agents; it shall contain the name of the said auxiliary agent, and the type of inspections he is authorized to conduct at certain specific companies. The provisions on the exclusion of administrative officers and the provisions on the confidentiality requirements of official witness shall also apply to auxiliary agents.</p> <p>(3) Following verification of authorization to carry out the trial transaction, the company affected shall refund in full the sums received in connection with the trial transaction if the goods are returned. If the goods cannot be returned by their nature, the price thereof shall be treated as procedural costs.</p> <p>(4) In connection with trial transactions the provisions pertaining to inspections shall apply.</p> <p>Consumer Protection Authority</p> <p>Act CLV of 1997 on Consumer Protection (Article 47(13), Article 47/A(4)-(6)⁹⁰)</p> <p><i>National Bank</i></p> <p>Act CXXXIX of 2013 on the National Bank of Hungary, Article 67(5), Article 68⁹¹)</p>
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⁹⁰ Due Article 47(13) "The consumer protection authority may carry out sample purchases with respect to products and services."

Due Article 47/A, "(4) When making a trial purchase the consumer protection authority's authorization to conduct the inspection shall be verified upon conclusion of the trial purchase.

(5) Upon the trial purchase of a product, following verification of authorization to carry out inspections the person acting on behalf of the business entity shall refund the price of the product when returned.

(6) In connection with the trial purchase of a service, the cost of the service shall be treated as a procedural expense, and it shall be covered by the infringing business entity if the service fails to conform to the prescribed requirements.

⁹¹ Article 67(5), "On-site inspections may be conducted at any location where evidence necessary for ascertaining the relevant facts of the case can be found. Within their sphere of authority, persons conducting the inspection may enter premises necessary for conducting the inspection, may inspect documents, data storage media, objects, and monitor work procedures related to the object of the inspection, may request and prepare information and statements from the client, the client's representatives, and any other persons at the site of the inspection, may carry out trial transactions and may gather evidence by other means."

Article 68, "(1) The MNB shall be entitled to conclude trial transactions in the course of oversight proceedings.

(2) Trial transactions may be conducted in connection with single transactions or with any protracted transaction process, however, it may not extend beyond the time of signature of the contract to which the transaction pertains, or, if the trial

Adopt interim measures	<p>Competition Authority / investigator's report, proceeding by the competition council Court</p> <p>Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition, Articles 71(2) c), 72/A, 87/A,</p> <p>Competition Authority</p> <p>(Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers Article 27(2), Article 16⁹²)⁹³</p>
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transaction is for a payment order or for the conversion of banknotes and coins, until the banknotes and coins to be converted are received.

(3) The MNB shall have authority to procure the services of auxiliary agents for the purposes of trial transactions. The MNB shall supply a letter of authorization to its auxiliary agents; it shall contain the name of the said auxiliary agent, and the type of inspections he is authorized to conduct at the bodies and persons covered by the acts enumerated in Section 39.

(4) The obligation of confidentiality prescribed for the MNB's employees shall also apply to auxiliary agents.

(5) The provisions on the exclusion of administrative officers shall also apply to auxiliary agents, as well as the regulations on conflicts of interest applicable to the MNB's employees.

(6) In case of trial transactions, the MNB employee performing the examination or the auxiliary agent shall present the letter of authorization to verify his/her entitlement to conduct inspections upon completion of the trial transaction.

(7) Following verification of authorization to carry out the trial transaction, the inspected person or organization and the person conducting the inspection, or the auxiliary agent shall refund in full the sums received in connection with the trial transaction.

(8) The provision set out in Subsection (7) shall not apply to any fee charged for a service the organization or person has supplied in the course of the trial transaction, before the end of the trial transaction, provided that according to the findings of the proceedings the organization or person did not violate the consumer regulations to which the trial transaction has pertained. The National Bank shall repay the fee of such services to the organization or person inspected immediately after the relevant resolution is adopted."

⁹² The measure referred to in Article 16 may also be ordered in the form of a provisional measure in accordance with Paragraph *c*) of subsection (1) of Article 72/A of the Act on the Prohibition of Unfair Commercial Practices against Consumers Due to Article 16, "If the act of unfair commercial practices has not yet been carried out, however, based on the business entity's activities - in particular, the setting up of the necessary conditions, the concluding of contracts and the acquisition of assets - it is presumed that such act will in fact be carried out, the competent authorities shall have powers to prohibit the planned commercial practices in advance."

⁹³ Article 71(2) c), "(2) The report shall contain: (...) *c*) the investigator's proposal concerning further action, and, if necessary, the ordering of interim measures., Article 72/A, "(1) On the strength of the investigator's report, the competent competition council may impose provisional measures:

a) to prohibit the further continuation of the conduct alleging probable cause for an infringement or may order the termination of the status quo alleging probable cause for an infringement, if it is required out of pressing necessity due to the protection of the legal or economic interests of the interested parties, and the endangering of the formation, maintenance or development of economic competition,

b) in proceedings opened ex officio, order the use of control restriction provisions in the case of a merger executed in spite of the prohibition under Section 29 - that presumably could not have been authorized pursuant to Section 30 -, or in the case of a merger executed in spite of the decision of the Gazdasági Versenyhivatal prohibiting the merger, or executed without fulfillment

Naming of infringing traders	Not provided
Take down websites/domains	Not provided
Withdraw/ suspend trade activity	Not provided
To sanction the infringer	Please see table in Annex I
Facilitate/Order consumer compensation	(Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers (Article 15(1) ⁹⁴)

of the prescribed conditions, to the extent necessary with a view to mitigating the potentially harmful impact the merger, and to ensuring the applicability of the measures referred to in Section 31, or

c) to withdraw under Subsection (3) of Section 29/A the permission granted under Subsection (1) of Section 29/A, or may decide to alter the control restriction provision ordered therein, if there is reason to believe that the merger is likely to result in considerable reduction of competition in the relevant market.

(2) The provisional measure referred to in Paragraph *c)* of Subsection (1) may also be requested by the client whose right of control was terminated as a result of the merger, indicating the grounds and the circumstances which make the enactment of such measure justified and necessary. The competent competition council shall adopt its ruling to order the provisional measure in priority proceedings, upon hearing the adverse parties.

(3) The ruling adopted to order the provisional measure may be appealed independently. The competent competition council may amend or withdraw its ruling adopted to order the provisional measure also if no infringement has been committed, where so justified based on changes in the underlying circumstances.

(4) The ruling ordering the provisional measure may be declared enforceable irrespective of any petition for the suspension of enforcement, where any delay in enforcement is likely to cause irreparable harm."

Article 87/A, "The court shall prohibit the dissemination of any comparative advertising not yet published, if it finds that publication of such advertisement would violate the provisions of paragraph (1) of Article 6/A. Prohibition of publication may be ordered also in the form of a provisional measure. No penalty shall be imposed contemporaneously with a ban of publication."

⁹⁴ Article 15(1), Proceedings conducted under this Act shall not preclude the possibility for the aggrieved party to file a civil suit in the court of law to enforce his claim arising in connection with unfair commercial practices." The civil law consequences – aspect of unfair commercial practices might be damage. As a result the obligee (in a civil law sense has the opportunity to enforce its claim at the court.

10. IRELAND

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	<p>Competition and Consumer Protection Act 2014</p> <p>Section 10. (1) The Commission shall have, in addition to the functions assigned to it by any other provision of this Act, or of any other enactment, the following functions:</p> <p>(c) to carry out an investigation, either on its own initiative or in response to a complaint made to it by any person, into any suspected breach of</p> <p>(i) the relevant statutory provisions, that may be occurring or has occurred, (...)</p>
Tackle past infringements (short-term practices, which are finished but which effects continue)	<p>S.55 of S.55 of the Central Bank (Supervision and Enforcement) Act 2013 repealing s. 76 of the Consumer Protection Act 2007.</p> <p>55.—(1) In this section “relevant offence under financial services legislation” means an offence under financial services legislation to which section 10(4) of the Petty Sessions (Ireland) Act 1851 applies.</p> <p>(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851 and any provision of financial services legislation, summary proceedings for a relevant offence under financial services legislation may be instituted— (a) at any time within 3 years from the date on which the offence was committed, or (b) if, at the expiry of that period, the person against whom the proceedings are to be brought is outside the State, within 6 months of the date on which he or she next enters the State, or (c) at any time within 3 years from the date on which evidence that, in the opinion of the person by whom the proceedings are brought, is sufficient to justify the bringing of the proceedings, comes to that person’s knowledge, whichever is the later, provided that no such proceedings shall be commenced later than 5 years from the date on which the offence concerned was committed.</p>

Mystery shopping	The power is not expressly provided but the CCPC's position is that it is permitted to do this.
Test purchases	The power is not expressly provided but the CCPC's position is that it is permitted to do this.
Adopt interim measures	No. Interim measures can be secured from the courts in the form of interim or interlocutory injunctions.
Naming of infringing traders	<p>S.86 Consumer Protection Act 2007</p> <p>86.—(1) The Agency shall keep and maintain a list (the "consumer protection list") of names and addresses of the following persons, together with a description of their trade, business or profession and the particulars described in subsection (2): (a) any person on whom a fine or other penalty was imposed by a court under the relevant statutory provisions or who was required, by an order under section 81, to pay an amount of money to a consumer; (b) any person against whom an order is made under section 71 (respecting civil relief by way of prohibition orders); (c) any person who gives an undertaking to the Agency under section 73; (d) any person against whom a compliance notice takes effect under section 75(7) or (8) (respecting compliance notices); (e) any person who makes payment to the Agency pursuant to a fixed payment notice under section 85.</p> <p>(...)</p> <p>(3) The Agency may, at any time and in any form or manner the Agency considers appropriate, publish or cause to be published all or any part of the consumer protection list.</p>
Take down websites/domains	Not provided. However, the CCPC may make a request for a decision to the court and this could be covered by the decision.
Withdraw/ suspend trade activity	No
To sanction the infringer	Sanctions are imposed by the Court. Offences may be prosecuted on a summary basis by the CCPC in the District Court or on indictment by the Director of Public Prosecutions. Consumer protection violations are liable on prosecution on indictment with the fines indicated below
Facilitate/Order consumer compensation	The CCPC may make an application for an order for

consumer compensation from the courts following conviction of a trader. The CCPC may also accept undertakings from a trader pursuant to S.73 of the Consumer Protection Act for compensation of a consumer or class thereof.

Section 81 provides a mechanism whereby a convicted trader is liable to compensate consumers for loss or damage caused by the offence for which the trader was convicted

81.—(1) If a trader is convicted of an offence under this Act (other than an offence under section 65(2)), the Agency may, on behalf of an aggrieved consumer who consents to the application, apply to the court for an order (a “compensation order”) requiring the trader (the “trader concerned”) to pay an amount of money the court considers appropriate compensation in respect of any loss or damage to that consumer resulting from that offence.

11. LITHUANIA

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	<p>State Consumer Rights Protection Authority (Article 15 (2) of the Law on Prohibition of Unfair Business-to-Consumer Commercial Practices; Article 41 (2) of the Law on Consumer Protection)</p> <p>Article 15(2)</p> <p>2. The Authority shall have the right to start investigating infringements of this Law on its own initiative upon taking a reasoned decision.</p> <p>Competition Council (as regards misleading and comparative advertising) (Article 25 (3) of the Law on Advertising)</p>
Tackle past infringements (short-term practices, which are finished but which effects continue)	<p>Not expressly provided. However, the Article 13 of Law on Prohibition of Unfair Business-to-Consumer Commercial Practices provides that the fine may be reduced if there are mitigating circumstances, which include the removal of the effects</p> <p><i>"Mitigating circumstances shall include actions of commercial operators, who have committed an infringement, undertaken at their own initiative to prevent the harmful consequences of the infringement, cooperation with the Authority during the investigation, compensation for losses and/or elimination of damage or submission of a substantiated report from the code owner to the Authority stating that commercial operators, who have committed the infringement, have terminated unfair commercial practices".</i></p> <p>Therefore a fine may be imposed over the trader who has committed a fine but operate to remove the effects.</p>
Mystery shopping	Not provided
Test purchases	Not provided
Adopt interim measures	<p>State Consumer Rights Protection Authority (Article 10 (5) of the Law on Prohibition of Unfair Business-to-Consumer Commercial Practices)</p> <p>(..)</p> <p>5) in the cases provided for in this Law, apply a temporary measure – an obligation to suspend an unfair commercial practice.</p>

	Competition Council (as regards misleading and comparative advertising) (Article 21 (1(4)) of the Law on Advertising)
Naming of infringing traders	State Consumer Rights Protection Authority (Article 47 of the Law on Consumer Protection)
Take down websites/domains	Not provided
Withdraw/ suspend trade activity	Not provided
To sanction the infringer	<p>State Consumer Rights Protection Authority (Article 10 (4) of the Law on Prohibition of Unfair Business-to-Consumer Commercial Practices; Article 40(1) of the Law on Consumer Protection)</p> <p>4) in the cases provided for in this Law, impose fines or issue a warning;</p> <p>Competition Council (as regards misleading and comparative advertising) (Article 21 (1(7)) of the Law on Advertising)</p>
Facilitate/Order consumer compensation	Not provided

12. LUXEMBOURG

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	Not expressly indicated by the Consumer Code
Tackle past infringements (short-term practices, which are finished but which effects continue)	Not expressly provided but Article L 311- 1 of the enforcement of the provisions of the Consumer Code provides that the enforcement actions re applicable to all the infringements in violation of the code.
Mystery shopping	Not provided
Test purchases	Not provided. The Inspectors can seize documents and objects but there are no provisions on taking sample.
Adopt interim measures	Only in the court
Naming of infringing traders	Only in the court and only in case of definitive court judgement
Take down websites/domains	Only in the court
Withdraw/ suspend trade activity	Only in the court
To sanction the infringer	Yes Article L 122-8 and Articles L 224-24 and following. Please see table in Annex I.
Facilitate/Order consumer compensation	Only upon court decision

13. MALTA

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Authority in charge with the enforcement and legal act that provides for the additional powers.
Start investigation ex officio	Art. 12A Consumer Affairs Act. In order to ensure the observance of the provisions of this Act and any regulations made thereunder, the Director General shall have power to carry out investigations of his own motion or upon a reasonable allegation in writing of a breach of the provisions of this Act and any regulations made thereunder.
Tackle past infringements (short-term practices, which are finished but which effects continue)	Legislation only refers to alleged infringement, without any requirements concerning the fact that must be ongoing. Article 14 Upon commencing investigations in terms of article 12A concerning an alleged infringement of a provision of this Act or of any regulations made thereunder
Mystery shopping	Not provided
Test purchases	Director General (Consumer Affairs) . Art. 103 Consumer Affairs Act. Art.103. Entry of inspection “(1) For the purpose of discharging his functions under this Act, the Director General may - (a) enter and search any premises other than premises used exclusively as a place of residence; (b) make any inspection, conduct any test and on paying or making tender therefor, take any goods; and (c) take any books, documents or records however kept or stored.”
Adopt interim measures	Director General (Consumer Affairs) . Art. 14B Consumer Affairs Act. 14B. (1) Notwithstanding the provisions of article 14A, in cases of urgency due to the risk of immediate and serious harm to the collective interests of consumers, the Director General may, before the conclusion of an investigation, on the basis of a prima facie finding of an infringement, order interim measures to remedy

	the situation in advance of reaching a final decision, giving his reasons therefor
Naming of infringing traders	Not provided
Take down websites/domains	Not provided
Withdraw/ suspend trade activity	<p>Art. 7(2) Consumer Affairs Act.</p> <p>(2) Regulations made under this section may also provide for the assignment of power and authority to the Director General to control, monitor, keep under review or prohibit any scheme, agreement, activity or arrangement, including the power to authorise, require a licence, suspend, restrict and to order the amendment, prohibition, suspension, withdrawal or cancellation of any particular scheme, agreement, activity or arrangement, or of a particular class or category thereof, and to impose any conditions and requirements in connection therewith.</p>
To sanction the infringer	<p>Director General (Consumer Affairs). Artt. 106 – 106A Consumer Affairs Act.</p> <p>Malta Communications Authority Legal Notice 251 of 2006 (Directive 2000/31/EC) (Article 22)</p> <p>Provided that any such fine that the Authority may decide to impose in accordance with this regulation, shall not exceed twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (€23,293.73) for each breach, and, or four hundred and sixty-five euro and eighty-seven cents (€465.87) for each day during which such breach persists:</p>
Facilitate/Order consumer compensation	<p>Director General (Consumer Affairs). Artt. 12 Consumer Affairs Act. Provides that undertaking may contain a compensation order.</p> <p>Article 14(4) Consumer Affairs Act provides that the court, in deciding a violation of the Act may impose a compensation order.</p> <p>(4) A compensation order made under this article shall be without prejudice to the right of the aggrieved consumer to institute civil action for the recovery of any sum due to him as damages so however that the sum covered by the compensation order shall be reduced from the total sum due by the defendant as damages.</p> <p>Malta Communications Authority Legal Notice 251 of 2006 (Directive 2000/31/EC),</p>

	<p>14. (1) Where a dispute however so described arises between a service provider and a consumer further to a complaint by a consumer alleging an infringement of the Act or of such provisions of these regulations as are enforced by the Authority, any party to such a dispute may refer the dispute to the Authority: Provided that in making a complaint the consumer must prima facie show that he has been affected by the act or omission of the service provider giving rise to the complaint. (2) Upon receipt of any reference as aforesaid, or upon otherwise becoming aware of any such dispute that the Authority believes should be investigated, the Authority shall notify all the parties to the dispute that the matter is being investigated. In doing so the Authority shall regulate its own procedure, which procedure shall, as far as is reasonably possible, be transparent, simple, inexpensive and conducive to a prompt and fair settlement of the dispute, and shall afford all parties to the dispute reasonable opportunity to make their submissions and to produce any relevant information</p>
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14. THE NETHERLANDS

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	<p>Not expressly described but they may be deduced by the scope of Section 2 Basic Act</p> <p>The objective of the activities of the Authority of Consumers and Markets shall be to ensure that markets function well, that market processes are orderly and transparent, and that consumers are treated with due care. To that end, it shall keep guard over, promote, and protect effective competition and a level playing field, and remove any impediments to these goals</p>
Tackle past infringements (short-term practices, which are finished but which effects continue)	<p>Not expressly provided. The definition of infringement is mutated by Article 3 of the CPC Regulation and should cover on-going infringements.</p> <p>Article 1.1 WhC act for Enforcement of Consumer Protection</p>

	<p>In this Act and the provisions based on the following definitions apply:</p> <p>(...)</p> <p>f offense shall mean any violation of a law referred to in the annex to this law, which harms or may harm the collective interests of consumers;</p> <p>g. intra-Community infringement shall mean any violation which is an intra-Community infringement under Article 3, section b of Regulation 2006/2004;</p>
Mystery shopping	Not provided
Test purchases	Not provided
Adopt interim measures	Yes Article 4.2 of the General Administrative Law
Naming of infringing traders	<p>Section 12v (b) (c) Basic Act</p> <p>b. the names of natural persons involved are not published, if, according to the Netherlands Authority for Consumers and Markets, the interest of publication does not outweigh the interest as referred to in Section 10, second paragraph, under e or g of the Dutch Act on Public Access to Government Information.</p> <p>c. the name of the offending market organization is always published, even if the name of a natural person is part of that name.</p>
Take down websites/domains	Not provided
Withdraw/ suspend trade activity	<p>Article 5:28 General Administrative Law</p> <p>The power to take enforcement action shall include the power to seal off buildings and sites and anything which may be in or on them</p>
To sanction the infringer	<p>Article 2.9 WhC act for Enforcement of Consumer Protection</p> <p>If the Authority for Consumers and Markets believes that a breach of intra-Community infringement, it can impose the offender:</p> <p>a.a cease and desist;</p> <p>b.an administrative fine.</p> <p>The administrative penalty referred to in Article 2.9 shall not exceed € 450,000.</p>
Facilitate/Order consumer compensation	Article 2.6 WhC act for Enforcement of Consumer Protection

An agreement for compensation for damages resulting from a breach or intra-Community infringement of one or more legal provisions enforced by the Authority for Consumers and Markets, pursuant to Article 2.2 is loaded, concluded by the Authority for Consumers and Markets with one or more other parties that have violated these provisions and who have undertaken to compensate the damages by the court at the request of the parties who have signed binding agreement be declared for those who caused the damage to this agreement. Among persons who caused the damage is deemed to include persons who have a claim derived in respect of this damage under general or special title

15. PORTUGAL

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	Yes. The legislation does not mention it expressly, but investigative and enforcement powers belong to the competent authority and they are exercised under the direction of the inspector general (ASAE) and under the direction of the Board of Directors (ANACOM). The limit to the exercise of the powers of the authority is the principle of legality of any act and decision adopted.
Tackle past infringements (short-term practices, which are finished but which effects continue)	Not expressly provided but the Decree Law 57/2008 gives to the competent authorities the powers to tackle unfair commercial practices committed before, during and after any contractual relationship between a trader and a consumer.
Mystery shopping	Not provided
Test purchases	Not provided
Adopt interim measures	<p>Under Article 20 of the Decree law 57/2008 ASAE, Banco de Portugal, Comissão do Mercado de Valores Mobiliários and Instituto de Seguros de Portugal have power to adopt interim measures to tackle infringement to unfair commercial practices, consumer rights and misleading advertising under the areas of their competence</p> <p>Under Article 9 Decree Law 9/2015 ANACOM has The power to adopt any necessary measures to tackle infringement to national law and EU legislation including interim measures</p>
Naming of infringing traders	Not provided
Take down websites/domains	The ANACOM may suspend the suspension of the activity of the service provider for serious infringements and for reason of urgency (Article 36 Decree- 7/2004)
Withdraw/ suspend trade activity	Yes, Article 21 of Decree Law 57/2008 provides, among the additional sanctions, the withdrawal of the licence for the licences authority and closure of establishments whose operation is subject to authorization or license authority

	administrative.
To sanction the infringer	<p>Yes. ASAE and Supervisory financial authority for unfair commercial practices, misleading advertising, consumers' rights.</p> <p>"The violation of Articles 4 to 12 constitute an administrative offense which is punishable with a fine of € 250 to € 3,740.98 if the offender is an individual, and from € 3000 to € 44 891.81, if the offender is a body corporate.</p> <p>7 - The amount of the fines imposed is distributed under the terms of its sectoral regulatory regime or, failing that, as follows:</p> <ul style="list-style-type: none"> a) 60% to the State; b) 30% for the entity that performs the instruction; c) 10% to the entity by virtue of their sectoral regulatory regime or, failing that, to CACMEP." <p>ANACOM has the powers to impose penalties under Article 37 (1) and Article 40 Decree-Law 7/2004</p> <p>Article 37</p> <p>"It constitute administrative offence punishable with a fine from 2500 to 50 000 the following irregularities committed by service providers:</p> <ul style="list-style-type: none"> a) the unavailability of information to the recipients set out in Articles 10, 13, 21 , 22, paragraph 6, and 28, paragraph 1, of this law; b) sending unsolicited communications, in violation of the legal requirements in Article 22; c) Failure to render available to recipients, where due, methods of identifying and correcting input errors, as provided for in Article 27; d) Failure to promptly send the order confirmation provided by Article 29; e) Failure to communicate contract terms, general conditions and order receipt in Article 31 in order to allow the recipient to store them and play them; f) Failure to provide information requested by the supervisory authority. <p>2 - It is an offense liable to a fine from E 5000 to E 100 000</p> <p>The following irregularities committed by service providers:</p> <ul style="list-style-type: none"> a) incompliance with the instruction of the supervision entity or other competent authority to identify the recipients of their

	<p>service with whom they have transmission or storage agreements, as provided for in paragraph b) of Article 13;</p> <p>b) Failure to determine the court or competent authority to prevent or stop an offense under paragraph c) of Article 13;</p> <p>c) Failure to inform the competent authority of illegal activities to their knowledge, practiced through the services they provide, as provided for in paragraph a) of Article 13;</p> <p>d) Failure to remove or disable access to the stored information and whose manifest illegality is aware, as provided for in Articles 16 and 17;</p> <p>e) Failure to remove or disable access to the stored information if, in accordance with Article 15, paragraph 3, are aware that was removed from the source, or access been disabled, or that a court or administrative authority origin has ordered such removal or access inability to take immediate enforcement;</p> <p>f) Practice with recurrence of the offenses referred to in paragraph 1.</p> <p>3 - constitute administrative offence punishable with a fine from E 2500 to E 100 000 to provide content aggregation services under the conditions of paragraph e) of paragraph 2, where the service providers do not disable the location or access to illegal information.</p> <p>4 - Negligence is punishable within the limits of the fine applicable to the offenses referred to in paragraph 1.</p> <p>5 - The commission of the offense by a juridical person aggravated by one-third the maximum and minimum amount.</p> <p>Article 40 Destination of fines The amount of collected fines reverts to the State and to the entity that applied at the rate of 60% and 40%, respectively.”</p> <p>Article 37 of the law establishes the penalties correspondent for each infraction.</p> <p>Article 40 establishes how the penalties are divided, in particular :</p> <p>60% to the Portugal State;</p> <p>40% to the Authority who applied the sanction.</p>
Facilitate/Order consumer compensation	Not provided

16. ROMANIA

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)	
Start investigation ex officio	<p>Article 17 paragraphs (6) to (8) of Law No. 365/2002</p> <p>Ministry of the Information Society</p>	<p>Article 17 paragraphs (6) to (8) of Law No. 365/2002:</p> <p>[...]</p> <p>(6) - The Authority (<i>i.e.</i>, the Ministry of the Information Society) may order inspections, under the terms of the law, ex officio or upon the request or complaint of any person.</p> <p>(7) - The control personnel empowered for such purpose by the Authority (<i>i.e.</i>, by the Ministry of the Information Society) may request statements or any other documents deemed necessary for the mission, may seal, pick-up any registers, financial-accounting documents, commercial documents or other records, releasing to the investigated person copies of the original documents, or may obtain copies, leaving him/her the originals; it is also authorized to make unannounced inspections, results of which shall be mentioned in ascertaining minutes, and may receive, when convening the inspected person or on site, information and justifications.</p> <p>(8) - The central and local administration bodies, as well as any other institutions and public authorities, are obliged to allow the control personnel empowered for this purpose by the Authority (<i>i.e.</i>, by the Ministry of the Information Society) to access the documents, data and information held by them insofar, to the extent such are necessary to fulfil the legal mission of the Authority (<i>i.e.</i>, of the Ministry of the</p>

		Information Society), without being able to oppose the character of national secret or professional secret of such documents, data and information. [...]
	Article 3, paragraph (1), letter i) of GD No. 700/2012: National Authority for Consumers Protection	Article 3, paragraph (1), letter i) of GD No. 700/2012: (1) - NACP has the following main duties: [...] i) controls the observance of the legal provisions regarding consumer protection, concerning the security of products and services, as well as the protection of the legitimate rights of the consumers, by carrying out market controls with the producers, the importers, the distributors, the sellers, the service providers, including financial services, and in customs units, having access to the places where products are manufactured, stored or traded or where the services are rendered, as well as to the related documents, excepting the hygienic-sanitary controls or the sanitary-veterinary controls with the manufacturers, in case of food products; [...]
	Article 9, paragraph (1) of Law No. 158/2008 National Authority for Consumers Protection or Ministry of the Information Society	Article 9, paragraph (1) of Law No. 158/2008: 1) – Upon the intimation of the traders or of the consumers, of the associations and of the organizations that may justify a legitimate interest or ex officio, the Ministry of Finance or NACP, as the case, shall request the trader that benefits from advertising to provide all elements of proof necessary to determine the accuracy of its statements, indications or presentations, as such are laid out within the content of the marketing material. [...]
Tackle past infringements	N/A	N/A

(short-term practices, which are finished but which effects continue)		
Mystery shopping	N/A	N/A
Test purchases	Article 3, paragraph (1), letter o) of GD No. 700/2012: National Authority for Consumers Protection	Article 3, paragraph (1), letter o) of GD No. 700/2012: 1) - NACP has the following main duties: [...] o) performs, by sampling food products or non-food products, analyses and tests within certified institutions or within its own institutions; [...]
	Article 3, paragraph (1), letter p) of GD No. 700/2012: National Authority for Consumers Protection	Article 3, paragraph (1), letter p) of GD No. 700/2012: 1) - NACP has the following main duties: [...] p) performs or finances studies, comparative tests or research within that domain with respect to the quality of the products and services provided to consumers, which shall be made available to the public; [...]
	Article 3, paragraph (1), letter q) of GD No. 700/2012: National Authority for Consumers Protection	Article 3, paragraph (1), letter q) of GD No. 700/2012: 1) - NACP has the following main duties: [...] q) establishes connections with research laboratories, institutions of expertise and certification for the performance of studies, research and comparative tests; [...]
	Article 3, paragraph (1), letter ee) of GD No. 700/2012: National Authority for Consumers Protection	Article 3, paragraph (1), letter ee) of GD No. 700/2012: 1) - NACP has the following main duties: [...]

		<p>ee) performs examinations of the precious metals and precious stones, according to the Government Emergency Ordinance No. 190/2000, as subsequently amended and completed;</p> <p>[...]</p>
Adopt interim measures	<p>Article 3, paragraph (1), letter j) of GD No. 700/2012:</p> <p>National Authority for Consumers Protection</p>	<p>Article 3, paragraph (1), letter ee) of GD No. 700/2012:</p> <p>1) - NACP has the following main duties:</p> <p>[...]</p> <p>j) to ascertain administrative deeds and take measures regarding the limitation of the consequences pursuant the production, the import, the commercialization or to offer food or non-food products, free of charge, or/ and services, including financial services, which are not according to the legal provisions within the activity of NACP, by enforcing the administrative deeds regulated within the law, seizes the criminal authorities each time there are breaches of the criminal law.</p> <p>[...]</p>
	<p>Article 8, paragraph (2), of GD No. 700/2012:</p> <p>National Authority for Consumers Protection</p>	<p>Article 8, paragraph (2), of GD No. 700/2012:</p> <p>[...]</p> <p>2) In view of exercising its duties, the empowered personnel of NACP has the right to seal or apply any distinctive marks as such, under the conditions provided by the law, and it is invested with the public authority of the state, during and in connection with the fulfillment of its duties;</p> <p>[...]</p>
Naming of infringing traders	N/A	N/A
Take down websites/domains	N/A	N/A
Withdraw/ suspend trade activity	<p>Article 3, paragraph (1), letter l) of GD No. 700/2012:</p> <p>Article 8, paragraph (1), of GD No. 700/2012:</p> <p>National Authority for</p>	<p>Article 3, paragraph (1), letter l) of GD No. 700/2012:</p> <p>1) - NACP has the following main duties:</p> <p>[...]</p> <p>l) to request the relevant authorities the suspension or the withdrawal of the</p>

	<p>Consumers Protection</p> <p>Article 128 paragraph (3) of GEO No. 34/2014</p> <p>National Regulatory Authority for Communications and Information Technology</p> <p>Article 149 paragraph (1) of GEO No. 111/2011</p> <p>National Regulatory Authority for Communications and Information Technology</p>	<p>operating license, the manufacturing license or of the classification certificate, under the conditions expressly provided by the law. [...]</p> <p>Article 8, paragraph (1), of GD No. 700/2012: [...]</p> <p>1) NAPC has specialized personnel for the supervision and control, in its behalf of civil servant, appointed within the civil service, which may undertake sanction measures, of suspension or cessation of the activity pursuant to the ascertainment of any breach of the consumers' rights legislation and of the measures established within the minutes attesting the administrative deeds. [...]</p> <p>Article 28 paragraph (3) of GEO No. 34/2014: [...]</p> <p>(3) – The provisions of Article 137, Article 138 and Article 141 paragraphs (1) and (2) letters b) and f), Article 144, Article 146, Article 147 letter a), Article 149 and Article 151 of GEO No. 111/2011, shall also be applied with respect to the administrative deeds assessed by NRACIT as a result of the breach of the provisions of the present Government Ordinance. [...]</p> <p>Article 149 paragraph (1) of GEO No. 111/2011:</p> <p>(1) - Where discovering an administrative deed, NRACIT may dispose:</p> <p>a) the cessation of the infringement either immediately or in a reasonable timeframe, as well as any other measures necessary to ensure the cessation of the infringement and the remediation of the occurred situation. The measures shall be proper and</p>
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		<p>proportionate to the committed breach and shall provide a term within which the provider must comply with them;</p> <p>b) the suspension or postponement of the provision of a service or of a package of services, if the provision would significantly prejudice competition, until the cessation of the infringement of the access or interconnection obligations imposed pursuant to the provisions of Chapter VII.</p>
To sanction the infringer	<p>Article 3, paragraph (1), letter j) of GD No. 700/2012:</p> <p>National Authority for Consumers Protection</p> <p>Article 8, paragraph (4), of GD No. 700/2012:</p> <p>National Authority for Consumers Protection</p>	<p>Article 3, paragraph (1), letter ee) of GD No. 700/2012:</p> <p>1) - NACP has the following main duties: [...]</p> <p>j) to ascertain administrative deeds and take measures regarding the limitation of the consequences pursuant the production, the import, the commercialization or to offer food or non-food products, free of charge, or/ and services, including financial services, which are not according to the legal provisions within the activity of NACP, by enforcing the administrative deeds regulated within the law, seizes the criminal authorities each time there are breaches of the criminal law. [...]</p> <p>Article 8, paragraph (4), of GD No. 700/2012: [...]</p> <p>4) By order of the head of NACP, the commissioners within the subordinated territorial structures may carry on inspections and control activities, and they can ascertain and sanction the administrative deeds within the field of activity, on the entire state. [...]</p>
Facilitate/Order consumer compensation	<p>Article 3, paragraph (1), letter j) of GD No. 700/2012:</p> <p>National Authority for Consumers Protection</p>	<p>Article 3, paragraph (1), letter ee) of GD No. 700/2012:</p> <p>1) - NACP has the following main duties: [...]</p>

		<p>j) to ascertain administrative deeds and take measures regarding the limitation of the consequences pursuant the production, the import, the commercialization or to offer food or non-food products, free of charge, or/ and services, including financial services, which are not according to the legal provisions within the activity of NACP, by enforcing the administrative deeds regulated within the law, seizes the criminal authorities each time there are breaches of the criminal law.</p> <p>[...]</p>
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17. SLOVENIA

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	Article 125 of the General Administrative Procedure Act (1) An administrative proceeding shall be commenced before the competent agency by virtue of its office, or at a request by the party. (2) The provisions of this Act which apply to a request shall also apply to a petition or other application which is by the character of matters equated with the request.
Tackle past infringements (short-term practices, which are finished but which effects continue)	Article 12 Law against UCP (2) If the trade inspectorate or other competent inspection body establishes that the company used unfair business practices or is about to use it, the company issue a decision prohibiting the use of such practice, if it judges that might cause harm to consumers irrespective of the form of guilt of the company.
Mystery shopping	Article 19 2007 Inspection Act In conducting an inspection relating to a natural or legal person, the inspector shall have the right to: (...) –perform mystery shopping and identify himself after with his official identity card, if by applying the mystery shopping method signs of offence or offender's data can be established
Test purchases	Not found
Adopt interim measures	Article 221 of the General Administrative Procedure Act (1) If it is necessary in view of the circumstances of the case that a decision by which single questions or relationships are temporarily regulated is issued before the end of the proceeding, such a decision shall be issued on the basis of the data that exist at the time of the issuing of this decision. It must explicitly be stated in such a decision that it has the temporary character. (2) The competent agency may bind a temporary decision issued upon a motion by the party by the condition that the party give security for a damage that might occur to the opposing party due to the execution of the decision, if the main claim by the mover is not granted. (3) A temporary decision issued during the proceeding shall be annulled by the decision issued on the merits of the case after

	the end of the proceeding. (4) A temporary decision shall concerning legal remedies and execution be considered a separate decision.
Naming of infringing traders	Article 36 of the Inspection Act provides for the publication of the decision if necessary. An appeal may be lodged against the decision but it does not suspend the enforcement.
Take down websites/domains	There are no specific rules on notice and take down (NTD) in the Slovenian Electronic Commerce and Electronic Signature Act.
Withdraw/ suspend trade activity	<p>Article 35 2007 Inspection Act (Measures related to the prohibition of the performance of an activity)</p> <p>An inspector who prohibits the performance of an activity pursuant to the first and second paragraph of the previous article shall have the right to order the sealing of the business premises or production premises, facilities or other premises where the activity takes place, or of the means of work, appliances and equipment used to perform the activity. If the person liable does not comply with the decision on the prohibition on the performance of an activity, issued pursuant to the first and second paragraph of the previous article, the inspector may, with a decision, require that the entities responsible for distribution of electricity, water, gas and telecommunication connections stop delivery to the person liable within three days, or to cancel the telecommunication connections of the person liable. This measure shall be executed without causing direct damage to the means of work or products. A decision shall also be served on the person liable</p>
To sanction the infringer	Yes (Article 38 Inspection Act)
Facilitate/Order consumer compensation	Not found

18. SWEDEN

Additional Powers to address cross-border infringements (not currently provided by Article 4(6) of the CPC Regulation)	Available in the following Member States (specify authority and legal act)
Start investigation ex officio	Consumer Ombudsman- Marketing Act 2008 Yes
Tackle past infringements (short-term practices, which are finished but which effects continue)	Yes. Section 34 A market disruption charge may only be imposed if the application to institute proceedings has been served on the party to whom the claim is addressed within five years of cessation of the infringement.
Mystery shopping	Not expressly provided
Test purchases	The Marketing Act only provides that, for samples taken during inspections, Consumer Ombudsman may pay compensation for samples or suchlike referred to in Sections 42 and 43. The Agency is competent for testing products.
Adopt interim measures	No, according section 27 interim measures are ordered by the court.
Naming of infringing traders	Not provided
Take down websites/domains	No, for serious offences a Court order is required. The Consumer Ombudsman has only competence for minor offences (Section 28)
Withdraw/ suspend trade activity	No, see above
To sanction the infringer	Yes, see section 28 and 29: The order or injunction shall be subject to a conditional financial penalty and/or market disruption fee. Section 29 A trader may be ordered to pay a special charge (market disruption charge) if the trader, or a person acting on behalf of the trader, intentionally or negligently contravenes – Section 7, – Section 8 and any of the provisions of Sections 9, 10, 12–17, – Section 18, – Section 20 or – any of the provisions of Annex I to Directive 2005/29/EC. The same applies if a trader intentionally or negligently contravenes any of the provisions of

	<ul style="list-style-type: none"> – Section 14, first paragraph, point 2 or 3 or Section 14 a, first paragraph, point 2 or 3 of the Tobacco Act (1993:581), – Chapter 4, Section 10 of the Alcohol Act (1994:1738), – Chapter 7, Section 3, 4 or 10, first or third paragraph of the Radio and Television Act (1996:844), <p>SFS 2008:486</p> <ul style="list-style-type: none"> – Section 11 of the Deposit Guarantee Act (1995:1571) or Section 8 of the Deposits Business Act (2004:299) as regards an offer that is not directed solely to persons other than consumers. <p>The provisions of the first and second paragraphs also apply to a trader who intentionally or negligently contributes materially to the infringement.</p> <p>The charge accrues to the State.</p>
<p>Facilitate/Order consumer compensation</p>	<p>Yes, Section of the Marketing Act – Damages Section 37</p> <p>A person who intentionally or negligently violates a prohibition or an order issued under Section 23, 24 or 25, or Section 7, Section 8 or any of the provisions of Sections 9, 10, 12–17, or any of the provisions of Sections 18–22 or any of the points in Annex I to Directive 2005/29/EC, shall compensate any consumer or other trader for any damage arising from this violation.</p> <p>When determining compensation to a trader, account may be taken of circumstances other than of an economic nature.</p>

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