



EUROPEAN COMMISSION

*Brussels, 13.08.2021
C(2021) 6105 final*

Dear President,

The Commission would like to thank the Camera Deputaților for its Opinion on the Communication from the Commission to the European Parliament and the Council: The New Consumer Agenda — Strengthening Consumer Resilience for a sustainable recovery {COM(2020) 696 final}.

The Commission welcomes the Camera Deputaților's support for the approach proposed by the Communication on the New Consumer Agenda, and notes its recommendations, considerations and concerns.

On 22 February 2021, the Council adopted a set of conclusions in response to the Commission's Communication on a 'New Consumer Agenda'. The Council welcomed the Commission's intention to address issues such as the 'right to repair', online and offline consumer protection and product safety, as well as the prevention of over-indebtedness in upcoming legislative proposals. It also stressed the need for consistency in the field of digitalisation with recent proposals, such as the Digital Services Act, which should establish a high level of protection to all consumers.

In response to the more technical comments in the Opinion, the Commission would like to refer to the attached annex.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Camera Deputaților and looks forward to continuing the political dialogue in the future.

Yours faithfully,

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Member of the Commission*

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Annex

The Commission has carefully considered each of the issues raised by the Camera Deputaților in its Opinion and is pleased to offer the following clarifications.

Regarding support for travel agencies, especially those that organise ecological tourism actions: it can be provided if the support is granted in compliance with State aid rules. In particular, support can be granted in compliance with the de minimis Regulation (Regulation n°1407/2013) or if it complies with the general block exemption Regulation (Regulation n°651/2014, as amended).

Regarding the recommendation of combating unknowing commercial data collection, the General Data Protection Regulation (EU) 2016/679¹ and the e-Privacy Directive 2002/58/EC² already provide rules in this regard. The General Data Protection Regulation sets out the general rules on the processing of personal data, including requirements for lawfulness and information obligations. When it comes to the storing of information, or the gaining of access to information already stored, in the terminal equipment of a user, the e-Privacy Directive in most cases requires the consent of the user to do this. When such consent is not given in accordance with the rules of General Data Protection Regulation³, e.g. when it is not freely given, or if the information on what exactly users would consent to is not clear, the consent is invalid. Enforcing compliance with these rules is a task for the national authorities and the courts. In Romania, Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal (ANSPDCP) / the National Supervisory Authority for Personal Data Processing is charged with enforcing both the General Data Protection Regulation and the e-Privacy Directive.

The operators of online commerce websites must comply with the requirements of EU consumer protection legislation, which is transposed into national legal systems. In particular, the Unfair Commercial Practices Directive 2005/29/EC (UCPD) prohibits misleading marketing practices that distort consumers' economic choices. The practices related to consumer reviews must also comply with the Unfair Commercial Practices Directive. Directive (EU) 2019/2161 on better enforcement and modernisation of EU consumer protection rules amended, amongst others, the Unfair Commercial Practices Directive. In particular, it strengthened it by introducing specific provisions against fake consumer reviews, expressly prohibiting the selling, buying and submitting of false consumer reviews in order to promote products. The amended rules must be transposed into national law by 28 November 2021 and Member States must apply them from 28 May 2022. The Consumer Protection Cooperation Network is regularly reviewing

¹ OJ L 119 4.5.2016, p. 1

² OJ L 201, 31.7.2002, p.37, see Article 5(3) of the consolidated version.

³ See its Article 4, point (7) and Article 7. The European Data Protection Board (EDPB), the body consisting of the European data protection authorities cooperate, has issued guidelines on the interpretation of this concept: EDPB Guidelines 05/2020 on consent under Regulation 2016/679, available at https://edpb.europa.eu/our-work-tools/our-documents/guidelines/guidelines-052020-consent-under-regulation-2016679_en

practices of e-shops via coordinated sweeps, the issues of fake reviews is high on its agenda for future sweeps.

Regarding the durability of products, the Commission acknowledges the importance of this challenge. It has announced in the European Circular Economy Action Plan⁴ and the New Consumer Agenda⁵ several new initiatives that will aim to promote the durability of products. Notably, the upcoming Sustainable Products Initiative⁶ will aim to make sustainable products the norm, by establishing product sustainability principles and revising the Ecodesign Directive, extending its scope beyond energy-related products and delivering on circularity, including durability. Furthermore, the upcoming initiative on empowering consumers in the green transition⁷ is exploring ways for consumers to receive trustworthy and relevant information on products at the point of sale, such as on the durability and reparability of products. The Commission also envisages strengthening consumer protection against premature obsolescence practices. The future review of the Sale of Goods Directive⁸ will also provide an opportunity to examine what more can be done to promote repair and encourage more sustainable, circular products.

Regarding the need for a strategy to improve consumer awareness and education, the Commission highlights that it is very active in promoting the lifelong consumer education that aims at making consumers fully informed and developing their confidence and critical thinking. Consumer organisations play a key role in informing consumers about their rights, in educating and assisting them in the digital and green transition. Therefore, the Commission is financing capacity-building programmes for national consumer organisations and other actors and stakeholders active in the consumer policy through training, awareness raising and networking activities (at national and EU level) to improve their technical knowledge, visibility and advocacy skills. The latter also need strong support from national authorities to be effective. Furthermore, the Commission is currently looking into ways of gathering existing consumer education materials produced by relevant stakeholders in the EU in order to create an extensive library of consumer education resources, which could facilitate their exchange and foster cooperation between national and local organisations.

Regarding the recommendation of involving representatives of the organisations of the elderly and the associations of persons with disabilities in the Consumer Policy Advisory Group (CPAG), we are pleased to inform you that the European Disability Forum and AGE Platform Europe are Members of the Consumer Policy Advisory Group. In terms of representation of groups acting at local community level, we count on the involvement of national consumer organisations, who are also Members of the Consumer Policy Advisory Group. The Commission is also preparing a study on local advice aimed at

⁴ https://ec.europa.eu/environment/pdf/circular-economy/new_circular_economy_action_plan.pdf

⁵ https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2069

⁶ <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-Products-Initiative>.

⁷ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12467-Consumer-policy-strengthening-the-role-of-consumers-in-the-green-transition_en

⁸ Directive 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (OJ L 136, 22.5.2019, p. 28).

mapping and identifying the current practices in the Member States and facilitating the exchange of best practices.

Regarding the recommendation of establishing a mechanism to ensure a balanced representation of the Member States and regions in the Consumer Policy Advisory Group, we recall that Member States are represented in the Consumer Policy Network (CPN). National consumer organisations bring their deep knowledge of their local experience. A representative of the Committee of the Regions is invited to the meetings of the Consumer Policy Advisory Group.

Regarding the recommendation to support the establishment and functioning of consumer organisations and those that act at the level of local communications to adapt to the commercial practices generated by the digital transition and technical progress: the Commission is about to commission a 12 months-scoping study in order to map and identify the current practices in the Member States on local advice to consumers in a situation of vulnerability. This would also include a comparative analysis in order to identify areas/groups of such consumers where the need for local consumer advice is not currently met in a satisfactory manner and to identify suitable recommendations in this respect.

Regarding the recommendation of adjusting the mechanism for solving disputes regarding online shopping to be accessible to the elderly and help people with disabilities, the Commission is regularly assessing the efficiency of its legislation regarding alternative dispute resolution (ADR). It is organising an ADR Assembly end of September 2021 where all alternative dispute resolution bodies active in the Union will be invited. The topic of accessibility of alternative dispute resolution procedures for all consumers including those with difficult access to online information will be on the agenda.

Regarding the recommendation to support cooperation between the Member States to prepare the expertise needed to ensure consumer protection in the age of new technologies: the Commission acknowledges the crucial importance of utilising new technology in the protection of consumer rights and is active in this regard, with grants to national authorities, a training programme and now the setting up of a common laboratory with dedicated tools that national authorities can use remotely.

Regarding the need to periodically check the compliance of the requirement for EU traders working online to post a link to the European online dispute resolution platform (Article 14 of the Regulation (EU) No 524/2013), provided by the Commission, to increase consumers' safety and redress: this obligation is regularly reminded to all traders subject to an assessment of their practices by the network of Consumer Protection Cooperation authorities. More generally, it is the responsibility of national consumer authorities to enforce compliance with EU consumer law.

The Commission is pleased to have this opportunity to provide clarification regarding its New Consumer Agenda and trusts that the information provided will allay the Camera Deputațiilor's concerns, notably regarding unlawful practices based on data collection

through loyalty cards issued by merchants. The processing of personal data in loyalty card programmes falls under the General Data Protection Regulation, including its requirements on lawfulness and transparency. With regard to allegations of unlawful processing in this context, it is for Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal (ANSPDCP) / the National Supervisory Authority for Personal Data Processing to investigate and take action if a breach of the General Data Protection Regulation is established. Where the processing has a cross-border element, the ANSPDCP would also need to cooperate with the other data protection authorities concerned via the cooperation mechanism as established by the General Data Protection Regulation.