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# **Good Practice in Market Surveillance Activities related to Non-Food Consumer Products sold Online Report**

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#### LIST OF ABBREVIATIONS

ACCC	Australian Competition & Consumer Commission
ANEC	European Association for the Co-ordination of Consumer Representation in Standardisation AISBL
ADCO	Administrative Co-operation Working Group
BEUC	Bureau Européen des Unions de Consommateurs
BVL	Bundesamt für Verbraucherschutz und Lebensmittelsicherheit
CEN	European Committee for Standardisation
CPBE	Estonian Consumer Protection Board
CSCE	Centre de Surveillance du Commerce Electronique
CTIA	Czech Trade Inspection Authority
DENIC	Deutsches Network Information Center
DGCCRF	Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes
ECC	European Consumer Centre
ECC-Net	European Consumer Centres Network
FCCA	Finish Competition and Consumer Authority
GPSD	General Product Safety Directive
G@ZIELT	Kontrolle der im Internet gehandelten Erzeugnisse des LFGB und Tabakerzeugnisse
HACP	Hungarian Authority for Consumer Protection
HCCTS	Hampshire County Council Trading Standards
ICSMS	Information and Communication System on Market Surveillance
MCAA	Malta Competition and Consumer Affairs Authority
MSA	Market Surveillance Authority
NVWA	Nederlandse Voedsel- en Warenautoriteit
RAPEX	Rapid Alert System for Non-Food Consumer Products
TSOs	Transmission System Operators
Tukes	Turvallisuus- ja kemikaalivirasto
UEAPME	Union Européenne de l'Artisanat et des Petites et Moyennes Entreprises

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# Table of contents

<b>Executive Summary</b>	<b>5</b>
<b>1 Research Methodology</b>	<b>13</b>
1.1 Phase 1: Collect Examples of Existing Good Practices:	13
1.2 Phase 2: Identify Effective Elements of Practices:	14
1.3 Phase 3: Formulate Recommendations for Member States	14
1.4 Good practice selection criteria	14
<b>2 Introduction</b>	<b>17</b>
2.1 Background of the Study	17
2.2 Objectives	18
2.3 General Approach	19
<b>3 Policy Background</b>	<b>21</b>
3.1 E-commerce and Market Surveillance in the EU	21
3.2 Challenges to Market Surveillance in e-Commerce	23
<b>4 Presentation of Good Practices</b>	<b>25</b>
4.1 Common Procedures	25
4.2 Good Practice Criteria & Selection	27
4.3 Monitoring and Detection	28
4.4 Consumer Awareness Raising	33
4.5 Business Awareness Raising	34
<b>5 Transferring Good Practices</b>	<b>37</b>
5.1 Introduction: Transferability	37
5.2 Transferability: Monitoring and Detection Good Practices	38
5.3 Transferability: Consumer awareness raising practices	45
5.4 Transferability: Business operator awareness raising practices	48
<b>6 Recommendations</b>	<b>51</b>
Appendix 1 Literature	63
Appendix 2 Questionnaires	67





# Executive Summary

## **Objective of the study**

This study has been carried out for DG Enterprises and Industry and DG Health and Consumers of the European Commission. The aim of this project is to provide policy makers and other stakeholders with concrete examples of good practices to improve the market surveillance and enforcement of safety regulations relating to consumer goods sold online. These examples will enable Member States to implement practices which have been shown to be successful into their own national contexts.

The development of e-commerce poses some specific challenges for Market Surveillance Authorities (MSAs). The internet has led to cross-border production and supply chains, and the removal or addition of actors in the classic supply chains. The internet has helped change the way products are made and delivered to consumers. Actors can now be very widely dispersed and difficult to find, which proves a substantial challenge for tracing a supply chain. Tracing supply chains in e-commerce can thus be quite an elusive and difficult endeavour. A further challenge is that the internet allows operators to trade in different ways. Economic operators can easily set up new web shops and web shops can easily operate from individuals' homes for instance. This means that typical enforcement activities by an MSA (such as inspections or product recalls) are not always possible.

Although the internet also allows for higher degrees of anonymity, economic operators can frequently be identified within a country by the national authorities. When a product comes from another EU Member State, identifying and intervening with a web-shop operator is done in collaboration with the relevant MSA in the specific country. This collaboration amongst EU MSAs is stipulated in Regulation 765. However, beyond the EU there is not much that an MSA can legally do to make economic operators respond to attempts to communicate and co-operate. Besides this lack of a legal mandate to enforce compliance and the difficulties with identifying the operators, an additional challenge is that products from third countries often are not tested at the same level as EU products.

The issue of market surveillance online has had specific policy attention in the Communication *"20 actions for safer and compliant products for Europe: a multi-annual action plan for the surveillance of products in the EU"*. The plan specifies the objectives to be reached and the actions to be taken to improve market surveillance and to eliminate market dysfunctions. Of particular relevance to this study is Action 12. This Action *relates to the market surveillance in respect of products sold online and how product safety and compliance can be effectively enforced regardless of the distribution channel*. The study has been carried out in the framework of this Action.

## **Methodology applied**

The information collected is based on desk research, along with written and in-depth interviews with organisations involved in the market surveillance and enforcement of regulations relating to consumers goods sold on-line. The results were discussed in two meetings of the EC Working Group on the Safety of Products Sold Online. The specific objective of the group is to assist the European Commission in developing a set of guidelines for product safety and compliance controls of products sold online. The good practices have been selected following the good practice methodology applied by the European Commission. The most important aspects in the practices considered are: the reach of the practice, the accessibility, the effectiveness and



impact, and the efficiency of the implementation. Specific attention has been paid to the transferability of the practices identified given that one of the aims of this study is to help Member States implement suitable practices in their own countries.

### **Set up of the report and annex**

In chapter 1 of this report, the methodology used in this study is described in detail. Chapter 2 introduces the study while chapter 3 describes the context of the study. Specific attention is given to the EU policies concerning market surveillance of e-commerce and the main challenges related to this. Chapter 4 presents a short summary of the 18 good practices identified and Chapter 5 focusses explicitly on the transferability of each of these practices. Finally, Chapter 6 presents the recommendations which specifically focus on the practicalities in the implementation of the good practice identified.

In addition to the report a separate **Annex** has been prepared in which all 18 practices are described in detail.

### **Overview best practices identified**

Table 1 presents an overview of the 18 practices identified. The good practices have been broadly categorised into the three main components involved in the market surveillance process for non-food consumer goods sold online. These are: monitoring and detection, raising consumer awareness and raising business awareness. Enforcement capabilities are stipulated in Regulation 765 and are relatively similar across Member States; this component is therefore not examined in detail in the study.

Table 1 Overview of good practices

Country	Topic	Practice	Case nr
<b>Monitoring and detection</b>			
Nordic countries	Cross-border collaboration with in the EU	The Nordic Ombudsman Group	1
Hungary	Cross border collaboration outside the EU	The Hungarian Consumer Protection Authority International Partnerships	2
The Czech Republic	Strategy dedicated to market surveillance of online sales	The Czech Trade Inspection Authority's methodological guidelines for inspecting online sales and web shops	3
Finland	Strategy dedicated to market surveillance of online sales	the Finnish Safety and Chemicals Agency (Tukes) Instructions on Surveillance of E-commerce	4
France	Organisation dedicated to market surveillance of online sales	The DGCCRF and its Centre de Surveillance du Commerce Electronique (CSCE) - France	5
Germany	Organisation dedicated to market surveillance of online sales	The German Federal Office of Consumer Protection and Food Safety (BVL) and G@ZIELT	6
France	Collaboration with Customs	The DGCCRF and French Customs	7
The United Kingdom	Using intermediaries to identify products and operators	The Hampshire County Council Trading Standards (UK) and cooperation with Amazon and eBay	8
Sweden	Efficient consumer complaints systems	The Swedish Consumer Agency system	9
Belgium	Using social media and	Internet Surveillance Department search	10



Country	Topic	Practice	Case nr
<b>Monitoring and detection</b>			
	free, specialised websites to find operators	procedures to track operators	
The United Kingdom	Online Mystery Shopping:	The case of the UK	11
<b>Consumers awareness raising</b>			
The United Kingdom	Using the media	Suffolk County Council Trading Standards (UK) and the information the MSAs provide for mainstream TV shows such as "Watchdog"	12
Malta	Raising consumer awareness	The Malta Competition & Consumer Affairs	13
The Netherlands	Private Quality or Trust Marks	The Dutch Home shopping guarantee mark "Thuiswinkelwaarborg"	14
Denmark	Using social media and specialised websites to find operators:	Denmark and the Howard Shopping Assistant	15
<b>Business awareness raising</b>			
Estonia	Regular updates for business operators on new relevant legislation	Consumer Protection Board of Estonia & Information Letters	16
Australia	Centralised information on selling online in a given country	The Australian Competition and Consumer Commission (ACCC) business guide to selling products online to Australian consumers	17
The Netherlands	Raising business operator awareness	The Dutch Authority of Food and Wares & the information and learning website TradeRouteAsia.nl	18

Source: Panteia, 2014. See Annex to the report *Good Practice in Market Surveillance Activities related to Non-Food Consumer Products*

## **I. Monitoring and Detection**

A first set of good practices presented relates to monitoring and detection of consumer goods sold online. MSAs carry out a variety of market surveillance activities using for instance, information sharing systems like RAPEX, product sweeps, collaboration with customs, prioritising certain products /product groups to be tested, setting up consumer complaints systems, and cooperation with similar organisations, sharing experience and encounters.

### **Designated departments or organisations:**

A number of countries have set up a formal, designated department for market surveillance online. They carry out monitoring and tracing of non-compliant or unsafe products and operators at the national level, while regional level organisations are responsible for the enforcement activities. Through such organisation, resources are used more efficiently. An example of such a set up is the *Centre de Surveillance du Commerce Electronique (CSCE)*, under the *Direction Générale de la Concurrence de la Consommation et de la Répression des Fraudes (DGCCRF)* in France. The cyber inspectors at the centre identify unsafe or non-compliant products and identify



economic operators involved. The necessary enforcement actions are taken by one of the 122 "Départements" of DGCCRF.

Another example described is the German organisation *G@ZIELT*, part of the German Federal Office of Consumer Protection and Food Safety (BVL). *G@ZIELT* is a joint initiative of 16 "Länder" and is responsible for the monitoring and detection of products sold online while the enforcement is the responsibility of the surveillance authorities of the "Länder".

### ***A formal market surveillance strategy for on-line sale:***

Considering the specific challenges related to e-commerce a formal or defined strategy for approaching market surveillance online is an important tool for MSAs. These plans provide a systematic method of monitoring and detecting non-compliant products and/or operators online. Consequently, resources tend to be used more efficiently. Two examples are presented in this context the *Czech Trade Inspection Authority (CTIA)* is responsible for monitoring and inspecting products supplied on the Czech market. The CTIA has developed specific guidelines for their online shop inspectors in which the requirements of legislation have been translated into pragmatic actions. The *Finnish Safety and Chemicals Agency (Tukes)* is the competent national authority for promoting the technical safety and conformity of products, consumer safety and chemicals safety. In close cooperation with other actors, Tukes developed a specific strategy including procedures for their market surveillance activities for consumers goods sold online.

### ***International cooperation:***

Given the specific characteristics of e-commerce and how it facilitates international supply chains, more international cooperation and information is considered to be important by MSAs. Since the products offered online often come from abroad, international working relationships, especially with large producers of consumer goods from outside the EU, can help to remedy some of the main challenges. This is evidenced by cases from the Netherlands and Hungary. In the case of the Netherlands, the relationship between the *Netherlands Food and Consumer Product Safety Authority (NVWA)* and the Chinese authorities has developed over the years. This is achieved through study visits, learning about each's business cultures, and by establishing areas in which there is room for mutually beneficial collaboration. In Hungary the *Consumer Protection Authority (HACP)* has information sharing relationships with China, Lebanon and neighbouring countries within Europe. The approach taken and basis for these relationships vary but are considered to be useful steps in promoting product safety online.

Having good relations with organisations involved with market surveillance and product safety in countries within the EU can also be very useful. This is illustrated by the case of the Nordic Ombudsman Group covering consumer organisations from Denmark, Finland, Iceland, Norway and Sweden and the Faroe Islands. This case demonstrates how practical collaboration can be achieved. While the Nordic Ombudsman group is a co-operation between consumer organisations, the style and nature of the co-operation is one which is applicable to other policy areas, including market surveillance.





### **National co-operation:**

This study has also pointed to the value of co-operation between MSAs and other relevant organisations within a country. Cooperation with organisations like customs, tax authorities, telecommunications operators, online market place platforms and consumer organisations can be very useful in pooling resources and avoiding double work. Several practical points to facilitate such co-operation were derived from the good practice cases described. In France for example, the *DGCCRF* has a close working relationship with the customs, established in a formal protocol where the nature of the co-operation with customs goes beyond the stipulations of Regulation 765. As a result of the protocol, regular meetings take place, market surveillance priorities are discussed, action plans developed, joint market surveillance and enforcement activities are planned and information systems are shared. The German organisation *G@ZIELT* also collaborates with a series of different organisations such as for instance, the German Network Information Centre, DENIC, which has the legal mandate to close websites if needed.

### **Co-operation between MSAs and other actors in the online supply chain:**

Another category of organisations with which collaboration is useful for MSAs is that of intermediaries and online market places, which have a large share of the online consumer sales market. Establishing formal co-operation between MSAs and such intermediaries can help to make monitoring, detection and identification activities within market surveillance more efficient. The case of the *Hampshire Trading Standards* in the UK and its collaboration with Amazon and e-Bay demonstrates how approaching such an organisation's national representative and providing evidence of non-compliance often leads to the removal of non-compliant products or operators.

Besides online market places, establishing cooperation with international shipping companies is recommended as well. UPS for example searches products they ship if an MSA provides sufficient evidence that there is something wrong with the contents of a package.

### **Use of available tools:**

A significant portion of market surveillance relating to e-commerce can be carried out using free and readily accessible tools to trace economic operators. Using these tools do not require a high level of ICT expertise. Besides basic internet searches, more specialised, free websites can be used such as "WebCrawler" or "Whois". The use of such tools and the provision of basic training on market surveillance online, together with a systematic protocol for search procedures improve the efficiency of the activities. These activities are further illustrated by the case on the *Belgian Internet Surveillance department*. The *G@ZIELT* case also applies this same principle in its operations.

Efficiency can be further improved by setting up a sound database for recording cases of non-compliant products and/or business operators. This can be done for instance, by making the national consumer complaints system as clear as possible, allowing consumers to provide more detail and generate more informative complaints. This in turn helps MSAs to pursue complaints more efficiently. The value of such a system is demonstrated by the *Swedish Consumer Agency's complaints system*.



## **II. Consumer Awareness Raising**

Preventative measures in the form of consumer awareness raising activities are also deemed to be important given the characteristics and risks of e-commerce. MSAs can inform consumers of the risks associated with buying products online through their websites. The media and consumer organisations also inform consumers in various ways of the risks of buying online.

### **Making use of established media:**

An issue which became apparent in the course of this study is the difficulty that MSAs have in reaching consumers and getting their attention concerning the potential risks involved in buying products online. Consequently, making use of established media channels to reach a broad public is a useful practice. This practice is illustrated in the case of the co-operation in the UK between the *Suffolk County Council Trading Standards* department and the national consumer rights TV programme "Watchdog". In Malta, a comprehensive range of awareness measures was provided by the *Office for Consumer Affairs* including seminars, an active media campaign consisting of regular contributions to articles in a range of newspapers, plus reactions in the media to topical issues. Officers participated regularly in radio and TV programmes to explain to the general public about legal rights and obligations in the area of consumer affairs.

### **Maximising information retention and dissemination:**

Presenting information in such a way that maximises interest and retention amongst consumers is also an important consideration. This can be achieved by researching information on persuasive communication or behavioural economics for instance. Allocating a portion of the budget to develop clear, relevant information for consumers is an important aspect in this respect. Dissemination of information is an equally important aspect, evidenced by the Maltese case where a variety of media channels were used to promote the series of seminars being organised by the Maltese Consumer and competition authorities. Similarly, the *Australian Competition and Consumer Commission (ACCC)* makes efficient and extensive use of its network of stakeholders and beneficiaries to disseminate the available information.

## **III. Business Awareness Raising**

As well as improving consumers' awareness it is important that the businesses trading online are made aware of the specific characteristics of e-commerce and also of the relevant regulatory frameworks with which they must comply. In many cases non-compliance is accidental and not a conscious behaviour of online traders.

### **Develop a unified set of guidelines:**

Often there is no central information point for business operators to gain an overview of their legal obligations. Such information overviews should combine input from various stakeholders, include relevant legislation and highlight issues of responsibility in the supply chain. The *ACCC's Business Guide to Selling Online to Consumers in Australia*, is considered to be a good practice in this respect. Another good practice is the *TradeRouteAsia website*, developed in the Netherlands. By listing the most pressing needs and challenges for business operators in a systematic manner the website is a useful instrument to support businesses trading with Asian countries.



### ***Product requirement legislation in understandable terms:***

Keeping track of new and amended legislation can be complicated and as a result, business operators sometimes violate product requirements unintentionally. Regularly informing operators of the changes to relevant legislation is a useful practice that could again yield benefits by preventing non-compliant and unsafe products from entering the market to begin with. In the case of Estonia, the *Consumer Protection Board* has implemented this practice effectively; regular updates are sent around on legislation that is relevant to operators.

### ***Interactive information provision:***

Interactive methods of information provision tend to lead to a more active way of absorbing and remembering information. This is demonstrated in the Dutch case for instance, where the TradeRouteAsia website uses e-learning modules and quizzes to involve and test business operators on their knowledge. In a non-digital manner, the seminar series organised in Malta also forms a more interactive, real-life method of providing information.

### ***Supra national activities***

A number of the practices presented in this study can be shared and implemented in other Member States. Besides information and knowledge sharing, and the potential benefits to be derived from this, it has also become apparent that a number of national level MSA activities could be implemented at the European level. This could improve the scope and reach of some the practices explored in this study. For instance, an EU level strategy for market surveillance in e-commerce was mentioned by some experts in the Working Group as a useful step in cross-border market surveillance. Inspired by such designated organisations in countries like Germany and France, establishing a transnational, designated organisation for monitoring and detection regarding e-commerce could be considered. Further detection and enforcement activities could then be carried out at the national level so as to conduct market surveillance online with a wider scope and to operate more efficiently across borders.

A selection of the nationally developed online market surveillance tools that have been described could be used by other Member States relatively easily. Consider for instance the programme “WebCrawler” used by G@ZIELT or the Dutch TradeRouteAsia website of the Netherlands Food and Consumer Product Safety Authority (NVWA).





# 1 Research Methodology

This section briefly introduces the research methodology for this project on market surveillance of non-consumer goods sold online. The main objective of this project is to identify good practices in enforcing safety and compliance legislation for consumer goods sold online.

The project consisted of three phases:

1. Collection of examples of existing good practices.
2. Identification of elements that have proved to be effective.
3. Formulation of recommendations for Member States to improve their performance in this area.

These three phases are presented below, followed by a brief description of the selection criteria used to identify good practices.

## 1.1 Phase 1: Collect Examples of Existing Good Practices:

The aim of phase 1 was to come to a preliminary list of possible good practices to be examined in more depth in phase 2 to arrive at a definitive list of good practices. The main research tools at this point were desk research of available literature and policy documentation, and especially semi-structured interviews. These were held with representatives in the market surveillance, consumer protection and e-commerce fields. The key underlying steps are outlined below:

- Clarify key concepts: establishing which important causal mechanisms were at work in the field of market surveillance and enforcement for non-food consumer goods sold online. This stage included a defining of e-commerce and understanding common market surveillance practices in the EU. The main challenges for the Member States in this area were also identified, especially when goods come from outside the territory of EU Member States.
- Hold the First Expert Working Group Meeting: this meeting took place in March 2014 and helped introduce the project to stakeholders and interested parties. Presentations were made of the types of good practice in France, Belgium, Germany, Austria, the United Kingdom and the Netherlands. This meeting provided an excellent starting point for the research activities. The list of participants was provided by the EU Commission and these were interviewed by the research team.
- Provide an overview of the current state of affairs amongst the 28 EU Member States and EFTA countries. Using semi-structured interviews the main common practices, challenges and interesting practices were identified. In some cases due to language barriers or due to time pressure, the interview candidates preferred to provide written responses to questions set out in the first interview template.
- Establish criteria for identifying good practices: this required determining what constitutes an “effective” policy in this area. The definition used to identify a good practice was incorporated into the first list of interview questions to help identify the practices that could truly be considered “good practices”. In this first phase, a practice was eligible for further research if it satisfied the criteria outlined in section 1.4 below.
- Identify a long list of (possible) good practices: based on the interviews conducted, information received and desk research carried out, a long list of possible good practices was developed.
- Develop the Inception Report: to present the first findings to the Steering Group. The main challenges, common procedures and a long list of possible good practices were presented. In a meeting the long list was discussed with the Steering Group and the research team arrived at a more refined list of possible good practices. These became



the candidates for the final list of good practices and were examined in more depth in Phase 2.

## **1.2 Phase 2: Identify Effective Elements of Practices:**

- Assess the refined list of possible good practices: in this stage the refined list was analysed more thoroughly to see which practices could truly be seen as good practices. The aim of this stage was to arrive at a list of good practices which could then be discussed and evaluated in the Second Expert Working Group meeting. In order to assess the refined list, a second round of in-depth interviews was held with the representatives involved. On average two people were spoken with, for each practice. A new second interview questionnaire was developed which incorporated questions addressing the elements of a good practice. The assessment of these practices was based on whatever quantitative data could be found or could be provided by interview candidates. Furthermore, qualitative indicators such as the professional perspectives of the interviewees were also used in assessing the performances of the good practices. The rationales behind these preliminary good practices, the causal mechanisms, and transferability were especially important aspects which the interviews focused on.
- Develop a draft Final Report in which this analysis of the long-list of good practices is presented: the analysis was also used to formulate a first set of preliminary recommendations which have also been included in the Draft Final Report. The long-list of good practices was presented to the experts in the Second Expert Group Meeting.

## **1.3 Phase 3: Formulate Recommendations for Member States**

- Using the first preliminary set of recommendations included in the Draft Final Report and the comments received from the Second Expert Working Group meeting, the Final Report was prepared, incorporating a definitive set of recommendations.

## **1.4 Good practice selection criteria**

As has been briefly described above, two sets of criteria were used in the good practice selection. First there was a preliminary round, making use of screening criteria. Secondly, a more detailed set of criteria were used to evaluate the practice more thoroughly in terms of its performance. These criteria can be applied to any policy domain, though the degree to which information is available on each of the performance criteria can vary when applying the criteria in practice.

There is a vast literature on identifying good and best practices. Policy makers nowadays are aware that there is no need to reinvent the wheel. All kinds of policies have been implemented for various purposes by governments at different levels and by supra-national organisations (e.g. European Commission). In many cases good practices are used to demonstrate how successful policies are.

In first instant the following criteria were used. To be a 'best practice':

- The practice should already be in place.
- It should have clearly identifiable aims and objectives.
- It should be user-friendly and accessible for Market Surveillance Authorities.
- It should be adaptable and transferable.
- Its results should be identifiable and capable of evaluation.
- Over a range of relevant indicators, it should clearly out-perform other practices in terms of efficiency and effectiveness.
- It should be capable of being continuously improved.



Without a clear understanding of what a policy measure<sup>1</sup> is supposed to achieve, it is difficult to assess the effectiveness of the measure, and even more difficult to compare policy measures. Therefore, the policy measure should have clearly identifiable aims and objectives which are SMART<sup>2</sup>: specific, measurable, achievable, realistic, and time-dependant.

Having identified which criteria were needed to make a practice initially eligible to be considered a good or best practice, an important second set of criteria were applied. Literature on the subject dictates that the following qualities should also be present in a case for it to be deemed a good or best practice:

<b>Good practice criteria</b>	<b>Explanation</b>
Reach	A large output and a relatively high reach of the target group, indicate something about 'popularity' and 'suitability' of an instrument.
Accessibility	Ease of access, lack of red tape, etc.
Effectiveness/impact	Have the goals of the policy measure really been reached? Measuring the effectiveness of a policy measure requires clear, explicit and measurable objectives.
Efficiency	Costs benefit ratios and volume of administrative burdens. It is important to get an idea of the resources being allocated for a specific measure in relation to the effect obtained.
Evaluation	A proper assessment of the effectiveness and efficiency of a policy instrument is only possible if good evaluation studies are available.
Implementation issues/ administrative burden	If an instrument suffers from a lot of problems in the implementation process and leads to a lot of bureaucracy, this is not a recommendation for a good practice.
Transferability	The instrument should be adaptable and transferable. Good practices are considered as good on the basis of the economic, political, cultural and institutional framework of the country in which they are implemented. Therefore, it would be important to know why a particular measure was introduced and which circumstances were of influence on its results. Then, we might get an idea in which situations (sectors, countries) the measure is successful and in which situations it will probably not be successful.

Source: EIM/Panteia

<sup>1</sup> In this case, implementation of surveillance may be more relevant than policy measures in a narrow sense.

<sup>2</sup> European Commission, *Impact Assessment Guidelines*, Brussels, 15 January 2009.







## 2 Introduction

### 2.1 Background of the Study

With advancing globalisation and the swift pace of developments in media technology, e-commerce in the European Union (EU) has grown rapidly. In the last five years, the internet economy has contributed 21% of the total GDP<sup>3</sup> of the European Union and this is expected to increase further. The EU and the Member States need to find new ways of tackling the challenges which accompany this growth in e-commerce. Relevant considerations here include: the increased speed of doing business, reduced transaction costs, short supply and/or production chains, cross-border chains of production and larger product markets available online.

Making sure that products are safe and that they comply with product safety legislation is an important component of the single market. By upholding these safety requirements, consumers are protected and businesses can operate on an even playing field thus fostering economic competition. Market surveillance and enforcement activities are crucial in promoting these processes and this is no less true for the digital market<sup>4</sup>.

The responsibility for market surveillance lies with the Member States, who carry out market surveillance activities. Market surveillance is built on a series of activities, including: monitoring, detection, inspections, sampling, laboratory testing, risk assessments, interventions, and legal procedures which may result in corrective measures or sanctions. To carry out these duties, market surveillance authorities (hereafter 'MSAs') must have the appropriate resources. They also require the legal and administrative power to enforce compliance with the applicable legislation in those cases where product safety requirements are not upheld<sup>5</sup>. While in the context of the single market no borders exist for products, market surveillance authorities and their activities are still limited to their national territories. Given that e-commerce is also very much a cross-border phenomenon, there is a need for better coordination and communication between EU market surveillance authorities. Beyond the EU borders, market surveillance is especially challenging for MSAs since a significant proportion of goods bought online come from outside the EU. This is a challenge which would benefit from further policy attention.

The EU has long since recognised the economic importance of e-commerce, as well as the challenges it brings regarding consumer safety. Upholding the safety of products when consumers buy from suppliers that can be located in or outside the EU, becomes increasingly difficult. As such, market surveillance authorities face increasing pressure to find appropriate responses to the development of e-commerce and the challenge of keeping consumers safe.

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<sup>3</sup> DG Internal Market and Services, Presentation: "The Latest Trends in e-commerce in the EU" CONSUMER SAFETY NETWORK SUB-GROUP ON THE SAFETY OF ONLINE SALES, Brussels, 11th March 2014

<sup>4</sup> European Commission, 2013, *PRODUCT SAFETY AND MARKET SURVEILLANCE PACKAGE - COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE - More Product Safety and better Market Surveillance in the Single Market for Products*, COM (2013) 74 Final, Brussels.

<sup>5</sup> European Commission, (2013), *PRODUCT SAFETY AND MARKET SURVEILLANCE PACKAGE - COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE - 20 actions for safer and compliant products for Europe: a multi-annual action plan for the surveillance of products in the EU*, COM (2013) 76 Final, Brussels.



The need for better coordination and interaction across the EU regarding market surveillance in order to counter the obstacles to increasing cross-border e-commerce has been recognised in the **Multi-Action Plan for Market Surveillance**. Within the Multi-Action Plan, **Action 12** crystallises this drive and forms the main impetus for this study.

*“Action 12 of the multi-annual plan relates to the market surveillance in respect of products sold online and how product safety and compliance can be effectively enforced regardless of the distribution channel.”*

#### **Action 12**

*In its Multi-Annual Plan for Market Surveillance, the Commission identified four key activities that could help improve market surveillance for products sold online:*

- studying the ways in which e-shops selling consumer products operate, including the location of large e-commerce operators, e-commerce supply depots and ecommerce supply routes, in particular if products are distributed to the final consumer directly from third countries and the role and importance of SMEs in the e-commerce supply-chain;*
- establishing, together with the Member States, a common understanding/approach of the ways in which the surveillance of products sold online should be performed in the Union and produce guidance on the enforcement of the rules for products sold online, especially in cross-border situations that require cooperation between the authorities of different Member States or third countries;*
- collecting information from the Member States enforcement authorities/agencies on such enforcement activities;*
- educating consumers and defining the roles and responsibilities of the relevant parties (authorities, economic operators and consumers) in the form of short, simple and clear public information statements.*

In the context of the Multiannual Action Plan, a **Working Group on the Safety of Products Sold Online** was set up. The aim is to reach a common understanding of how enforcement should be carried out and to set out guidelines for market surveillance officers. The main, ultimate objective is to ensure that products sold online are safe or comply with applicable EU legislation.

The Working Group consists of experts who have relevant experience on market surveillance and/or in e-commerce surveillance. Almost all Member States are represented in the working group as along with European level organisations representing civil society: EuroCommerce, ANEC/BEUC, BusinessEurope, UEAPME and CEN. The specific, practical objective of the group is to assist the Commission in developing a **set of guidelines** for product safety and compliance controls for products sold online.

## **2.2 Objectives**

This study contributes to these policy goals by collecting and evaluating good practices currently in use across the EU relating to product safety and compliance of non-food consumer goods sold online. In some cases interesting lessons can be learnt from countries beyond the EU as well and where useful these are also considered. The study aimed to lead to a set of useful, pragmatic measures (good practices) which can help improve market surveillance of online non-food consumer goods across the EU.

The aim of this project is thus fairly pragmatic, namely to provide policy makers and other stakeholders with concrete examples of implemented policy measures which



improve the market surveillance of consumer goods sold online. This includes the market surveillance and safety of products produced both inside and outside the European market. Ultimately, Member States will be able to implement practices which have been proven to be successful and which are considered to be suitable for the national context in question.

Electronic commerce, based on the electronic processing and transmission of data, encompasses many diverse activities including electronic trading of goods and services, on-line delivery of digital content, electronic funds transfers, electronic share trading, public procurement, and so on.

These activities may be divided into two categories: 1) indirect electronic commerce, i.e. the electronic ordering of tangible goods that must still be physically delivered and which therefore depends on a number of external factors, such as the efficiency of the transport system and postal services; and 2) direct electronic commerce, i.e. the on-line ordering, payment and delivery of intangible goods and services such as computer software and entertainment content.

In this study, only Business to Consumer (B2C) e-commerce is taken into account, specifically non-food consumer products.

### **2.3 General Approach**

In order to arrive at the cases of good practice, two main stages of research activities were undertaken. During the first stage the research team examined available academic and grey literature on the current state of market surveillance online, followed by a series of interviews with market surveillance related authorities and organisations across the EU. These actions were complemented by the First Expert Working Group Meeting hosted by the Commission in Brussels.

From the interview accounts and the First Expert Working Group Meeting, the main current challenges and the common procedures concerning online market surveillance were established. Based on this research a list of potential good practices was identified. The criteria used for identifying good practices have been outlined above in the methodology chapter, and these were applied in as far as was possible in order to determine a preliminary set of good practices. These were discussed with the Steering Group for the project and were investigated further in the second stage of the research. In this second stage a round of in-depth interviews were conducted to gather the remaining necessary information on the practices identified. Several preliminary recommendations were also formulated at this stage based on the research carried out up to that point. These descriptions and the recommendations were discussed in the Second Expert Working Group Meeting.





## 3 Policy Background

This chapter briefly explains the importance of e-commerce to the EU economy and the role which market surveillance can play in improving the levels of online shopping. The main EU policies concerning market surveillance in e-commerce are discussed, as are the main challenges that market surveillance authorities continue to face.

### 3.1 E-commerce and Market Surveillance in the EU

E-commerce is becoming increasingly popular amongst consumers. Multiple factors contribute to this, such as the more integrated European single market and the larger diversity in products and prices offered by web shops. Besides this, the potential for opening up new markets within the European Union using online methods also plays a role. To give an indication of the growing importance of e-commerce, in 2006, 27% of EU consumers had made online purchases. At the time the percentage of cross-border purchases was relatively low, with only 6% of consumers being involved. More recently however, during 2012, 60% of individuals aged between 16 and 74 from across the EU28 (around 500 million citizens) used the internet to purchase consumer goods.<sup>6</sup>

It is also clear that the e-commerce phenomenon has not yet reached its peak and the EU can benefit further from encouraging online shopping. There is an impetus both to expand this and to make use of the possibilities offered by e-commerce, including adapting legislation accordingly<sup>7</sup>. In the last five years the internet economy has contributed 21% to the GDP of the EU, demonstrating a considerable growth. However, there is still room for expansion in the digital market economy. For example, a 2011 study for the Executive Agency for Health and Consumers estimated that an increase in cross-border on-line retailing from 3.5% to 15% of all sales would benefit consumers by €154bn p.a. (equivalent to 1.66% of EU GDP)<sup>8</sup> through lower prices and increased choice.<sup>9</sup> There is thus considerable scope for savings for consumers and for value to be added, by improving the levels of e-commerce in the EU. The importance of e-commerce was recognised at the turn of the century, evidenced by the policy attention on this area that found an expression in the E-Commerce Directive in 2001.

Some of the main obstacles to a more thriving e-commerce market in the EU are rooted in low consumer trust and technical and legal obstacles to purchasing goods abroad. While legal and technical obstacles are more attributable to specific online business operators, low consumer trust is based on a number of factors. To name a few: non-transparent payment methods, protection of personal details, mistrusting systems for the delivery of products, different taxation systems, and low faith in online dispute resolutions. These can all contribute to low overall consumer trust in online shopping, especially across borders<sup>10</sup>. Market surveillance can play a key role in alleviating some of these obstacles and in leading to higher levels of e-commerce.

<sup>6</sup> Eurostat, (2013), Press Release: *European Year of Citizens 2013: Nearly 60% of EU internet users shop online: Clothes, travel & holiday accommodation: most common online purchases*, Eurostat, Luxembourg.

<sup>7</sup> European Commission, (2011), *COMMISSION COMMUNICATION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS A - coherent framework for building trust in the Digital Single Market for e-commerce and online services*, COM (2011) 942, Brussels.

<sup>8</sup> DG Internal Market and Services, Presentation: "The Latest Trends in e-commerce in the EU" .CONSUMER SAFETY NETWORK SUB-GROUP ON THE SAFETY OF ONLINE SALES, Brussels, 11th March 2014

<sup>9</sup> CSES/Panteia Report: Evaluation of Internal Market Legislation for Industrial Products, January 2014. See COM(2014) 25 final

<sup>10</sup> DG Internal Market and Services, Presentation: "The Latest Trends in e-commerce in the EU" CONSUMER SAFETY NETWORK SUB-GROUP ON THE SAFETY OF ONLINE SALES, Brussels, 11th March 2014.



EU regulation and the market surveillance upholding this form the foundation of the single market in the EU and the same principle applies to goods sold online. Market surveillance and enforcement of product safety therefore clearly have an important role to play in improving e-commerce in the EU. Given this connection, the EU has established policies which address the role of market surveillance in e-commerce.

One of the major pieces of EU legislation to establish more universal product controls was the General Product Safety Directive (GPSD), in 2001. This Directive stated that consumer products must be safe. It set guidelines for product standards and obligations, and attributed to Member States the responsibility for setting up market surveillance authorities. It also laid down systems for information exchange and intervention in the case of unsafe products. However, online products specifically did not form a major part of this legislation.

Different legislation and actions paying close attention to e-commerce and online goods have been introduced since, (the Consumer Policy Strategy of 2007 for instance). However, a recurring issue is the need for a more integrated approach on the part of the Member States. The public consultation on the revision of the General Product Safety Directive (2010) indicated that market surveillance activities for products marketed online take place in *a fairly incidental, fragmented and uncoordinated way*. Consumers often buy products online and face problems if the product is unsafe or non-compliant. Unsafe or non-compliant products that have been withdrawn and recalled from the EU market may still be available to final users (in the EU or not) via the Internet. Co-ordination and information is necessary to uphold sound market surveillance in the face of increasingly international production chains and growing levels of e-commerce. Proposals for more integrated approaches to e-commerce are illustrated by the Digital Single Market policy in 2011 and the Action Plan for the Single Market Act, also from 2011. These policy documents specifically address the issues of e-commerce and goods bought online. Most recently, in 2013 the Product Safety and Market Surveillance Package was adopted to pursue a more specific and holistic approach to securing consumer safety online.

During the negotiations on the proposals for a Consumer Product Safety Regulation and a Market Surveillance Regulation, the need for improved controls regarding products sold online was highlighted. Discussions on this topic took place within (some) Member States, sector-specific groups for administrative cooperation (ADCOs), and expert groups. It seems that national authorities are starting to take more measures as well. In 2014 the first RAPEX notifications were made of measures taken against products sold online that posed serious risk.

Plenty of EU legislation exists on consumer protection, product safety and market surveillance. However, the issue of market surveillance online received specific consideration in the Communication "20 actions for safer and compliant products for Europe: a multi-annual action plan for the surveillance of products in the EU" (COM (2013)76), adopted in February 2013. The plan specifies the objectives to be reached and the action to be taken to improve market surveillance and eliminate market dysfunctions. Of particular relevance to this study is Action 12, of which the main objective is reiterated here": Action 12 of the multi-annual plan *relates to the market surveillance in respect of products sold online and how product safety and compliance can be effectively enforced regardless of the distribution channel*.



## 3.2 Challenges to Market Surveillance in e-Commerce

Based on EU policy documents and other academic and grey literature, a number of challenges to online market surveillance and enforcement have become apparent (see Appendix 1). Some of these challenges are characteristic of market surveillance and enforcement activities generally, though some of these pre-existing issues are made more acute in the context of e-commerce. A further set of challenges are inherent to the e-commerce context specifically.

### 3.2.1 *General challenges in cross-border market surveillance and enforcement:*

Market surveillance authorities (MSAs) face a number of challenges when it comes to enforcing consumer product safety and compliance of products that come from outside their national borders. Identifying and tracing the actors involved in the supply chain across borders is difficult as MSAs do not have a legal mandate abroad to demand information or take formal action. Thanks to Regulation 765<sup>11</sup> however, there is a legally established collaboration between MSAs in the EU. This helps alleviate to some degree the issue of tracing supply chains. Beyond the European Union however, such collaboration between MSAs is not so common and as such, enforcing the safety and compliance of consumer goods from third countries is especially challenging for MSAs. Furthermore, MSAs often operate and check products on a reactive basis, though proactive market surveillance is not uncommon. As such, consumer and other alert systems for non-compliant or unsafe products are important for letting MSAs know when a product requires action. A challenge here is that the resources of MSAs are such that they tend to restrict their response to unsafe or non-compliant products identified within their own countries. Often there are not enough resources to even explore all those products for which there have been alerts. This challenge is made more extreme when considering cross-border market surveillance and enforcement as the scope of complaints to address increases. Across borders there is the RAPEX alert system for European MSAs, but beyond Europe systems developed to the same degree are uncommon.

Finally, individual orders by consumers also pose a challenge in that checking products which are shipped into the internal market in individual, consumer consignments presents quite a logistical challenge. Most MSAs do not have the resources to check every bulk consignment entering the internal market, let alone individual consumer goods and packages.

### 3.2.2 *Challenges specific to e-commerce:*

E-commerce challenges existing forms of legislation and its enforcement. In the context of e-commerce specifically, some of the existing market surveillance challenges, especially those relating to traceability of supply chains, become more acute. The internet allows for higher degrees of anonymity and in the case of e-commerce and web shops this makes tracing supply chains more challenging. Web shops and their operators can be identified with relative success within a country by the national authorities and MSAs. When a product comes from outside a country but still within the EU, identifying and intervening with a web shop operator can be done in collaboration with the MSA of the relevant country under Regulation 765<sup>12</sup>. However, beyond the EU there is not much that an MSA can legally do to make an operator or manufacturer respond to attempts at communication and collaboration.

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<sup>11</sup> REGULATION (EC) No 765/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.

<sup>12</sup> REGULATION (EC) No 765/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.



Furthermore, there is no reason for relevant authorities from third countries to pursue and intervene with a manufacturer or operator who supplies products which are not safe or compliant. Besides this lack of a legal mandate there is also the added difficulty of identifying and finding an operator or manufacturer beyond the EU. E-commerce involves increased levels of anonymity and potentially vastly dispersed actors in the supply chain. This proves a substantial challenge for tracing a chain and for performing market surveillance and enforcement activities.

An additional challenge in the context of e-commerce concerns products from third countries. While such products are screened before entering the EU market, when ordered online by consumers, products from third countries tend not to be subject to the same level of testing. As a result, ensuring that they adhere to EU product regulations becomes more difficult. This is related to not having enough resources to check each consumer consignment which enters the country and not having a legal mandate to enforce product regulation compliance abroad. This is where the role of market surveillance and the enforcement of consumer product safety regulations can make a difference.

The internet has the capacity to change the nature of the supply chain as some actors are eliminated or are located in other countries. Cross-border chains and the removal or addition of certain actors to the classic supply chains (such as wholesale retailers for instance) have changed the way products are made and delivered to consumers. The internet means that actors are potentially very widely dispersed and this proves a substantial challenge for tracing a supply chain. Tracing these cross border supply chains is difficult at the best of times and can become even more problematic for MSAs in the context of e-commerce.

Additionally, the internet makes setting up a web shop much quicker, easier and cheaper to do. As such, once a web shop and the operator are identified and shut down, the operator can set up a new web shop or online platform with relative ease. Supply chains in e-commerce can prove to be quite illusive and difficult to take action against.

A further challenge when carrying out market surveillance for e-commerce generally is that the internet makes different forms of operators possible. Given the relative ease with which people can set up a web shop, some people sell items directly to consumers from their own homes. In this case typical enforcement activities by an MSA (such as inspections or product recalls) are not always possible. The actions that can be taken by an MSA are connected to the understanding in a country of what constitutes being "on the market". In some countries a warrant is needed if the product is being sold from an individual's home, for instance.





## 4 Presentation of Good Practices

This study has aimed, first, to establish what the current state of affairs is with EU market surveillance activities relating to e-commerce, followed by the identification of good practices. Through the research activities an overview was gained of the main, common activities that EU market surveillance authorities engage in relating to e-commerce. The activities - at a national level, within the EU, and beyond the EU - have been reviewed and are presented below.

While these common procedures are effective, this study is predominantly interested in good practices. These are practices which satisfy the good practice criteria and which go beyond what has been universally implemented according to EU legislation. The first section of this chapter therefore outlines the common procedures identified during the research, followed by a discussion of what is understood in this context as a good practice. The list of good practices selected in the context of this study are described in the remainder of this chapter. A more detailed description of the practices is presented in a separate Annex to the report.

The practices have been selected based on the fact that they address one or more of the major challenges to market surveillance of e-commerce. The practices are categorised according to components which are involved in the market surveillance process for non-food consumer goods. These are:

- Monitoring and detection;
- Raising consumer awareness;
- Raising business awareness.

The enforcement component of market surveillance is not addressed specifically in this research as enforcement practices tend to be quite similar across EU Member States. Regulation 765 established a number of competences and powers for market surveillance authorities to enforce product safety and compliance. These powers have been transposed and implemented in relatively similar ways across the EU and as such this category is not addressed in much detail. Instead the focus is on those practices which go beyond what is written in EU legislation and regulations. However, cases where the implementation of a Regulation is particularly innovative and/or effective are also considered.

### 4.1 Common Procedures

Throughout the research the prevalent, common procedures currently in use by MSAs across the EU were established as well as potential good practices. The list of current, common procedures are listed below to give an idea of the (online) market surveillance landscape in the EU.

#### ***Market Surveillance Activities:***

- **Use of information sharing systems like RAPEX, ICSMS, the Prosafe network, ADCOs, or the ECC-net:** interviewees indicate that information sharing across borders through such systems makes monitoring product compliance and safety much quicker and more effective. Many countries regularly consult these networks to guide the focus of their market surveillance and enforcement activities.
- **Cross border collaboration between MSAs in the EU and other similar organisations:** when non-compliant goods are identified in a country, but the operator is outside of this country, the MSA does not have jurisdiction to enforce compliance of that product. What it can do instead however, is to contact the MSA of the country where



the operator is situated and request that the national MSA take action. In the EU this tends to work relatively well, most likely because of the cross-border collaboration clauses of Regulation 765/2008 for MSAs. Besides MSAs, consumer protection organisations, accreditation bodies, and other organisations involved in consumer product safety and compliance are useful collaboration partners. In third countries the success of this approach is difficult to determine. However, the point stands that it is a common practice to approach the MSA of the country where a doubtful operator is situated. This practice has been cited by the majority of the organisations interviewed across the EU.

- **Google or internet searches to find operators:** a relatively straightforward way of finding operators is to conduct a simple internet search.
- **Internet searches or “sweeps” for specific products:** internet product searches were reported as a good tool for identifying all the operators active in a country selling a particular product. Such co-ordinated searches by an organisation for one particular product type yield lists of web shops which can be investigated to establish the compliance with legislation of the products provided.
- **Collaboration with customs:** though this also relates to monitoring and detection activities, co-operation with customs is said to be a very useful tool for enforcing compliance as well. This co-operation is formalised under Regulation 765/2008 (Articles 27, 28 and 29) which states that when customs do not know whether a product is compliant, they need to ask the MSA. Customs authorities tend to detect and intervene in products that are considered to be at risk of non-compliance or where the conformity or declaration documents are not in order. Though the exact protocols for customs interventions vary according to the country, they have the mandate to stop and check incoming goods. Formalised collaboration between customs and MSAs has been reported as being very helpful in market surveillance activities.
- **Stopping goods at the point of entry:** a way to stop unsafe/non-compliant goods from entering the market is to stop them at the point of entry into a country. This involves collaboration with customs or the post offices (in the case of personal, online purchase). This practice also depends on the legal mandate which the MSA and customs have in a country related to the checking of incoming products.
- **Prioritising certain products of product groups:** a common practice is to prioritise products which have a demonstrated tendency to higher levels of non-compliance, or whose compliance requirements are relatively complex. In these cases the risk of a product not adhering to standards are greater and such products are tracked more actively. Common product groups which receive such priority include: toys, (cheap) electrical goods, personal protection equipment, cosmetics, pharmaceutical products, and clothes.
- **Prioritising by country of origin:** just as certain product groups are prioritised, so too are certain countries of origin and this is used in focusing investigations. In some countries goods coming in from, for example, China receive special attention.
- **Mystery shopping:** this proactive form of market surveillance allows MSAs in a country to pose as consumers and buy a product from an online operator and investigate it for compliance and safety. In the event that the product is not compliant, the operator is approached again by the MSA which reveals its identity. In doing so, MSAs can check a product without alerting the operator to the fact that they are being investigated before the evaluation has taken place. This practice is not legal in all countries at present.
- **Consumer complaints systems:** a common approach is to have an online complaint system for consumers. In this way the complaints are logged systematically and consumers can relatively easily submit information relating to their problem. A common procedure is that the MSA then evaluates the complaint and decides what sort of action to take.



- **Communication and networking amongst similar organisations, sharing experience and encounters.**

### **Enforcement:**

Market surveillance authorities in the EU have enforcement competences that are similar to, or are even exactly the same as, those that are stipulated under EU Regulation 765. The possible enforcement steps thus constitute common procedures of sorts and an overview of these is presented below:

- **Advice and information to operators:** in many cases, non-compliance amongst businesses and the products they sell online is accidental. Businesses are not always informed of the different criteria their products must adhere. This is related to the low barriers to setting up a web shop and the not in-frequent misconception that different product rules apply to products being sold online. This is especially the case in SMEs and with entrepreneurs who often do not have the resources to thoroughly investigate the requirements selling products online. MSAs are aware of this and try to resolve non-compliance in a voluntary manner first by informing and advising businesses of how to make their products compliant.
- **Legal mandate to implement penalties and fines:** this is a fairly straightforward enforcement practice to encourage businesses to make their products compliant as soon as possible.
- **Legal mandate to start legal action:** this too is a direct enforcement tool to stimulate businesses to make their goods compliant. Naturally the ability to undertake legal action depends on the legal mandates of the MSA in a country. However, in several cases taking legal action or starting proceedings falls within the legislative power of an MSA.
- **Product bans and recalls:** in a similar vein to the practice above, an MSA can undertake stronger action and recall or even ban a product from the market if it presents a serious risk.
- **Collaboration with MSAs in other countries- for enforcement purposes: within and beyond the EU:** as foreign MSAs only have a relatively broad obligation to cooperate on enforcement activities, in some instances MSAs from different countries do collaborate, share information on faulty products, and intervene.

## **4.2 Good Practice Criteria & Selection**

This chapter provides an overview of the good practices selected. The long descriptions of the cases are presented in a separate Annex to the report.

Before launching into the overview of good practices, it may be prudent to reiterate which criteria have been followed in this research to arrive at the practices below.

Literature on the subject dictates that the following qualities should also be present in a case for it to be deemed a good or best practice: large reach, accessibility, effectiveness/impact, evaluation, implementation issues, and transferability.

The final criterion of transferability is one which is especially important to this research. The aim after all is to identify a range of practical measures and initiatives which market surveillance authorities across Europe could adopt. This criterion will therefore be addressed in more detail in the next chapter when each practice is evaluated for its transferability.

Though the criteria above are useful for identifying and evaluating good practices in a given policy area, applying these criteria in practice is not always possible. Indicators which reflect the effectiveness, efficiency and impact are not always defined or available. In such situations monitoring the overall performance of a practice becomes difficult and proxy indicators must be used instead. An issue which was encountered



frequently in this research on online market surveillance of non-food consumer goods was that many practices are not highly formalised. Instead the MSA or relevant authority undertakes certain activities because these are found to be effective by the people implementing them. The practices and the rationale behind them are often not explicitly stated, and are without concrete objectives or systems for monitoring the performance of the activity. Furthermore, a good deal of the activities are quite reactive in nature. While proactive and preventative measures are used, responses to consumer complaints or making use of an opportunity for collaboration are not always done systematically. As such, formal objectives and targets are rarely developed for the reactive component of market surveillance activities.

The practices presented below have been selected based on the fact that they address one or more of the major challenges to market surveillance in e-commerce. These measures and activities have been deemed effective by the market surveillance, consumer protection and other relevant authorities who have experience of applying the measures in practice. As such, qualitative accounts of the success and performance of the practices are provided to arrive at the list of good practices, supported by with any available quantitative data. The practices have been categorised into three types of measure. These are monitoring and detection practices, consumer awareness raising and business awareness raising.

It should be noted here that not all practices are specifically focussed on e-commerce. Some practices address the cross-border component of market surveillance or general awareness-raising amongst businesses and consumers as a kind of preventative measure. These are areas that have an indirect effect on the market surveillance of e-commerce as well. In improving general market surveillance activities, the market surveillance of e-commerce is also indirectly improved.

### **4.3 Monitoring and Detection**

#### ***Cross border cooperation***

When considering cross-border market surveillance specifically, a practice highlighted by various stakeholders throughout the research is the value of international co-operation. Within the EU, Regulation 765 enshrines obligations for cross-border collaboration between EU market surveillance authorities. Despite this however, the better the relationship is between MSAs from different countries, the easier and more effective the collaboration is. When there is more regular interaction between MSAs, it is easier to be in touch with the other relevant national authorities and to share practices, expertise and information. Evidence from interviews indicates that Germany and Austria for instance, have a good, relatively close working relationship due to a shared language and similar culture.

#### ***Case 1 Cross-border collaboration: the Nordic Ombudsman Group:***

A concrete example of such cross-border collaboration between organisations within Europe, is the case of the Nordic Ombudsman Group. The Nordic Consumer Ombudsman Group consists of consumer protection agencies from Denmark, Finland, Iceland, Sweden, Norway, and the Faroe Islands. The basic aim of the Nordic Consumer Ombudsmen is to ensure that business and trade comply with the consumer legislation and the principles of fair marketing practices. Based on a longstanding history of cooperation between these organisations which dates back to the 1960s, the group aims to continue to develop practical elements of cooperation. Regarding market surveillance and consumer protection this involves support in information gathering and legal proceedings. Such common approaches help to overcome



challenges in monitoring and detecting activities which happen across borders. In doing so such common approaches contribute to more effective consumer protection.

***Case 2 Cross border collaboration with MSAs outside the EU: The Hungarian Consumer Protection Authority International Partnerships:***

Just as closer collaboration between EU MSAs can help to promote more effective and efficient monitoring and detection, the same holds for working relationships between authorities from the EU and outside the EU. There is in fact an extra value here in that EU authorities have more difficulty tracing operators selling unsafe and non-compliant products which are based beyond the EU borders. Added to that, they have no legal mandate to take enforcement steps against operators outside the EU. Therefore working relationships with MSAs outside the Europe can prove to be especially valuable in the monitoring and detection, and in the enforcement stages. Establishing and maintaining such international relationships can therefore be very beneficial to an EU MSA.

The case of the Hungarian Consumer Protection Authority (HACP) demonstrates how such collaboration can be set up. It also illustrates how this practice contributes in the long term to better consumer protection and market surveillance with regards to cross-border consumer goods. The HACP has, since 2010, strengthened its efforts at forming bilateral and multilateral relationships with market surveillance and consumer protection authorities abroad. In practice this means that the Hungarian Authority for Consumer Protection (HCAP) has several international working relationships, both within and beyond the European Union. This particular good practice case takes the examples of China, Egypt and Lebanon to demonstrate how the collaboration between the HACP and non-European MSAs works in practice. The collaboration with China, currently being set up, is deemed especially important due to high volumes of products entering Hungary and the EU.

The rationale behind strengthening these international partnerships is to exchange information and good practices in order ultimately to promote consumer protection on a global level. The aim of these collaborations is to contribute to effective protection of consumers and to provide consumers in both countries with safe products. To this end, the practical objectives are to strengthen the mutual professional expertise of the authorities involved through information sharing and exchanges of good practices. The desire is to develop a comprehensive assistance framework to serve the interest of both parties. Where there are issues or problems with products such a framework of co-operation is useful, just as it can be helpful for general information and idea sharing.

***Strategy dedicated to market surveillance of online sales and web shops:***

When carrying out market surveillance online, a significant number of MSAs across the EU do not have formal strategies in place specifically for online monitoring and detection. However, the shape of the online distribution chain can be quite varied and to the internet allows for increased levels of anonymity. Therefore, a policy which takes the challenges that are specific to e-commerce into account is likely to be more effective in protecting consumers from non-compliant and unsafe products. We present cases from the Czech Republic and from Finland which have defined strategies within the existing activities of the market surveillance authorities.

***Case 3 The Czech Trade Inspection Authority's methodological guidelines for inspecting online sales and web shops:***

The Czech Trade Inspection Authority (CTIA) falls under the national Ministry of Industry and Trade. The CTIA inspectors operate using methodological guidelines,



based on EU legislation relevant to market surveillance, consumer rights and product safety that have been transposed into Czech law. The guidelines contain information on consumers' rights such as: checking the terms and conditions, product information to be provided, information on the operator to be provided, the pricing of the product including uniformity throughout the ordering process, relevant legislation on consumer rights and protection. By defining specific procedures for checking consumer rights and by including steps for checking these aspects online, the practice helps the Authority to detect operators engaging in unfair and unsafe practices and to take action.

***Case 4 The Finnish Safety and Chemicals Agency (Tukes) Instructions on Surveillance of E-commerce:***

The Finnish Safety and Chemicals Agency (Tukes) is the competent national authority for promoting technical safety, conformity of products and chemicals safety, as well as consumer safety. The organisation recently developed and published a detailed set of instructions regarding market surveillance in e-commerce. The instructions were developed through stakeholder meetings and contain information on the important stages of market surveillance online. They also detail how a case can be initiated, assessing the product compliance, and the steps which can be taken by Tukes or other MSAs in response. Having a concrete strategy and clearly establishing the activities of the MSAs and other relevant organisations all contribute to an effective and streamlined system of online market surveillance. The strategy is also available in English.

***Organisation dedicated to market surveillance of online sales and web shops:***

Related to the two practices above are those practices that centre around a dedicated organisation with a focus on online market surveillance. Two cases are presented below, from France and Germany, which highlight the value of a more defined online market surveillance strategy.

***Case 5 The French Direction Générale de la Concurrence de la Consommation et de la Répression des Fraudes, Ministère des Finances (DGCCRF) and its Centre de Surveillance du Commerce Electronique (CSCE):***

The DGCCRF has a range of functions relating to national market surveillance which include monitoring competition, ensuring fair practices between businesses, and implementing consumer rights, checking product conformity, etc. Within the DGCCRF the CSCE was set up in 2000, which is dedicated to e-commerce specifically. This department was established in anticipation of the growing importance of online shopping and the need to protect consumers on any platform they choose to use for purchases. The CSCE has a central node in Paris where market surveillance inspectors trained in online monitoring, "cyber inspectors", utilise free internet tools to monitor the French market for non-compliant products. There is a network of 122 regional and local units which are contacted by the CSCE when a non-compliant operator is identified. The regional nodes then trace and approach the operator in question. This is said to work quite efficiently as double work is avoided and the authorities closer to the operator undertake the relevant follow-up activities.



***Case 6 The German Federal Office of Consumer Protection and Food Safety (BVL) and G@ZIELT:***

G@ZIELT was set up in 2003, at the Federal Office of Consumer Protection and Food Safety (Bundesamt für Verbraucherschutz und Lebensmittelsicherheit - BVL); G@ZIELT stands for the Common Central Unit "Control of Food, Feed, Cosmetics, Consumer Goods and Tobacco Products Traded on the Internet. The aim of the Centre is to create a safe on-line market place, since buying on-line should be just as safe for consumers as buying in brick and mortar shops. A pilot project "Control of E-Commerce in Food" ran from January 2011 to June 2013 and was carried out in cooperation with 10 'Länder' (federal states). In this pilot project, the strategy, developed by BVL, was implemented. Procedures were applied and optimised, the means for avoiding online control were identified and legislative proposals were drafted. The pilot involved various other organisations concerned with market surveillance. During the pilot project, more than 3,000 e-shops in food and 1,200 online offers from 450 e-shops were reported to the competent authorities in the 'Länder'. Due to the success of the pilot project, a permanent Unit was set up in July 2013. The focus then broadened to online sales of food products, cosmetics, consumer goods and tobacco products. Since online sales cross 'Länder' as well national borders, the federal organisation for consumer and food protection and 16 'Länder' have joined forces to identify the e-sellers offering non-qualifying products.

***Case 7 Collaboration with Customs: Case - the DGCCRF and French Customs:***

Regulation 765 also established a framework for collaboration between MSAs and customs and there is room how the collaboration is implemented in practice. Some countries have established closer working relationships than others and this can lead to more effective market surveillance and consumer protection. The nature of the collaboration between the French DGCCRF and the national customs authority presents an example of especially effective co-operation.

The French customs and the DGCCRF have enjoyed a good working relationship for the past two decades at least; pin pointing when this relationship started is somewhat difficult. Formal protocols, (usually focused on specific products), which defined and described the co-operation between the organisations have been in place since the early 1990s. The first formal, general protocol for cooperation was established in 2006. The protocol establishes which departments in both organisations have competences over which areas. Given the different levels in both the customs and the DGCCRF, knowing who is in charge of which area is an important component of effective cooperation on market surveillance. Both organisations have central and regional counterparts and having local units directly contact one another is more efficient than going through the central organisational structure each time. The two organisations meet regularly, both the central and local units, to discuss the products that are the priorities for closer monitoring. Regular plans are then formulated where both organisations undertake coordinated monitoring and detection activities relating to those products that both have identified as priorities. The DGCCRF and customs also both share and make use of the network of testing laboratories.

***Case 8 Using intermediaries to identify products and operators: Hampshire County Council Trading Standards (UK) and cooperation with Amazon and eBay:***

This practice involves cooperation with intermediaries like the online marketplaces Amazon and eBay in market surveillance and enforcement activities. The collaboration between the Trading Standard Officers across the UK and intermediary organisations like Amazon and e-Bay takes place on a fairly reactive basis. When a consumer



complaint is received by an MSA, (via RAPEX, some other alert system, or organisation), the MSA can notify Amazon or eBay about non-compliant or unsafe products being sold on their platforms. There are a set of procedures for how this collaboration works exactly. In general terms, HCCTS can notify the intermediaries about non-compliant products, usually by also providing evidence on why the product appears to be unsafe or non-compliant. The practice is reasonably effective and efficient as products are usually taken down when evidence is presented to the intermediary. The practice is also efficient since it can save the MSAs the time spent in buying and testing goods and in identifying and tracing sellers. In this way some important challenges inherent in e-commerce are overcome by this practice. The difficulties in identifying and tracing business operators and their products and taking some form of enforcement action are eased.

### ***Case 9 Efficient consumer complaints systems: the Swedish Consumer Agency system:***

Consumer complaints systems are important to market surveillance authorities since they point to products which are non-compliant or unsafe. They are therefore a good source of information on which to base monitoring and detection activities. While most MSAs and consumer protection authorities have such a system, some are more effective in yielding informative and useful complaints for MSAs to react to. The example taken here is of the website used by the Swedish Consumer Agency for consumer complaints.

The Swedish Consumer Agency's overall task is to safeguard consumer interests and as such, one of the main objectives of the organisation is to improve consumer awareness. To achieve these goals of awareness raising and consumer protection, clear, concise and up-to-date information is required. The website used by the Agency provides clear information, in a range of languages (Scandinavian languages, major European languages, Arabic, and Hebrew amongst others). It contains information on when consumers can make a complaint, step by step information on how to make a complaint, and what the Agency and other relevant authorities are able to do in response. The website also summarises and explains the main legislation in place concerning product safety and what the rights and obligations are of consumers and businesses in this context. Consumers are thus presented with a range of accessible and relevant information, presented in a very clear manner.

### ***Case 10 Using social media and free, specialised websites to find operators: Belgium's Internet Surveillance Department search procedures to track operators:***

The internet surveillance department within the Economic Inspection Directorate of the Ministry of Economics examines the process of buying a consumer good online up until the payment stage. Based on reports of suspicious products or operators, the internet surveillance team visits the site. The team can behave on such websites as a consumer would to explore the nature of the operator's practices. There are around 5 people working at the internet surveillance department. The people identify operators online using readily accessible online tools and by asking for information amongst other operators. Using a phone number or e-mail address, along with other more "old school activities" such as internet searches can yield results, as can using specialised search sites like "Whois". Though there is more of an operator than a product focus, by upholding the rules regarding online selling, this practice contributes to a safer online market for consumers.





#### ***Case 11 Mystery Shopping: the case of the UK:***

In the United Kingdom, the responsibility for market surveillance and for a whole series of consumer protection and product safety issues lies with the Trading Standards offices of the local authorities. This includes responsibility for products traded online. 'Mystery shopping' does not always have a positive connotation, but Trading Standard offices in the UK have a long tradition of 'test purchasing' of products and this has been applied in recent years to goods sold online. The case sets out the basis on which the online test purchasing is carried out

### **4.4 Consumer Awareness Raising**

An interesting finding from the research is the value which MSAs place on preventative action against consumers buying non-compliant or unsafe products. MSAs cannot feasibly check all products, let alone enforce all compliance and safety requirements. Therefore, making both consumers and business operators aware of their respective rights and responsibilities can contribute to fewer non-compliant and unsafe products being bought and sold. The following cases specifically focus on raising consumer awareness about consumer rights and the risks when ordering online, especially from outside the EU.

#### ***Case 12 Using the media: Suffolk County Council Trading Standards (UK) and the information the MSAs provide for mainstream TV shows such as "Watchdog":***

The consumer television programme "Watchdog" is a well-established programme in the United Kingdom which covers consumer related issues and incidents. This case examines the cooperation between this programme and Suffolk County Council Trading Standards. The co-operation with media outlets like Watchdog can happen proactively, but tends on the whole to take place in a reactive manner. Generally, the television programme Watchdog approaches the Trading Standards office of authorities like Suffolk County Council (TSSCC) when there is a story relating to market surveillance, enforcement, border controls, faulty products or consumer rights. This practice is very efficient in that it costs very little in time and energy for the employees of the market surveillance authority. It also capitalises on the media expertise, the trusted reputation, and the broad reach of the television programme. In this way, with a relatively low investment from the MSA side, consumer awareness can be raised quickly in relation to specific stories and incidents. Additionally, using this programme helps overcome the problem that many consumers are not interested in learning about consumer issues unless they are directly relevant to a product or service they are buying. As such Watchdog is a good way to make people aware of the general risks inherent to buying online and outside the EU.

#### ***Case 13 Raising consumer awareness: the Malta Competition & Consumer Affairs Authority (MCCAA) Information Seminars:***

The MCCAA was set up in 2011 and the Information Seminars are an initiative supported by the European Social Fund (ESF) to promote awareness of consumer rights amongst both traders and consumers. As such, it is a measure which also falls under the practice category of consumer awareness raising. The information seminars complement the information provided by the MCCAA through its usual channels such as its website and reports. The seminars are hosted by a department of the MCCAA, the Office of Consumer Affairs. Throughout the last two years they have covered topics including the most recent legislation on competition and consumer affairs, rights and obligations of consumers and sellers, product safety, and the role of MSAs amongst others. These seminars are supported by active media campaigns using the



internet, newspapers and television advertisements to promote the seminars which are also free to access. This series of seminars and the very active promotion of it have helped to make such topics more prevalent in the minds of consumers and more common topics of discussion.

***Case 14 Private Quality or Trust Marks: The Dutch Home shopping guarantee mark "Thuiswinkelwaarborg":***

The "Thuiswinkelwaarborg" or Home shopping guarantee mark is one of the best known quality hallmarks of the Netherlands. This label shows consumers that an operator provides a reliable and secure way of shopping online. The mark is given to members by the association Thuiswinkel.org which is the association for online stores in the Netherlands. The association was founded in 2000 by 38 companies. The mission of Thuiswinkel.org is to represent the interests of its members and to promote and enhance confidence in distance selling. In March 2014, Thuiswinkel.org covered more than 2,000 certified shops. A study in 2013 showed 72% of consumers buy more at online stores that carry Thuiswinkelwaarborg and around 26% do not purchase from a store without Thuiswinkelwaarborg. Thuiswinkel.org however does not check whether its members sell non-compliant or unsafe products.

***Case 15 Using social media and specialised websites to find operators: Denmark and the Howard Shopping Assistant:***

The Howard Shopping Assistant is an interactive online tool which allows consumers to fill in the address of a website they wish to buy from. The Howard Shopping Assistant then checks when the domain was registered (using the website Whois) and the results of an Alexa search (which presents past consumer experiences with the website being searched). It also checks the results of a Google search and whether a trust mark can be found for the website. By providing this information the Howard Shopping Assistant allows consumers to gauge how they perceive the website and whether they wish to buy from it. In this way consumers are equipped with tools to protect themselves when buying online. The system was developed by the European Consumer Centre of Denmark and is currently being used in Belgium, the Czech Republic, Denmark, Finland, Hungary, Iceland, Ireland, Lithuania, Malta, Norway, Portugal, Sweden and the United Kingdom.

## **4.5 Business Awareness Raising**

Next to making consumers aware of their respective rights, it is important to make business operators aware of their responsibilities. The following cases specifically focus on raising businesses awareness in and outside the EU.

***Case 16 Regular updates for business operators on new relevant legislation: the Consumer Protection Board of Estonia & Information Letters:***

In a nutshell, this measure involves the writing of letters to business operators on changes in legislation relevant to the production and supply of consumer goods. These letters contain information on the main changes in specific pieces of legislation and are written by the Consumer Protection Board of Estonia in colloquial and easily understandable terms. The aim is to raise awareness regarding the rights and obligations of both consumers and business operators as a preventative measure to help improve market surveillance of consumer goods. The practice addresses the challenge of under-informed businesses, by seeking to reach e-shops specifically. These enterprises are more likely to be unaware of the various requirements they must adhere to when selling consumer goods. The practice is relatively cheap and



quick and yields results with regards to awareness raising and as such it contributes in a preventative manner to product safety and compliance.

***Case 17 Centralised information on selling online in a given country: the Australian Competition and Consumer Commission (ACCC) business guide to selling products online to Australian consumers:***

This succinct and clear set of guidelines was prepared by the ACCC and published in March 2014. The guidelines present the main requirements which businesses selling online to consumers in Australia must adhere to when selling to Australian consumers. The guidelines outline issues such as who has what responsibility and which compliance regulations must be borne in mind. The guidelines form a communication tool and seek ultimately to raise awareness regarding product compliance and safety amongst business operators targeting Australian consumers. The guidelines address a gap in the knowledge of business operators which the ACCC discovered during its work activities. By talking to stakeholders, operators and industry associations, it became clear that there was a need for a holistic set of all-encompassing guidelines for selling online to Australian consumers. The guide has received positive responses both nationally and internationally. A unified approach to information provision does not appear to be a common preventative measure for protecting consumers from non-compliant products online.

***Case 18 Raising business operator awareness: the Dutch Authority of Food and Wares & the information and learning website TradeRouteAsia.nl:***

The website [www.traderouteasia.nl](http://www.traderouteasia.nl) is an initiative of the Dutch government, set up by the Netherlands Food and Consumer Product Safety Authority, the NVWA. The aim of the website is to make importers aware of success factors and the risks when they import non-food consumer products from Asia, especially China. The website contains information, e-learning tests and courses regarding the legislation to be aware of, supply chains and culture. These tools allow potential importers to check how prepared and informed they are and if necessary, to follow an e-learning module to learn more. This practice aimed to resolve the problem that information on trading with Asia was often dispersed and fragmented, with no one clear organisation to consult for information. An additional challenge is that operators are not always aware they lack the necessary information; this is where the online tests and e-learning components are especially effective. By facilitating information provision and learning for operators wishing to trade in Asia this practice raises awareness amongst business operators. This indirectly contributes to the availability of compliant and safe products coming from beyond the EU.





## 5 Transferring Good Practices

### 5.1 Introduction: Transferability

One of the criteria for the good practices selected and presented in this report was that they should be transferable to other countries. It has been ascertained, therefore, that all of the practices selected in this study are transferable. This chapter provides a more detailed discussion of how transferable each of the good practices are.

The transferability of the good practices has been analysed according to the criteria presented below. Projects that can be considered 'transferable' will generally have the following characteristics:

- *Common objectives*: generally they should have objectives that relate to core themes of the common strategy rather than addressing issues that are particular to a specific country or region.
- *Intuitive appeal*: usually, the features of the measure should immediately make sense to the average practitioner, even if they are relatively innovative or imply significant changes in current practice. Processes and procedures that are obscure or difficult to understand should be avoided.
- *Financial requirements*: the level of financial inputs required should not be such as to put the measure beyond the reach of most Member States.
- *Other capacity requirements*: the measure should not require other inputs that are beyond the capacity of most other Member States.
- *Legal and institutional requirements*: measures should not have elements that would cause legal or institutional difficulties in other Member States.
- *Motivational characteristics*: beyond intuitive appeal, measures highlighted should have characteristics that inspire others to adopt them, either because of their evident success, their appealing novelty or creative approach to tackling well recognised common problems.

In this study, the "common objectives" which a good practice should contribute to are those stated in Action 12 of the Multi-Annual Plan for Market Surveillance. Broadly speaking this Action 12 seeks to help improve market surveillance for products sold online. As such, the scope of the practices which can be included as good practices with reference to this particular objective is relatively broad.

For each practice different levels of data and information were available; this affected the depth and detail of the transferability discussions below. Furthermore, given that each geographical context is unique, the real world considerations of a new context should be considered when implementing a good practice. This information can help in such decision-making by providing some evaluative insights regarding how transferable practices are across several important components.

This chapter proceeds by following the categorisation of practices used throughout the study. The practices collected can contribute to: the monitoring and detection element of market surveillance activities, consumer awareness raising activities, and business operator awareness raising.



## 5.2 Transferability: Monitoring and Detection Good Practices

### ***Case 1 Cross border collaboration: the Nordic Ombudsman Group:***

- Common objectives: this practice contributes to the common objective of improving market surveillance online by strengthening the cooperation and sharing of resources amongst organisations. This helps improve market surveillance generally. Information sharing regarding products and market surveillance practices also involves and impacts the strategies in place for monitoring e-commerce specifically.
- Intuitive appeal: there is an intuitive appeal in that the case describes cooperation between countries which are culturally and economically close, with a long-standing history of collaboration. In such cases initiating formal cooperation relationships beyond legislative requirements is a more intuitive step to make. Similar working relationships could be set up amongst countries in similar regions, with similar national contexts, or those which have long histories of cooperation.
- Financial requirements: there do not appear to be any immediate costs attached to this measure as the organisations involved were already established and had a history of cooperation. In terms of transferring this measure there do not appear to be any financial requirements attached.
- Other capacity requirements: there should be comparable organisations which are willing to collaborate with each other across borders for this measure to be transferred. There should also be human resources and capacity to respond to requests from fellow MSAs and to engage in a systematic information exchange.
- Legal and institutional requirements: MSAs, consumer protection authorities and other authorities relevant to market surveillance should already be established (which is the case in EU countries). There is no obstacle to transferability arising from the need to have the appropriate institutional arrangements.
- Motivational characteristics: the effectiveness of this measure centres on sharing information and good practices. This helps organisations to monitor and detect cases of non-compliance, especially across borders. Cross-border enforcement is also made easier. Thus while there are not so many statistics on the effectiveness of this measure, the appeal with regards to improving cross-border market surveillance activities is clear.

### ***Case 2 Cross border collaboration with MSAs outside the EU: the Hungarian Consumer Protection Authority International partnerships***

- Common objectives: this measure contributes to product safety and compliance in a more general sense and not specifically to products that are bought and sold online. The international working relationships between MSAs overcome a major challenge faced by MSAs from the EU, namely that beyond the EU borders MSAs have more difficulty in identifying and tracing operators. Furthermore, EU MSAs have no legal right to take enforcement actions to promote product safety and compliance beyond the EU. Therefore the co-operation of MSAs in countries beyond the EU becomes particularly important in addressing the issue of non-compliant products being sold to European consumers.
- Intuitive appeal: one of the most often cited challenges in this study is the difficult of monitoring and enforcing product compliance in cross-border commerce outside the EU. The intuitive appeal of this case is that it relates to this particular challenge - the value of international relationships in sharing information and facilitating monitoring and detection and enforcement activities in countries beyond the EU. As such, the appeal of this practice of setting up an international working relationship is clear.
- Financial and other capacity requirements: in direct operational terms the financial and other capacity requirements will depend on the basis for the international cooperation. In the case of Hungary for instance, the communication and awareness raising tools which had been implemented by the Consumer Authority led to international interest from other countries. The nature of the cooperation will affect the requirements needed. One



element which appears to be universally important is to have a designated department within the MSA which focuses on international relations.

- Legal and institutional requirements: this measure is theoretically quite transferable to other countries. However, the exact nature of the partnerships between countries will depend on aspects such as economic and cultural similarities and the state of the diplomatic relationships between countries. In the case of the HACP, the good organisation of the market surveillance activities, notably on consumer awareness raising and communication with the public, caught the eye of MSAs from other countries. This means that where the HACP wishes to set up a partnership, they can contribute quite a lot to the partner MSA and country.
- Motivational characteristics: key outcomes are expected to be quite broad. The take up of practices from the HACP by other nations for instance, or the general improvement of product compliance and safety in Hungary. For the HACP cooperation took the form of information sharing, exchanges of best practices, help with implementation, and the sharing of resources. Though the idea of such international cooperation is not a particularly innovative practice, it is useful in promoting market surveillance and consumer protection. International partnerships and information sharing in particular are often cited as good practices and are seen as positive steps by MSAs across Europe. Having such international partnerships beyond the EU is an excellent practice since it is particularly beyond the EU that European MSAs have very little influence on product safety and compliance. Therefore setting up mutually beneficial relationships with MSAs in countries like China can help to share the challenges faced by both countries with regards to delivering compliant and safe products to consumers.

***Case 3 Strategy dedicated to market surveillance of online sales: the Czech Trade Inspection Authority's methodological guidelines for inspecting online sales and web shops:***

- Common objectives: this measure contributes indirectly to improved market surveillance of non-food consumer goods online. By setting out guidelines for consumer protection online, it forms a practice which contributes to the common objectives of EU market surveillance policy.
- Intuitive appeal: the practice is also quite a logical one in that it addresses the issue of online market surveillance specifically. It formulates practical steps for the CTIA inspectors to do so within their legal mandate. The objectives and rationale behind this practice are thus quite straightforward.
- Financial and other capacity requirements: financially speaking the practice does not cost much extra as the guidelines are developed by CTIA inspectors who are experts in their field. This also applies to the consumer rights area as inspectors track new legislation and incorporate it into the inspector guidelines, including for online shops. The time needed for this measure does not constitute more than a few months at most. Thus, neither time nor financial inputs form large challenges to transferring the practice. No additional administrative systems appear to be required either in establishing these guidelines.
- Legal and institutional requirements: from an institutional perspective, the CTIA has an uncommonly broad scope in its market surveillance activities. It is the competent body for both consumer rights and protection, as well as product safety and international cooperation. That said, inspectors for each department and relevant product area establish the guidelines relevant to their product or policy area. The measure could therefore also be introduced in countries where multiple market surveillance authorities are at work.
- Motivational characteristics: the benefits are that inspectors have clear, all-encompassing guidelines on what to look out for and how to do so when inspecting their particular area.



With online operators, this is an effective practice which meets the connected to the growing prevalence of online shopping. By stipulating clearly how to carry out market surveillance online, this measure is considered quite effective in protecting consumers from non-compliant operators their products.

***Case 4 Strategy dedicated to market surveillance of online sales and web shops: the Finnish Safety and Chemicals Agency (Tukes) Instructions on Surveillance of E-commerce:***

- Common objectives: this measure contributes to ensuring the compliance and safety of products online by making the whole process of online market surveillance explicit and clear. From receiving a notification through to locating and taking action against an operator, the whole system is mapped out in guidelines. In doing so it contributes to product safety and the compliance of consumer goods bought online.
- Intuitive appeal: the instructions on market surveillance regarding e-commerce make a number of pre-existing online market surveillance activities explicit and systematic. This is expected to lead to more effective and efficient surveillance of e-commerce.
- Financial and other capacity requirements: no major financial costs were involved in developing this measure, nor was any special extra expertise required. The collaboration with stakeholders and other interested parties is a vital aspect to creating all-encompassing e-commerce guidelines. This collaboration did not require any complex administrative or institutional structures. A good project leader seems to have been an important component as well.
- Legal and institutional requirements: this measure seems highly transferable. No additional complicated institutions were required. The development of the instructions took place within a designated project framework which was part of the normal working procedures of Tukes.
- Motivational characteristics: while no formal evaluations have been made yet of the impacts of these instructions, this practice gives Finnish inspectors a systematic methodology for online market surveillance. It also provides extra information regarding pertinent legislation and the relevant organisations. This means that online market surveillance receives formal organisational attention and the process is made explicit and systematic. In this way non-compliant and unsafe products are monitored and detected in a more effective and consistent manner. The instructions thus contribute to improved online market surveillance which ultimately upholds the safety and compliance of consumer goods bought online.

***Case 5 The French Direction Générale de la Concurrence de la Consommation et de la Répression des Fraudes, Ministère des Finances (DGCCRF) and its Centre de Surveillance du Commerce Electronique (CSCE):***

- Common objectives: the practice contributes to product safety and compliance of consumer goods bought online through a specific focus in the organisation on e-commerce and consumer protection online. Traceability of operators online makes effective monitoring and detection activities difficult, but the activities and structure of the CSCE overcome a good part of these difficulties. The specialised staff are able to go beyond normal internet searches to find operators and the local units then take follow-up market surveillance and enforcement action.
- Intuitive appeal: this practice is quite efficient according to the CSCE and this is largely attributable to several factors. The centralised structure of the CSCE, its specialised online inspectors, and its local units for market surveillance and enforcement across France form a good practice. The centralised structure and the systems for communication and cooperation between different levels within the DGCCRF are useful in promoting quick responses to non-compliance products and operators. This





organisational set-up overcomes a good degree of the administrative procedures which slow down the ability of a market surveillance organisation to react.

- Financial and other capacity requirements: representatives of the CSCE indicate that a relatively modest investment is required, besides the dedication of designated manpower to become cyber inspectors. Free software can be used and a training programme has been developed and has been shared. Designing an information system (dashboard) would be advisable as well.
- Legal and institutional requirements: this measure is potentially quite transferable. However, it depends to some degree on the structure of the market surveillance authorities. In the case of the CSCE there is a centralised body which conducts the monitoring and detection activities, with local units carrying out the follow-up actions. Political will is required to establish a centralised unit responsible for e-commerce market surveillance. Besides this the enforcement procedures and the organisations carrying out these tasks must be established in combination with an efficient communication and coordination system.
- Motivational characteristics: as has been the case with many market surveillance authorities, no operationalised objectives or targets appeared to have been formulated. The CSCE operates in both a proactive and reactive way and as such defining targets was not necessarily relevant. While there have not been any formal evaluations of the CSCE, there are annual reports of the activities of the DGCCRF as a whole. These present the basic statistics on its activities and results. In 2013 for instance, 10,200 websites were checked by the inspectors of the CSCE of which 27% showed instances of non-compliance. While the organisation collects data on the nature of the non-compliance, operator information, and details of the enforcement steps taken, this information is confidential.

***Case 6 the German Federal Office of Consumer Protection and Food Safety (BVL) and G@ZIELT:***

- Common objectives: this practice focuses on improving the efficiency and effectiveness of market surveillance and enforcement of non-food goods sold online in Germany.
- Intuitive appeal: the objective of G@ZIELT is to establish a safe market for consumers for goods sold on-line. Considering that on-line sales cross both 'Länder' and national borders, the federal organisation for consumer and food protection and several Länder' have joined forces to identify non-compliant e-sellers. In this way the market surveillance activities can be carried out in a more efficient manner.
- Financial and other capacity requirements: a total of six people work at G@ZIELT and these coordinate with inspectors at the Länder level. There is the centralised organisation which monitors and detects non-compliant and unsafe products. An important element is that this organisation then delegates the enforcement actions to locally established units. The transferability of this practice therefore depends on the existing institutional and communication arrangements in place in a country. Setting these up from scratch could prove to be a resource intensive endeavour.
- Legal and institutional requirements: the Unit was set up after a pilot project; before this the activities did not take place. It is a particularly interesting practice for larger countries in which the responsibility for market surveillance is decentralised or in countries where market surveillance is distributed over numerous institutions. Considering the specific character of on-line sales, it is possible to carry out part of the activities, in particular the identification of e-sellers, at a central level. The efficiency effects of this can be judged to be high.
- Motivational characteristics: the organisational structure of G@ZIELT and its cooperation with the Länder yield considerable gains in efficiency in online market surveillance. Given the pressure on resources faced by most MSAs and the fact that e-commerce transcends



geographical boundaries, such gains in efficiency are naturally appealing. The Centre after all, operates on behalf of the 16 'Länder'. Instead of several 'Länder' carrying out the same activities, one agency is now responsible. The main advantages of this central organisation are that duplication of search work is avoided, resources are preserved, and work processes are organised more efficiently. In total six people are employed by the Unit. If each 'Länder' organised the activities themselves, much more workforce would be needed and the costs, for example, of automated software would have to be borne by each Land.

**Case 7 Collaboration with Customs: the DGCCRF and French Customs:**

- Common objectives: this measure contributes to market surveillance of consumer products as the scope of monitoring, detection and enforcement activities are expanded. Through the cooperation of the two organisations more cases of non-compliance and unsafe products can be identified.
- Intuitive appeal: under Regulation 765 national MSAs in the EU must collaborate with their national customs officials in market surveillance of goods coming from outside the EU. However, the exact way in which such cooperation is established can vary across countries. In France, the DGCCRF has a particularly close working relationship with the customs authorities and the nature of this cooperation forms the subject of this case. This relationship leads to considerable gains in the efficiency of the market surveillance activities and the enforcement conducted.
- Financial requirements: given that this cooperation builds on a history of working together between the DGCCRF and the French customs, the exact costs of this form of collaboration are not clear.
- Other capacity requirements: the centralised structure, complemented by local units of both organisations and the description thereof in the protocol are useful elements. However, these could require a considerable amount of time for another country to implement unless the authorities already have the necessary organisational structures in place. Beyond this however, developing the protocol itself, establishing channels for communication, formal meetings, making joint control plans and sharing resources like testing laboratories are relatively transferable.
- Legal and institutional requirements: the results in this case in France appear to be particularly good and efficient due to the competences of the customs authority, which is a legal issue. This may form an issue when it comes to transferring this particular practice of collaboration between customs and MSAs.
- Motivational characteristics: while the exact numbers and effects of joint market surveillance efforts are not entirely public, the value of this measure is reflected in other ways as well. There are considerable gains to be made in efficiency from this more formalised protocol between MSAs and customs. The control plans which are developed by both organisations are an excellent example of how this more formalised cooperation leads to more effective market surveillance and consumer protection. These plans tend to contain extended market surveillance initiatives focused on a specific product where one organisation covers, for instance, goods as they enter the French market. The other organisation monitors those specific goods sometime later when more have appeared on the market itself. In this way the scope of the market surveillance activities has expanded through the joint action of the DGCCRF and customs. This increases the likelihood of locating more deficient products which in turn contributes to the upholding of product compliance and assuring the safety of consumer goods.



***Case 8 Using intermediaries to identify products and operators: the Hampshire County Council Trading Standards (UK) and cooperation with Amazon and eBay:***

- Common objectives: this measure contributes to the market surveillance of goods sold online in that intermediary organisations online are used to help identify, trace and take further steps regarding online economic operators. In doing so, challenges such as monitoring and detection as well as enforcement are overcome to some extent since the intermediaries can more easily contact the operators selling on their platforms.
- Intuitive appeal: the main problem to be addressed here is ultimately consumer protection from non-compliant and unsafe products sold online to consumers in the UK. The trading standards offices (TSOs) have faced challenges based on lower levels of human and financial resources since 2008. Co-operating with intermediaries can prove an efficient and cost-effective way of locating products and having products, and sometimes operators, removed from the public eye. Amazon and eBay are in a better position to reach the operators and their products and as such, can save TSOs the time and energy of tracing the operator, proving their non-compliance and taking enforcement steps. This practice thus helps overcome the challenges of identifying and tracing business operators online, a core challenge accompanying the rise of e-commerce.
- Financial and other capacity requirements: regarding human resources, financial considerations or necessary administrative systems to be implemented as part of this practice, very little is needed. As such the practice would appear to be quite transferable to other contexts.
- Legal and institutional requirements: the transferability of this measure depends mainly on whether a protocol for cooperation can be established between intermediary like Amazon or eBay and the MSA of a given country. In the case of the UK, eBay has a central e-mail address for Trading Standards Officers and Amazon has designated individuals to liaise with the officers. The nature of the protocol with intermediaries is therefore an important consideration when looking to transfer this practice to other contexts.
- Motivational characteristics: from an effectiveness perspective it is difficult to estimate the impact of this measure. Removing online products via intermediaries can feel like a drop in the ocean at times according to TSOs. However, despite this, the practice is effective and efficient from an operational perspective. It works reasonably well and products are usually taken down when evidence is presented to the intermediary. The practice is effective and efficient as well in that it can save the MSAs the time of buying, testing, identifying and tracing sellers themselves. In this way some important challenges inherent to e-commerce are overcome by this practice, namely the difficulties in identifying, tracing, and taking action regarding business operators and their products online.

***Case 9 Efficient consumer complaints systems: the Swedish Consumer Agency system:***

- Common objectives: this measure contributes to improved market surveillance online by informing consumers clearly of how to lodge a product complaint and what the MSAs can feasibly do in response. This has a dual impact of informing consumers of their rights and thus forming a preventative measure on the one hand. On the other hand, by improving the quality of complaints that the Swedish Consumer Agency receives, the quality of information collected improves. Such information forms one of the corner stones of market surveillance activities both online and offline.
- Intuitive appeal: the practice directly and clearly addresses two important needs, namely to inform consumers and to improve the information which the Agency receives, enabling it to conduct better market surveillance activities.



- Financial requirements: the financial requirements involved are those needed to make the design and layout of the website clear and concise. It is important to provide consumers with the information they need to make a good, informative, complaint. Maintenance costs should be considered but these should not constitute a major obstacle to transferability. Since most organisations have a website in place they will already be dealing with standard maintenance costs for their web presence.
- Other capacity requirements: there do not appear to be any major capacity requirements involved in this measure. At most, establishing which information is especially important for consumers to be aware of when making a complaint could be gathered but this does not form a large systematic investment. The multiple languages in which information is presented would necessitate human resources in the form of specific native speakers but this is not an insurmountable obstacle.
- Legal and institutional requirements: a consumer agency or a comparable organisation should be in place, but this is already the case in the Member States of the EU. No further legal or institutional requirements are necessary for this practice to be implemented in another context.
- Motivational characteristics: the clarity and accessibility of the consumer complaints system is an appealing aspect of this measure. Though there are no formal impacts measured, the benefits of having sound guidance on lodging complaints is clearly a measure that can yield more useful complaints information. This can be achieved with a relatively infrequent investment of resources; as a result, the measure can be considered to be quite efficient.

***Case 10 Using social media and free, specialised websites to find operators: Belgium's Internet Surveillance Department search procedures to track operators:***

- Common objectives: the measure contributes to product compliance and safety of goods sold online by implementing search processes which make surveillance and enforcement in e-commerce easier.
- Intuitive appeal: identification and tracking of operators is made significantly easier using straightforward search methods which are readily available online. A good proportion of the non-compliant operators can therefore be located without too much time and money being invested.
- Financial and other capacity requirements: from a financial perspective the measure does not cost much. The search tools being used are readily available and the process of searching in this way is part of the internet surveillance department's regular working activities. Concerning human resources, no extra or specialised ICT knowledge is required either.
- Legal and institutional requirements: the activities of the internet surveillance department were already undertaken as side activities before the department became formalised. Few extra institutional and administrative structures appear to have been required to set up the department and its search procedures.
- Motivational characteristics: due to the resource pressure which most MSAs across the EU face, the low level of resources required for these search processes have obvious appeal. A good proportion of non-compliant operators can be found quickly and efficiently.

***Case 11 Mystery Shopping: the case of the UK:***

In some Member States there are legal difficulties regarding mystery shopping exercises. This activity is not allowed in certain countries as a result. This situation has not been helped by the poor reputation of some private firms that conduct mystery shopping exercises for the corporate sector. Nonetheless, there are lessons to be learned from the experience in the UK. Other Member States may well adopt



similar approaches, especially if there is greater co-operation in pursuing operators trading illegally from other countries within the EU.

- Common objectives: the measure contributes to product compliance and the safety of goods sold online by implementing search processes to identify non-compliant products and the economic operators providing them.
- Intuitive appeal: mystery shopping allows MSAs to act as a consumer and obtain and test products. It also enables MSAs to check whether products shown on websites are the products consumers actually receive when they are ordered.
- Financial and other capacity requirements: the financial requirements related to mystery shopping are relatively low. A credit or payment card, a computer IP address and a delivery address that do not show any link with the MSA are necessary.
- Legal and institutional requirements: a requirement is that the legal basis should be well stipulated and indeed that mystery shopping should be allowed. This is not in the case in all Member States.
- Motivational characteristics: given the benefits of detecting non-compliant operators and products this is a useful and rather simple method to employ.

### **5.3 Transferability: Consumer awareness raising practices**

#### ***Case 12 Using the media: Suffolk County Council Trading Standards (UK) and the information the MSAs provide for mainstream TV shows such as "Watchdog":***

- Common objectives: in an effort to promote consumer awareness of consumer rights, Trading Standards offices in the UK also make use of the media as a form of preventative action.
- Intuitive appeal: by capitalising on the expertise and reach of the Watchdog programme, consumers are made aware of their rights, obligations and the risks involved when buying products online. By raising consumer awareness, they can better recognise issues of product safety and compliance and can make more informed complaints or take appropriate action.
- Financial requirements: this practice seems to be readily transferable to other regions or countries. From the perspective of the time required and the human and financial resources, the practice is very efficient. It is also transferable as little investment is required from the MSA's side.
- Other capacity requirements: as is indicated above, not much energy needs to be put into the activity by the market surveillance authority. Nor do particular administrative systems or legal requirements appear to be in place for the successful functioning of this practice. Some training on how to deal with the media appears to have been very useful to the employees of the Border Agency/Suffolk County Trading Standards however. This should be borne in mind if another MSA were to implement this same practice. Such training helps to equip employees with the knowledge needed to deal with the media as one cannot control exactly how the media choose to present a story. All in all however, the Border Control authority/Suffolk County Trading Standards indicate that the practice is highly adaptable and expect that it would transfer relatively easily.
- Legal and institutional requirements: two elements do warrant attention at this juncture concerning the transferability of this practice. The first is the fact that a country or region should have a similar trusted and established consumer orientated media programme. The success of this practice seems to depend to a great extent on the media expertise and the trusted voice of the programme Watchdog. Therefore a comparable organisation in another context appears to be necessary for a transfer of the practice. Secondly, the collaboration between Watchdog and the trading standards offices (TSOs) developed in a relatively organic way and is not the result of a systematic process.



If another MSA were to establish contact with such a media programme (not television necessarily) this measure could ultimately be transferred without much investment of resources.

- Motivational characteristics: the activity is undoubtedly effective according to the TSO though it is very difficult to measure the precise effects of these measures. However, the TSO would not be able to present the messages in the same way and with the same success as a programme like Watchdog. The presenters have more experience in how to present such stories and the programme itself is famous, with a larger audience than the MSA could hope to reach. The TSO can therefore capitalise and benefit on this when the programme covers stories relevant to their work.

### ***Case 13 Raising consumer awareness: the Malta Competition & Consumer Affairs Authority (MCAA) Information Seminars:***

- Common objectives: the Awareness Campaign directly relates to the core objective of addressing market surveillance online as it raises awareness amongst both consumers and traders alike. Information is presented regarding the rights and obligations each must adhere to. In this way the organisation aims to promote both consumer awareness and healthy competition by addressing product safety and compliance issues in the seminars.
- Intuitive appeal: preventative activities informing both business operators and consumers have been hailed as important components of market surveillance and enforcement activities. As such this measure has an intuitively logical appeal which does not raise any transferability issues.
- Financial requirements: this Awareness Campaign and the seminars involved are complemented by an extensive media strategy, including television, newspapers and social media. The overall budget for the Awareness Campaign was 534,000 euro, of which 85% is funded by the ESF under the ESF 2007 – 2013 Operational Programme II – Empowering People for More Jobs and a Better Quality of Life. The financial component could form a potential stumbling block as regards transferability.
- Other capacity requirements: the use of media channels, both on and offline appear to be important complementary aspects to the information seminars. Provided that such media outlets can be used there are no other capacity requirements which form obstacles to transferring this measure. For the most part it simply involves giving lectures and seminars on those topics that are most relevant to consumers and traders.
- Legal and institutional requirements: this measure is relatively straightforward in that the consumer or market surveillance authority holds free information seminars for those who are interested. There are no specific legal or institutional requirements which would prevent this measure from being implemented elsewhere.
- Motivational characteristics: this measure includes a novel approach as it informs consumers and traders simultaneously of the importance of product compliance and its contribution to a competitive economy. This is something in the interest of both consumers and traders. Both parties are made aware of the importance and especially the relevance of consumer rights and product compliance and safety.

### ***Case 14 Private Quality or Trust Marks: the Dutch Home shopping guarantee mark "Thuiswinkelwaarborg":***

- Common objectives: this national quality mark contributes to product safety and compliance in a preventative manner. Consumers are able to make informed decisions about where they can buy from, based on the presence or absence of this quality mark. However the organisation does not check whether the products are compliant and safe.
- Intuitive appeal: the quality mark is relatively well established in the Netherlands and was initiated by the association Thuiswinkelwaarborg.nl. It helps consumers to make their own judgment as to the trustworthiness of a website.



This contributes to consumer awareness which has been identified as a vital aspect of market surveillance activities at the level of EU MSAs and EU policy alike.

- Financial and other capacity requirements: the financial requirements involved in setting up such a measure will vary across different Member States. This depends on the costs of establishing accreditation systems through which to obtain the quality mark. In the case in the Netherlands however, members pay to gain the certification mark themselves. Expertise and administrative systems are required to set up the accreditation criteria and process, but these aspects do not constitute large issues regarding transferability.
- Legal and institutional requirements: the existence of a similar, established and recognised association and quality mark would facilitate the transfer of this practice. However if such an organisation is not present, implementing the measure would simply take more time, which does not necessarily diminish the transferability of this practice.
- Motivational characteristics: given that around 72% of Dutch consumers pay attention to whether an operator has the Thuiswinkel.org mark the practice appears to have effectively created a significant amount of awareness amongst consumers. As a further 26% of consumers would not buy from operators without the mark it appears to have contributed to raising awareness of the risks of buying online. This therefore forms an appealing consumer awareness raising practice.

***Case 15 Using social media and specialised websites to find operators: Denmark and the Howard Shopping Assistant:***

- Common objectives: this website contributes to raising consumer awareness. It is thus a preventative measure with regards to upholding the quality of consumer goods which are bought online.
- Intuitive appeal: by providing information on operators the Howard Shopping Assistant allows consumers to gain an impression of the website and whether they wish to buy from it. In this way consumers are equipped with tools to protect themselves when buying online.
- Financial and other capacity requirements: the financial costs attached to this website are not clear at this point. The search engine which analyses the website being investigated combines the results from other existing websites. In this way it does not appear to require high costs beyond the setting up and maintenance of the website. The human resources required consist of individuals needed to develop and maintain the website, notably in different languages. Some expertise with regards to the promotion of the website in other EU countries would also be useful. Since this is a website, few extra administrative structures appear to have been set up by the ECC in Denmark.
- Legal and institutional requirements: no extra legal or institutional requirements appear to be necessary. The ECC in Denmark developed the website and it is being used in other countries as well, reflecting an easy transfer of the practice.
- Motivational characteristics: the practice is easy to use for consumers and helps them to make their own judgment on an operator. By promoting the use of this website, MSAs across the EU can limit the number of purchases made from potentially risky operators, at very little cost. This therefore seems to be quite an attractive practice.



## 5.4 Transferability: Business operator awareness raising practices

### ***Case 16 Regular updates for business operators on new relevant legislation: the Consumer Protection Board of Estonia (CPBE) & Information Letters:***

- Common objectives: this measure aims to promote awareness amongst business operators both on and offline regarding their own obligations and rights. The rights of the consumers are also highlighted. In this way product safety and compliance are worked towards in a preventative manner.
- Intuitive appeal: in informing parties of the rights and obligations to be met by business operators, the practice helps to prevent certain issues from surfacing in the first place. The practice helps to reduce the cases of non-compliant or unsafe products which result from a lack of awareness regarding the requirements for products and business operators. The mechanisms and reasons for why this practice works are fairly intuitive therefore.
- Financial requirements: the practice has been undertaken for the last five years or so. Each information letter however is very cheap to formulate and costs nothing extra; from this perspective the measure is highly transferable.
- Other capacity requirements: the whole process of developing a letter takes anything from a few weeks to a month. The process involves: establishing which legislative changes have taken place and which are the most important or problematic, identifying the target groups, and disseminating these letters. This practice is very transferable in that very few other conditions and systems are required.
- Legal and institutional requirements: in Estonia there is a national register for economic activity which, until recently, required all businesses to update their contact and business details annually. This system provided an important means of gathering the contact details for operators. Updating this information is no longer compulsory and details can become outdated, but nonetheless this register provides an extra source of business information which helps in identifying target groups. Having an efficient system for locating contact details of targeted companies both on and offline appears to be an important condition for transferring the practice.
- Motivational characteristics: the CPBE has noted increases in the number of consumer complaints received and increases in the letters they receive from companies specifically on e-commerce issues. The CPBE interprets these complaints and letters in a positive light since they reflect a growing awareness and interest amongst consumers and businesses on market surveillance and online purchases. As such, the measure appears to be working well. Given the low resources required to produce these letters and their positive impact, this measure is considered to be quite efficient and transferable. Indeed countries such as the UK, Finland and France use similar measures, demonstrating the transferability of this practice.

### ***Case 17 Centralised information on selling online in a given country: the Australian Competition and Consumer Commission (ACCC) business guide to selling products online to Australian consumers:***

- Common objectives: the main idea behind the guidelines for consumer product safety online was to address problem areas before they could become actual problems. The ultimate objective of this practice is to address this gap in the knowledge and awareness of operators selling online to Australian consumers. It is thus a preventative measure.





- Intuitive appeal: the guidelines are essentially a communication tool to raise awareness amongst business operators, including those from overseas<sup>13</sup>. The guidelines contain information on: the full range of obligations, pertinent legislation, consumer rights and relevant organisations when it comes to setting up a business and selling online. Issues of responsibility are also addressed, to overcome one of the main problems in e-commerce. This is that online operators often do not realise that the same compliance requirements apply to them as to brick and mortar shops.
- Financial and other capacity requirements: this measure is fairly transferable. The process behind the development of the guidelines does not require much extra investment in terms of human, time or financial resources. There are no requirements therefore which would obstruct the transferability of this measure.
- Legal and institutional requirements: the relationships with the stakeholders form an important element in this practice. In some areas there were existing relationships and in some newer industries (such as those related to online activity) new contact was sought by the ACCC. These new industry relationships led to good interactions and results. There are some cultural nuances which must be borne in mind when considering the establishment of such industry relationships. Generally though, by attending industry events, talking to representatives, and the people involved, the interest of the MSA in industry issues is demonstrated. In the case of the ACCC, the organisation tries to contact industry groups once every few months in a face to face group session to promote and strengthen good relations. While these issues are important, they do not form obstacles to transferring this practice to other contexts. A key feature when considering transferability is that the ACCC is the national regulator for competition in Australia and has a quite a high profile. Its enforcement activities are regularly reported in the media and its name and brand are well known.
- Motivational characteristics: Given that the guidelines were published in March 2014, there are no formal evaluations or reviews available yet to estimate the effects of these guidelines on business awareness. It is therefore difficult to estimate at this point in time whether the awareness raising amongst business operators selling to Australian consumers (online) has had an effect. However, other indicators point to the effectiveness of this measure as well, such as the heightened social media attention for the ACCC and its guidelines. Positive feedback from stakeholders and industry associations have been reported as well. These parties feel reassured that action is being taken and that the playing field for on and offline operators is being levelled. From an organisational perspective, the guidelines have been useful since the ACCC can use them as a reference. It forms a concrete point of information; the guidelines provide an authoritative aid which the ACCC and its commissioners can refer to.

***Case 18 Raising business operator awareness: the Dutch Authority of Food and Wares & the information and learning website TradeRouteAsia.nl:***

- Common objectives: when it comes to market surveillance and enforcement, this measure constitutes another preventative measure. The practice helps reduce the number of non-compliant and unsafe products on the market in the Netherlands. Businesses are often unaware of the obligations and requirements they must fulfil and adhere to, so that products are not always safe and compliant. This is where preventative measures have the potential to play an important role and as such this measure targets a specific and important challenge.
- Intuitive appeal: this measure is not unique in the sense that there is an informational website on trading in Asia. Rather the fact that the information is being presented in a unified, coherent manner by the national authority makes finding information easier for

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<sup>13</sup> ACCC press release 20.03.2014



(potential) importers. An especially innovative element however are the checklists, the e-learning tests and e-learning modules. These provide a quick and effective way to not only identify knowledge gaps but to remedy these as well.

- Financial requirements: since its implementation in 2010, the annual costs for the maintenance of the website are between 15,000 and 20,000 euro. This does not appear to be an inordinate financial investment and therefore the financial requirements do not appear to form an obstacle to transferring such a website.
- Other capacity requirements: requirements for implementing a website of this type include: the ability to identify the most pressing knowledge gaps, as web design expertise to present information clearly and concisely, and to set up e-learning modules. An important lesson was that people must be made aware that such information provision and awareness raising websites exist. As such the dissemination of information about the website and the promotion of it are very important as well.
- Legal and institutional requirements: no large new administrative systems were required to develop the website either. In principle any MSA could develop such a website. It requires gathering and selecting appropriate information, consultation with key stakeholders and interest groups, and website maintenance once the site has become active. This however is something which could be done quite easily in a different geographical context.
- Motivational characteristics: indicators regarding the effectiveness of this measure are relatively diverse. These include: the number of visitors, returning visitors, number of people following e-learning modules, the lengths of visits and which pages receive the most views are all monitored. The number of visitors and number of returning visitors have been increasing since the promotion campaign for the website, demonstrating the effectiveness of a promotion campaign for the website. Furthermore, a specific knowledge gap is met through the website. The information on trading with Asia is presented in a uniform and centralised way by a trusted authority. This in itself is a fairly appealing aspect of the website.



## 6 Recommendations

Based on the desk research, interviews, the case studies and the inputs from the Expert Working Group meetings, a set of recommendations has been drawn up. These are presented below and have been grouped in several main areas with further recommendations included within each category. The recommendations are grouped as follows:

- Monitoring and detection;
- Consumer awareness raising;
- Business awareness raising;

This section ends with several possible recommendations applicable at the EU level.

### ***Recommendations relating to Monitoring and Detection***

#### ***A. Establish a formal market surveillance strategy for online trade***

Having an explicit **strategy for conducting online market surveillance** is by no means a universal practice for all the Market Surveillance Authorities (MSAs) across the EU. However, having a formal or defined strategy for approaching online market surveillance is an important tool. This helps in addressing challenges specific to e-commerce such as the potentially shorter or dispersed supply chains, the anonymity and difficult traceability of operators. Additionally, the online market surveillance process involves obtaining and testing products. By establishing a procedural framework for market surveillance of online consumer goods, there is a more systematic method of monitoring and detecting non-compliant products and/or operators and resources are used more efficiently.

In this study, implementing a formal market surveillance strategy has mostly been achieved by introducing a specific department or organisation with responsibility for carrying out market surveillance on online consumer goods or by establishing a formal online market surveillance process within an MSA.

Examples of how a designated department or organisation could be set up have been taken from the French and German cases. Examples from Finland and the Czech Republic demonstrate how such a market surveillance strategy could be developed and implemented.

#### ***A.1 Set up designated departments or organisations***

A number of countries have developed formal, **designated departments or organisations** for market surveillance of online trade. Some countries, particularly larger ones, have set up a central national organisation which carries out monitoring and tracing of non-compliant or unsafe products and operators. Regional level organisations then carry out enforcement activities. In this way double work is avoided and the resources of the organisations involved in market surveillance are used more efficiently. Applications of these practical considerations have been drawn from the cases relating to the French DGCCRF/CSCE and the German organisation G@ZIELT.



In France the Direction Générale de la Concurrence de la Consommation et de la Répression des Fraudes (DGCCRF) has a range of functions in relation to national market surveillance. Within the DGCCRF the Centre de Surveillance du Commerce Electronique (CSCE) is dedicated to e-commerce specifically. The CSCE is responsible for the identification of unsafe or non-compliant products and the economic operators involved. Necessary action is taken by one of the 122 "Départements" in charge of market surveillance and inspections. The CSCE employs around 30 "cyber inspectors", who are, as well as being trained as market surveillance inspectors, specially trained in the use of ICT (in a 3-day training course). The centralised structure, the systems for communication and cooperation between the central, regional and local units, enable quick responses to non-compliant products and operators.

*(For more details, see Case 5, pages 29 – 33 of the Annex).*

In 2013, in Germany, the organisation G@ZIELT, part of the German Federal Office of Consumer Protection and Food Safety (BVL), expanded a project for monitoring online food sales to include cosmetics, consumer goods and tobacco products. Currently, G@ZIELT searches at a federal level and the 16 'Länder' authorities carry out identification and enforcement activities at the local level. The actual search procedures used involve an automated system which searches for websites on the basis of a set of search criteria. Market surveillance and enforcement activities are recorded in a database. Based on these activities action plans for the next year are developed to make the work and the use of resources as efficient as possible.

This practice is particularly interesting for the larger countries where the responsibility for market surveillance is decentralised or in countries where surveillance of e-commerce of similar products is distributed over a number of institutions. Given the specific character of online sales, carrying out part of the activities, in particular the identification of e-sellers, at a central level leads to significant gains in efficiency.

*(For more details, see Case 6, pages 35 – 40 of the Annex).*

## **A.2 Develop methodological guidelines for market surveillance of e-commerce**

Formulating a **specific search process for market surveillance of e-commerce** can lead to gains in effectiveness and efficiency. By acknowledging the specific features and challenges of e-commerce, market surveillance methods can be tailored to these issues and are likely to be more effective. Systematic and explicit methods which draw together in one place what inspectors need to know is a relatively intuitive practice which has been implemented in the Czech Republic and in Finland.

The Czech Trade Inspection Authority (CTIA) is responsible for monitoring and inspecting products supplied on the Czech market. CTIA has developed specific guidelines for their online shop inspectors in which the requirements of legislation have been translated into pragmatic actions. The guidelines are prepared by CTIA experts in charge of monitoring new legislation in specific product areas. They promote an understanding of the legislation and set out the implications for product safety and/or consumer rights in concrete terms, explaining how inspections should be implemented in practice. The guidelines are constantly updated in response to new legislation.

*(For more details, see Case 3, pages 19 – 24 of the Annex).*



The Finnish Safety and Chemicals Agency (Tukes) is the competent national authority for promoting the technical safety and conformity of products, consumer safety and chemicals safety. With the rise in the importance of e-commerce Tukes acknowledged the need for a defined strategy for e-commerce market surveillance. A project team was set up to create a central set of instructions for market surveillance online. In addition to employees from Tukes, other organisations involved were consulted to provide insights into the main threats, challenges and opportunities they had come across in their activities. This included representatives from product areas such as cosmetics, chemicals and electronics, and also from consumer safety. Other relevant organisations were consulted such as the Customs authority and the Finnish Competition and Consumer Authority (FCCA). Regular meetings with stakeholders and the appointment of a project leader were key elements in drawing together the different inputs in an efficient manner.

*(For more details, see Case 4, pages 25 – 28 of the Annex).*

## **B. Establish cooperation with other organisations and countries:**

International cooperation can yield very useful results when it comes to monitoring, detection and enforcement activities. A recurring comment from MSAs has been that although the EU has a single market and products move freely, the legal mandates of MSAs are limited to national territories. Despite EU wide information-sharing systems such as RAPEX and ICSMS, more information sharing is needed, as is more cooperation between MSAs. Products can move more freely than market surveillance and this undermines the effectiveness of surveillance activities. The legal mandate for MSAs could therefore be adjusted to allow for **deeper cooperation between MSAs**. While Regulation 765 establishes a basic level of cooperation between EU Member States, some countries have gone beyond this and make use of closer working relationships with other nations.

### **B.1 International cooperation**

Having cross-border working relationships, especially with countries **internationally, beyond the EU**, can help to remedy some of the main challenges inherent in market surveillance in e-commerce. A major problem is monitoring detection and enforcement beyond national and particularly, beyond EU boundaries. International cooperation could be particularly useful with Asian countries, which offer products on the national markets of Europe. This is evidenced by the cases from the Netherlands and Hungary. An observation applying to both cases is that this type of cooperation requires political will from the relevant organisations in both countries. Furthermore, financial and human resources must be committed in order to maintain the international working relationships established.

In the case of the Netherlands, the relationship between the Netherlands Food and Consumer Product Safety Authority (NVWA) and the Chinese authorities has developed over the years through study visits, learning about each's business cultures, and by establishing in which areas there is room for mutually beneficial collaboration. These activities provided input for the TradeRouteAsia website and became part of the NVWA's larger strategy of developing a working relationship with Chinese MSAs.

*(For more details, see Case 18, pages 93 – 97 of the Annex).*



In Hungary the Consumer Protection Authority (HACP) has information sharing relationships with China, Lebanon and neighbouring countries within Europe. The approach taken and the basis for these relationships vary, but are cited by the HACP as useful examples of promoting product safety online.  
*(For more details, see Case 2, pages 11 – 18 of the Annex).*

## **B.2 European cooperation**

Having good relations with organisations involved with market surveillance and product safety in neighbouring countries **within the EU** can also be very useful. The same positive reasons apply to closer cooperation between organisations within the EU as those referred to above in relation to cooperation with countries outside of the EU. By sharing information and co-ordinating monitoring, detection and enforcement across borders, surveillance activities can be undertaken more efficiently. This is illustrated by the case of The Nordic Ombudsman Group.

This case of the Nordic Ombudsman Group demonstrates how practical collaboration between consumer organisations can be achieved. This co-operation involves organisations from Denmark, Finland, Iceland, Norway and Sweden and the Faroe Islands, which meet regularly. They have set up a system for information sharing, covering a wide range of matters: information on court judgments, briefing notes, interesting articles, reports, negotiated guidelines and amendments to acts, interpretation and application of EU legislation and on emerging areas of practice. It also includes correspondence in specific cases and ongoing common projects. As far as possible, the exchange takes place electronically. While the Nordic Ombudsman group is a co-operation between consumer organisations, the style and nature of the co-operation is one which is applicable to other policy areas. It is thus also applicable to market surveillance and enforcement more specifically.  
*(For more details, see Case 1, pages 7 – 10 of the Annex).*

## **B.3 National cooperation**

This study has also pointed to the value of co-operation between MSAs and related organisations within a country. Such co-operation can be very useful in pooling resources and avoiding double work for the organisations involved in market surveillance. Within a country, organisations like customs, tax authorities, telecommunications operators, online market place platforms and consumer organisations can all be useful partners in market surveillance and enforcement activities. A number of countries make frequent use of such co-operation and some have formal protocols established which make co-operation between organisations more systematic and explicit.

Several practical points to facilitate such co-operation were derived from the good practice cases described. Formal protocols should be established by consulting all those stakeholders involved so that working relationships are mutually beneficial and target the most pressing challenges identified by the organisations involved. The organisational structures of the collaborating parties should be made transparent to other organisations, showing clearly which departments and people are responsible for which areas. Related to this, systems for jointly planning and co-ordinating collaborative activities should also be implemented. This can be achieved through regular co-ordination and planning meetings of the various organisations involved.



The necessary resources to allow for collaborative action should also be identified and made available. The way these practical considerations have been implemented is demonstrated across several national contexts.

In France, for example, the DGCCRF has a close working relationship with the customs. This is established in a formal protocol where the nature of the co-operation with customs goes beyond the stipulations of Regulation 765. Both the customs and the DGCCRF have a central organisation and a number of local and regional units. As such, knowing which central and local departments are in charge of which geographical and product areas is important and this is stipulated in the protocol. As a result of the protocol, regular meetings are established, market surveillance priorities are discussed, action plans developed, and joint market surveillance and enforcement activities are planned. In this way the scale and scope of the market surveillance and enforcement activities in France has increased. The DGCCRF and customs also share their information systems (although these are not fully integrated) and the network of testing laboratories, the SNE.  
*(For more details, see Case 7, pages 41 – 44 of the Annex).*

The German organisation G@ZIELT, also collaborates with a series of different organisations. For instance, the German Network Information Centre, DENIC, has the legal mandate to close websites of operators which have been shown by G@ZIELT not to contain the necessary information on the domain owner.  
*(For more details, see Case 6, pages 35 – 40 of the Annex).*

#### **B.4 Cooperation between MSAs and actors in the online supply chain**

Another category of organisations with which collaboration is useful for MSAs is with **actors in the supply chain**, such as **intermediaries and online market places**. These include for example e-Bay and Amazon which cover a large part of the online sales market to consumers. Most MSAs collaborate with this type of company and in some cases protocols on co-operation are more formalised than in others. Establishing formal co-operation between MSAs and such intermediaries can help to make monitoring, detection and identification activities within market surveillance more efficient.

Online market places, have a business interest in making sure that products sold on their platform and operators are compliant. Besides these, other organisations in the supply chain such as international shipping companies can also be useful partners. UPS for example searches products they ship if an MSA provides sufficient evidence that there is something wrong with the contents of a package. Designating a point of contact, therefore, between on-line market places and MSAs, or between MSAs and larger shipping companies is another recommendation for MSAs.

The UK's Hampshire Trading Standards collaborates with Amazon and e-Bay in its market surveillance activities. This case demonstrates how approaching the national representative of such a platform and providing evidence of non-compliance often leads to the removal of the product or operators. This protocol is not highly formalised, but contact occurs on a fairly regular basis and is deemed to be effective.  
*(For more details, see Case 8, pages 45 – 50 of the Annex).*



### **C. Optimising the use of available tools:**

An interesting finding from this study is that a significant part of e-commerce market surveillance can be performed using a number of free, readily accessible tools to identify and trace operators. These do not require inspectors to be highly qualified ICT specialists. To optimise the use of available tools a number of complementary recommendations are made which have been shown to help the improvement of online market surveillance.

#### **C.1 Use available internet tools**

Given the existence of free, accessible online tools, using such **tools** should be incorporated into the online market surveillance strategies of MSAs. Basic Google or internet searches were shown to be quite useful in identifying information about operators. Beyond this, more specialised, free websites can be used such as "WebCrawler" or "Whois".

At the Belgian Internet Surveillance department, freely available tools and websites are used to detect information on business operators. in a sizable portion of market surveillance activities.

*(For more details, see Cases 10, pages 55 - 60 of the Annex).*

#### **C.2 Establish guidelines for search procedures and provide basic technical training**

Related to the use of these free and accessible tools is the importance of establishing guidelines for **search procedures** for inspectors so that the use of such ICT tools is made systematic and avoids double work by inspectors. Having a systematic protocol in place for how to search is an important element in using such online tools. The **provision of basic technical training** for market surveillance inspectors on more specialised on-line search methods such as searching and tracing IP addresses, can also be done relatively quickly.

The exact nature of such training can vary across institutions but it can be completed in a matter of a few days for instance. This is the case in France, in the CSCE, where the 30 cyber inspectors receive training over several days and are then equipped to carry out national level e-commerce market surveillance.

*(For more details, see Case 5, pages 29 - 34 of the Annex).*

#### **C.3 Develop a systematic database for recording online market surveillance and enforcement activities**

Another important tool in market surveillance is a **sound database** for recording cases of non-compliant products and/or business operators. This can be done for instance, by making the national consumer complaints system as clear as possible, allowing consumers to provide more informative complaints. This in turn helps MSAs to pursue the complaint more efficiently. Clear instructions on the websites about how to submit a complaint are important here, as is also the provision of information in different languages.





The value of such a system is demonstrated by the Swedish Consumer Agency's website and complaints system. The website used by the Agency provides clear information, in a range of languages. It contains detailed information on when and how consumers can make a complaint. The clear information offers consumers the opportunity to provide detailed information on their complaints. This detailed information gives the Agency better information to undertake concrete actions.

*(For more details, see Case 9, pages 51 – 54 of the Annex).*

#### **C.4 Make use of trust or quality marks to guide the online market surveillance activities**

Evidence also indicates that **trust or quality marks** can be used to identify priorities for market surveillance activities. Operators which carry marks can be prioritised for investigations into compliance with operator and product requirements.

This is the approach taken by the Netherlands Food and Consumer Product Safety Authority (NVWA) and the quality mark system for online shops, Thuiswaarborg.nl. The Dutch web shops with the quality mark are responsible for a large share of the market for consumers good sold on-line. As such, the NVWA focuses its activities on making sure that these shops are compliant.

*(For more details, see Case 14, pages 77 – 78 of the Annex).*

#### **C.5 Implement Mystery Shopping**

Not all MSAs make use of **mystery shopping**. Mystery shopping allows MSAs to act as a consumer and obtain and test products. It also enables MSAs to check whether products shown on websites are the products consumers actually receive when they are ordered.

The Trading Standard Offices in the UK have a long tradition of test purchasing. A credit or payment card, a computer IP address and a delivery address that do not show any link with the MSA are necessary. Given the benefits of detecting non-compliant operators and products this is a useful method to employ.

*(For more details, see Case 11, pages 61 – 64 of the Annex).*

### **Recommendations on raising consumer awareness**

#### **D. Making use of established media:**

An issue which has become apparent throughout this study is the difficulty that MSAs have in reaching consumers. Getting consumers' attention concerning the potential risks involved in buying products online is a significant challenge. Consequently, **making use of established media channels** to reach consumers is a useful practice for MSAs to consider. Given the pressure on resources which most MSAs face it is prudent to seek to establish, wherever possible, working relationships with media channels that have expertise in communicating with a broad public and reaching a much wider audience than an average MSA.



The co-operation between the UK's Suffolk County Council Trading Standards departments and the national consumer rights TV programme "Watchdog" highlights the value of such a relationship. This case demonstrated how useful such programmes can be for informing consumers of product safety and consumer rights issues. The Trading Standards offices provide input and interviews to the producers of Watchdog and this requires relatively few resources from the Trading Standards departments. The Trading Standards offices capitalise on the media expertise and the broad reach of this television programme in communicating issues to consumers. Therefore from a Trading Standards perspective, this is highly efficient method of raising consumer awareness. Practical steps here involve appointing designated contact people in Trading Standards departments, making an effort to maintain the working relationship with media channels, and some media training for the inspectors on being interviewed for broadcasts.

*(For more details, see Case 12, pages 65 – 70 of the Annex).*

In Malta, the Maltese Competition and Consumer Affairs Authority (MCAA) and a series of other actors organised high profile seminars aimed at both consumers and producers to raise awareness. This is in addition to their on-going activities. Generally, as well as online information, a comprehensive range of awareness measures are provided by the Office for Consumer Affairs. This includes an active media campaign, consisting of regular contributions of articles to a range of newspapers, plus reactions in the media to topical issues. Officers participate on a regular basis in Radio and TV programmes to explain to the general public legal rights and obligations in the area of consumer affairs. Besides disseminating information, officers also answer the queries of listeners and viewers that call in during programmes. Recently, this on-going provision was supplemented by special seminars that were free for any interested party and these were supported by TV adverts and information material.

*(For more details, see Case 13, pages 71 – 75 of the Annex).*

## **E. Maximise information retention and dissemination:**

Looking further at awareness raising activities in general, it remains important that information provided to consumers and operators is clear. However, clear information is only of limited use if it is not disseminated properly and does not its target audience. Equally, steps can be taken to maximise the retention of information provided to consumers and operators, thus contributing to an MSAs awareness raising activities.

### **E.1 More focus on clear information to maximise retention**

The value of clear and concisely formulated information is demonstrated in the Swedish case and also how this contributes to more informative complaints to an MSA. Besides this, presenting information in such a way that it maximises interest and **retention** by consumers is also an important consideration. This can be achieved by researching information on persuasive communication or behavioural economics, for instance. Allocating a portion of the budget to developing clear, relevant information for consumers is important and a practical step that would be advantageous for an MSA. DG Health and Consumers of the European Commission (DG SANCO) has produced a number of reports in this area. DG SANCO also publishes information on



behavioural economics which could also be used when developing information aimed at consumers by MSAs<sup>14</sup>.

The Swedish Consumer Agency's overall task is to safeguard consumer interests and as such, one of the main objectives of the organisation is to improve consumer awareness. To achieve these goals, clear, concise and up-to-date information is provided on the website of the Agency, in a range of languages (Scandinavian languages, major European languages, Arabic, and Hebrew amongst others). It contains information on when consumers can make a complaint, step by step information on how to make a complaint, and what the Agency and other relevant authorities are able to do in response. The website also summarises and explains the main legislation in place concerning product safety and what the rights and obligations are of consumers and businesses in this context. Consumers are thus presented with a range of accessible and relevant information, presented in a very clear manner.

*(Case 9, pages 51 – 54 of the Annex)*

## **E.2 More focus on the dissemination of information**

**Dissemination** of information is an equally important aspect, evidenced by the cases from Malta and Australia.

In the Maltese case where a variety of media channels were used to promote the series of seminars being organised by the Maltese consumer and competition authorities.

*(For more details, see Case 13, pages 71 – 75 of the Annex).*

The Australian case concerning guidelines for operators selling to Australian consumers is not aimed at consumers as such, but uses a conscientious dissemination approach which could provide inspiration for any form of information provision. The Australian Competition and Consumer Commission (ACCC) makes efficient and extensive use of its network of stakeholders and beneficiaries. Indeed the dissemination of the guidelines is seen as part of the more successful aspects of this practice.

*(For more details, see Case 17, pages 87 – 92 of the Annex).*

## **Recommendations on Raising Business Awareness:**

### **F. Develop an accessible, coherent set of guidelines for operators:**

In addition to raising awareness among consumers, it is important to make businesses operating online aware of their obligations. Often there is no central information point for business operators to gain an overview of their obligations. These information overviews should combine input from various stakeholders, include the relevant legislation, and highlight issues of responsibility in the supply chain. This information should then be translated into **accessible, understandable guidelines for operators**. This allows operators to make use of a single, unified point of information when setting up an online business. Additionally, the reputation of the MSA can add legitimacy to such guidelines and reduce the fragmented nature of the information

<sup>14</sup> see for instance:

[http://ec.europa.eu/consumers/consumer\\_evidence/behavioural\\_research/index\\_en.htm](http://ec.europa.eu/consumers/consumer_evidence/behavioural_research/index_en.htm)



provided. The cases of the Netherlands and Australia demonstrate the value of having the pertinent information relevant for economic operators in one centralised place.

The Australian case concerns the ACCC's 'Business Guide to Selling Online to Consumers in Australia', and was developed using the observations which the ACCC had collected during its normal working procedures. This was combined with input from its network of stakeholders and beneficiaries. This ensured that the main challenges for online business operators were addressed in the guidelines. Through systematic meetings and feedback rounds, all relevant stakeholders were consulted and a balanced, unified information source for operators wishing to sell online to Australian consumers was established.

*(For more details, see Case 17, pages 87 – 92 of the Annex).*

In the Netherlands the development of the TradeRouteAsia website also involved examining what the main challenges were for operators - in this case those who wished to trade with Asia. By listing the most pressing needs and challenges in a systematic manner the website was developed into a powerful support instrument. All in all, these cases demonstrate that stakeholder consultations, repeated over several rounds, are important practical components in the development of information tools of this kind. *(For more details, see Case 18, pages 93 – 97 of the Annex).*

### **G. Prepare product requirement legislation in understandable terms:**

Legislation on product requirements and on consumer rights are relevant areas for a business operator's activities, both on and offline. However, keeping track of new and amended legislation can be complicated and as a result, business operators sometimes violate product requirements unintentionally. Regularly informing operators and **providing updates of the changes to relevant legislation** is a useful practice that could again yield benefits by preventing non-compliant and unsafe products from entering the market to begin with.

In the case of Estonia, the Consumer Protection Board, has implemented this practice effectively. Regular updates are sent around on legislation that is relevant to operators, both on and offline. In many cases non-compliance is accidental and not conscious. Therefore warning operators and helping them to become compliant is a good practice which can be implemented with relative ease. A method or tracking legislative developments in this area is required, supported by the contact details of operators to whom letters containing updates can be sent

*(For more details, see Case 16, pages 81 – 86 of the Annex).*

### **H. Use interactive information tools**

While clearly formulated and relevant content is important in information sources, retention amongst business operators can still prove a challenge. Even when information is well formulated, the challenge of retention amongst operators has important implications for MSAs. This study therefore recommends exploring different, **interactive manners of providing information** alongside those which are presented in more static forms, such as on websites and print media. Interactive methods of information provision tend to lead to a more active way of taking up information.



This is demonstrated in the Dutch case for instance, where the TradeRouteAsia website uses e-learning modules and quizzes to involve and test business operators on their knowledge. Here it was a matter of establishing the main areas where information was felt to be lacking by stakeholders and by operators wishing to trade in Asia. This step was followed by addressing these issues in e-learning modules.  
*(For more details, see Case 18, pages 93 – 97 of the Annex).*

In a non-digital manner, the seminar series organised in Malta, for both producers and consumers, also forms a more interactive, real-life method of providing information. A discussion element of this kind is recommended here to allow visitors to activate the knowledge they have gained.  
*(For more details, see Case 13, pages 71 – 75 of the Annex).*

### **European Level recommendations**

A number of the practices presented in this study can be shared and implemented in other Member States. Besides information and knowledge sharing, it has also become apparent that a number of national level MSA activities could be implemented at an EU level. This could improve the scope and reach of some of the practices explored. For instance, an **EU level strategy** for market surveillance in e-commerce was mentioned by some experts of the Working Group as a useful step in cross-border market surveillance. Just as national MSAs benefit from having an explicitly defined policy for online market surveillance so an EU level strategy could be beneficial as well. This could provide national MSAs with a starting point for their own market surveillance in e-commerce. For those nations which have such a guide or strategy, mutual learning could be encouraged between the EU and national level. Additionally, given that resource pressures are likely to remain, establishing priorities for online market surveillance is important. As such, specific, but common strategies for searching for products online could be introduced, thus avoiding duplication of work at a national level.

Furthermore, from an organisational perspective on online market surveillance, a specific department could be designated to operate at a transnational level. Inspired by such designated organisations in countries like Germany and France, countries could consider setting up corresponding designated transnational organisation themselves. The structure of having a central online monitoring and detection node, combined with regional or national level enforcement activities could permit more expansive and efficient online market surveillance. The European Commission could play a role in initiating or coordinating this.

A selection of the nationally developed online market surveillance tools could also be used by other Member States. Programmes like the German version of the programme “WebCrawler” could be implemented by other countries. This would require ICT expertise at country level, as well as collaboration and appropriate licensing arrangements with the G@ZIELT and the developers of the new version of the programme. It would also involve translating the programme into the relevant languages. The same applies to the Dutch TradeRouteAsia website in that the interactive way of making operators aware of what they need to know could be beneficial to other countries as well.





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## Appendix 2 Questionnaires

### **Phase 1: Interview Report Format:**

#### **Interview report**

Country:

Organisation name:

Contact person:

Date:

Interviewer:

#### **Organisation Information**

- The mission of your organisation:
- Specific policy and/or strategy for products sold online:

#### **The Practice of Market Surveillance and Enforcement:**

##### ***Monitoring and Investigation:***

- Activities:
- Differences whether the web shops are a) inside your country, b) outside your country but inside the EU or c) outside the EU:
- Proactive or reactive way:
- Monitor consumer complaints:

##### ***Enforcement:***

- Actors involved in enforcing:
  - inside your country:
  - outside your country but inside the EU:
  - outside the EU:
- Cooperation and exchange of information with other relevant authorities:
- Cooperation and exchange of information with rest of the EU:
- Contact with the economic operators:
  - inside your country:
  - outside your country but inside the EU:
  - outside the EU:
- Types of measures:
  - inside your country:
  - outside your country but inside the EU:
  - outside the EU:
- Intermediaries:

##### ***Prevention:***

- Practices to prevent web shops:
- Practices to prevent consumers:

##### ***National Consumer Awareness Raising***

- Information campaigns to prevent consumers
- Private initiatives to promote citizen awareness:
- Other projects or policies to raise consumer awareness:



### **Considering Good Practices**

- Own organisation's practices:
- Practices of other organisations in your country:
- Activities of other organisations outside your country:

### **Challenges and barriers**

- Main difficulties and challenges:
  - Webshops inside your country:
  - Webshops outside your country but inside the EU:
  - Webshops outside the EU:

### **Extra information**

- 



## **Phase 2: Interview Guidelines Good Practice Cases**

### **EU Commission study: Good Practices in Market Surveillance on compliance and safety of non-food consumer products sold on line: Interview Guidelines Good practices**

The following questions listed below are in aid of the in-depth interview we would like to carry out with your organisation regarding market surveillance and compliance and safety of non-food consumer products sold on line. The aim is to establish amongst other things, the effectiveness and potential for transferring this case to other national contexts. As such, the questions are relatively detailed so that we can develop a sound and informative case, with special emphasis on why the case is effective and its impact.

Please note that the list constitutes interview guidelines and in the event that information for specific questions can be found in documents online, kindly inform us of this so that we can keep the interview as efficient as possible. We hope that in sending these guidelines the general aim of this interview is clear.

Thank you for your participation!

#### **Title of Practice:**

Country:

Organisation:

#### **A. Purpose of the Practice**

##### *Objectives of the project/programme*

1. Please provide a brief description of the key features of the measure/action/initiative.
2. What are the main objectives of the measure/action/initiative?
3. How were the objectives and structure of the measure/action/initiative formulated? What was the process followed? Which actors were involved?
4. What is the problem/issue/need that the measure/action/initiative intends to address? How is the measure expected to address the identified problem/issue/need?

##### *Detailed description of the practice:*

5. Which entity/organisation is responsible for the initiation of the specific measure/actions/initiative?
6. Are there any other partners involved in the initiative? How are they involved? What is their role?
7. When was the measure/action/initiative initiated?
8. What is (has been) the duration and the budget of the measure/action/initiative? What have been the funding sources?

##### *Reasons for highlighting the practice:*

9. How does the proposed measure/initiative contribute to product safety and compliance amongst non-food consumer products bought online?



*Target groups?*

10. What is(are) the target group(s) of the initiative? Who are the direct target groups directly involved in the practice? Who are the indirect target groups who are ultimately affected by the practice?

**B. Impact & Results:**

*Valorisation of results:*

11. Has there been any review/evaluation of the measure/action so far?

12. Are there any specific indicators used to monitor the performance included in the objectives? Can you provide us with any relevant data?

*Effectiveness:*

13. How efficient would you say this measure is (process to reach the results)? Can you give any indications to demonstrate why this is the case, e.g. in terms of financial or human resources, or in terms of the costs and benefits of the practice?

14. How effective do you feel this practice is in contributing to product safety and compliance of consumer goods bought online? Please explain.

**C. Evaluation of measure:**

*Known and potential effects:*

15. What are the (expected) outputs and results of the measure/action/initiative? Can you please provide us with any data on the outputs and results of the measure/action/initiative?

16. Were there any unexpected outputs and results of the measure?

*Impact of current measure and possible results it may contribute to*

17. How has the measure/action/initiative contributed (or is expected to contribute) to an improved performance in market surveillance of consumer goods bought and sold online? Are there any quantitative or qualitative indications of improvement?

**D. Conditions of transferability:**

18. Does the measure/action/initiative represent a continuation of further development of earlier measures or does it represent a change from earlier approaches?

19. How does the specific measure/action/initiative compare with other similar initiatives in other countries? What do you consider to be its innovative or most impressive elements?

20. What are the main lessons learned from the development and implementation of the measure? Have there been any obstacles encountered or other problematic aspects?

21. What would you expect to be the key outcomes from a successful implementation?

22. Do you consider that the measure is readily transferable in other regions or countries or is it rather particular to the context of the specific region/country? (Consider financial, institutional and legal requirements, and other requirements).

What do you consider to be the key features that make it easily transferable?

23. Are you aware of other regions that have duplicated/copied the specific measure?

