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

## **Annex: Good Practice Cases**

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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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# 1 Case 1 Cross-border collaboration with MSAs in the EU: the Nordic Ombudsman Group

Countries : Denmark, Finland, Iceland, Sweden, Norway, Faroe Islands  
Organisation : The Nordic Ombudsman Group

## 1.1 Purpose of the practice

### 1.1.1 Objectives

This case shows how Nordic consumer rights authorities have developed practical systems of co-operation in order to support information gathering and legal proceedings.

### 1.1.2 Detailed description of the practice

The basic aim of the Nordic Consumer Ombudsmen Group is to ensure that business and trade complies with the consumer legislation and the principles of fair marketing practices in general. Within their own country each Ombudsman works to the relevant national legislation. In Denmark, for instance the main consideration is the Danish Marketing Practices Act. However, with global markets, the consumer protection authorities need to co-operate with each other across borders.

As well as co-operating with other EU Member States, not least under the EU Regulation on Consumer Protection Cooperation and with ICPEN (the International Consumer Protection Enforcement Network) and ICPEN Europe, the Nordic Consumer Ombudsmen continue to develop practical elements of co-operation with each other. This was built on longstanding arrangements between the consumer protection agencies of the Nordic countries going back to the 1960's.

Co-operation is facilitated by the similarities in Nordic marketing law, and the way in which it is administered and by a long tradition of legal cooperation in this area. Ultimately however, there is a common reference point in EU legislation relating to consumer protection and the safety of products.

Current arrangements are based on agreements to enhance co-operation on consumer protection matters between the Danish, Finnish, Norwegian and Swedish consumer ombudsmen. The Ombudsmen are the enforcement authorities under the EU Regulation on Consumer Protection Cooperation (2006/2004 plus amending acts). Meetings are organised twice a year and between meetings, there are on-going interactions between the offices.

#### *Co-operation and Information Exchange*

At the heart of the co-operation is an exchange of information about common issues and problems. This can involve information on judgments, notes, correspondence in specific cases, information about ongoing projects, interesting articles, reports, negotiated guidelines and amendments to acts. It also involves exchanging information about interpretation of EU legislation and its application. As far as possible, the exchange takes place electronically.



### *Guidelines*

Part of the co-operation has led to a series of guidelines, through which consumers, businesses and officials are assisted. The guidelines set out the Consumer Ombudsmen's general interpretation of marketing legislation in various areas.

Guidelines of this kind are not legally binding, but they are generally well regarded and are used by the courts when determining good market practice.

The Nordic Consumer Ombudsmen's Position on Internet Commerce and Marketing, published in May 2010, for instance, up-dated the guidance first provided in 1998. This document summarised the most important regulations and principles that have to be followed by businesses in order to fulfil the common requirement of sound marketing practice. It relates to commerce and marketing via the Internet in Denmark, Finland, Iceland, Norway and Sweden.

The Position set out in this way by the Ombudsmen is a supplement to national legislation and the practice that has developed around e-commerce and marketing. It does not reproduce the detail of the legislation in this area and businesses are advised to examine the legislative texts, but it does provide an overview, highlights significant aspects of the legislation and indicates good and unacceptable practices. For instance, the guidance states that the Nordic Consumer Ombudsmen welcome labelling systems that can contribute to increasing consumers' trust in e-commerce. It encourages businesses to go beyond the rights that consumers are already guaranteed through legislation to offer enhanced consumer protection through the labelling system. Businesses find the guidelines useful in that, in effect, they often provide a quick overview of what they need to do to comply with legislation.

The guidance also summarises differences in the law of the different participating countries. A supplement to the position paper on e-commerce and marketing has been developed in the form of a position paper on social media marketing, which was published in May 2012. This followed an investigation by the Ombudsmen of social media to determine whether or not these media comply with marketing legislation in the five Nordic countries and their territories. The concern arose because traders advertise to users of social media. As part of this investigation, the Nordic Consumer Ombudsmen found that messages to Facebook's inbox and timeline (profile) fall within the definition of electronic mail, and they pointed out that this requires prior consent from the user (in the form of an opt-in).

#### *1.1.3 Reasons for highlighting the practice*

The longstanding co-operation between the Consumer Ombudsmen of Nordic countries has led to an exchange of information and the development of common approaches to various challenges in monitoring and detecting unfair and illegal practices and providing redress for consumers, including those arising with e-commerce. This provides a model for broader co-operation across the EU and beyond. Therefore, while the Ombudsman group does not focus on product safety and compliance specifically, the way in which the consumer organisations collaborate to protect consumer rights forms an interesting practice.





#### 1.1.4 Target Groups

The target groups of the initiative are, first of all, consumers, whose rights are more clearly determined and explained. However, the work of the Nordic Consumer Ombudsmen is also very helpful for policy makers and for businesses, since these Ombudsmen monitor developments in areas affecting consumers and they issue clear guidance on acceptable practice.

## 1.2 Results and impact

Due to the nature of the co-operation – mainly consisting of an exchange of information – it is difficult to assess the direct impacts. The Ombudsmen are convinced that the information exchanges do increase the effectiveness of actions taken and improves the efficiency of processes that sometimes require detailed work on particular legal provisions. Sharing the results of analysis undertaken by one of the parties assists the others in tackling similar issues.

## 1.3 Evaluation of measure

#### 1.3.1 Known and potential effects

This case presents the benefits of co-operation between countries, within the framework of EU law. Such cooperation can help in developing practical information and guidance and developing an efficient approach to common problems. Although the example does not relate specifically to product safety and/or compliance issues, surveillance authorities can learn from this situation and consider setting up similar ways of cooperation.

#### 1.3.2 Impact of current measure and possible results it may contribute to

The benefits realised by the co-operation has not been quantified. However, participants are convinced that it has helped to address common problems together, in making more efficient use of the available resources and in developing a consistent response to new challenges.

#### 1.3.3 Conditions of transferability

The co-operation between the Nordic Ombudsmen is clearly facilitated by similarities in the legislation and legal systems of the participating countries. Though there are still important differences and, where the legislation has converged, this itself is often as a result of the longstanding co-operation between these organisations

The work of the Nordic Consumer Ombudsmen Group does therefore offer lessons for co-operation with and between other countries, offering a practical way of re-enforcing the provisions of EU consumer legislation. It does so especially in developing areas such as online- markets, where new issues are continuously arising and guidance can be very helpful to all concerned.

Furthermore, the Ombudsmen are already extending their co-operation beyond the Nordic area in various ways. Following an initiative of the Nordic Council of Ministers, the Nordic-Estonian Consumer Education Group has co-operated in curriculum development on consumer issues and in raising awareness. This was done through teacher training, training in municipalities and in schools. Recently there has been an increased focus on the use of computers and the Internet in this context.



## 1.4 Information sources

See for instance the site of the Danish Consumer Ombudsman:

<http://www.consumerombudsman.dk/About-us/intcooperation/nordiccooperation>

Position of the Nordic Consumer Ombudsman on Internet Commerce and Marketing

<http://www.consumerombudsman.dk/Regulatory-framework/dcoguides/Internet-Commerce-and-Marketing>

Position of the Nordic Consumer Ombudsman on social media marketing of 3 May 2012

<http://www.konsumentverket.se/Global/Konsumentverket.se/St%C3%A5ndpunkt%20version-eng.pdf>

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Website: <http://www.consumerombudsman.dk/About-us/intcooperation/nordiccooperation>



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

Country : Hungary  
Organisation : The Hungarian Consumer Protection Authority (HACP)

### 2.1 Purpose of the practice

#### 2.1.1 Objectives of the project/programme

Since 2010, the Hungarian Authority for Consumer Protection (HACP) has strengthened its efforts to form bilateral and multilateral relationships with market surveillance and consumer protection authorities abroad. The HACP is the general market surveillance authority for non-food consumer products. The organisation has quite a wide range of competences related to consumer protection. Competences not included are for example financial issues and financial consumer protection.

The rationale behind strengthening the international partnerships is to exchange information and good practices to promote consumer protection, ultimately on a global level. In practice this means that the Hungarian Authority for Consumer Protection (HACP) 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 has developed and continues to operate.

An important aspect to these partnerships is that the choices made at the political level play an important role in determining which countries might make especially good international partners. The Hungarian foreign and economic policy directions are the most important policy areas on the basis of which the HACP selects prospective international partners. Given that no two countries are the same, the way in which the HACP and an international partner start their collaborations varies.

There are high volumes of products coming in to Hungary from China and Hungary has a relatively high population of Chinese people. Therefore it is considered important for Hungary to have a deeper relationship with China. For the Chinese authorities this cooperation is relevant because products are not only exported to Hungary but also to other EU Member States. The nature of the collaborations revolves largely around information sharing. In general this kind of international information sharing includes any kind of non-confidential information which may be helpful for a partner authority. The information exchange covers new legislation, legislative and political measures (for instance, new consumer policy or action plans), important cases, new initiatives, and more particularly in the case of China, product safety issues related to imported Chinese products. The information exchange mainly occurs between the HACP and market surveillance authorities in China.

The cooperation was the result of a visit from a Chinese delegation to Hungary in 2013. The most important problems discussed were the lack of awareness amongst Chinese operators of Hungarian and EU product requirement legislation and how the market surveillance systems operate.



The partners came to the conclusion that awareness amongst Chinese entrepreneurs was an important point to focus on. If Chinese entrepreneurs have a higher knowledge of the EU product requirements, products entering the EU are likely to become safer. The Chinese authorities wanted more insight into the way the HACP made the Hungarian enterprises more aware of the relevant regulations. The HACP prepared a document on their activities in Chinese, which was very much appreciated by the Chinese authorities. China in turn promised to provide an extensive document on the practices and legislation on market surveillance in China written in English. The co-operation is said to be good and very promising, resting on trust and information exchange.

The Egyptian MSA was impressed by the HACP's website and based on this made contact with HACP. At the start the HACP and the Egyptian authorities agreed upon a list of initiatives and projects which could form the basis of co-operation. For instance, a twinning project was considered where Egyptian authorities could come to Hungary to study the market surveillance and enforcement procedures in order improve their own system. Shortly after the start, the exchange was interrupted for a year, due to the political situation in Egypt. Cooperation has continued and EU support is sought to finance the Twinning Study.

Regarding Lebanon, similar reasons for co-operation apply as those listed for Egypt. In this case, the start of the collaboration started with an enquiry from Lebanon which was searching for European MSAs to co-operate with. The collaboration started at a Twinning event in Latvia in 2013. After this event the Lebanese authorities contacted the HACP a number of times. The HACP was happy to oblige with information on, among other things, their awareness raising campaigns. Technologies such as the smart basket, or child orientated board games etc. were for instance shared as these seek to raise awareness about product safety at an early age. The Lebanese partners actually adopted the practices. A Twinning study event also took place where Lebanese authorities visited Hungary for 5 days. During this study trip various product testing labs were visited. They participated in an inspection, learned about the product sampling procedure HACP applies, and were informed, amongst other matters, about awareness-raising techniques used in Hungary.

The aims of these collaborations are to contribute to the effective protection of consumers and to provide consumers in both countries with safe products. To this end the objectives are to strengthen the mutual professional expertise of the authorities involved through information sharing and exchanges of good practice. 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 and this framework can be helpful for general information and the sharing of ideas as well.

#### *2.1.2 Detailed description of the practice*

The practice of seeking out working partnerships with other international MSAs is in a sense based on the Hungarian government's foreign and economic policy aims. These include building up relationships with the East, notably China, and with neighbouring Balkan countries. The HACP builds on this national governmental strategy with a specific focus on relationships that could be beneficial from a market surveillance and consumer protection perspective.



In China the initiating entity is the State Administration for Industry and Commerce<sup>1</sup>. For Lebanon the partnership is between the HACP and the Ministry for Economics and Trade. In Egypt the HACP cooperates with the Customer Protection Agency. Though the HACP does not receive any particular extra funding from the national government, the national government is very supportive of their activities.

Given that the co-operation between the HACP and international partners is a political and diplomatic activity to some extent, establishing the exact point from which the international partnerships started can be difficult. In some cases the communication and co-operation started relatively informally by diplomatic standards and in other cases a formal Memorandum of Understanding has been developed.

The cooperation with China and the HACP commenced more formally in September of 2013 when a delegation of representatives from market surveillance, product safety and consumer protection organisations visited Hungary. This followed a somewhat lengthy process of trying to establish a Memorandum of Understanding. While the document has been signed at this point, the communication and negotiations took quite some time.

In Lebanon the collaboration started at a Twinning event in Latvia in 2013. In this case there were e-mails and some information exchange after the event. The Lebanese organisation contacted the HACP a number of times and the HACP was happy to oblige with information on their awareness raising campaigns.

Regarding the cooperation with Lebanon the EC had a role to play with regards to funding. The Lebanese relationship started with a twinning project, funded by the technical assistance programme between EU and ENPI/ENI countries (TAIEX) of DG Enlargement of the European Commission.

### *2.1.3 Reasons for highlighting the practice*

This measure contributes to product safety and compliance in general and not specifically with respect to e-commerce. The HACP is the general market surveillance agency in Hungary and therefore consumer products sold online fall under its competencies. Consequently all general framework agreements and memoranda concluded with foreign agencies cover e-commerce as well, but no particular priority is given to this. Nonetheless, international working relationships between MSAs overcome a major challenge faced by EU MSAs that beyond the EU borders MSAs have more difficulty in identifying and tracing operators. In addition, MSAs have no legal right to take enforcement steps to promote product safety and compliance abroad. Therefore the co-operation of MSAs in third countries becomes particularly important as a way to address the issue of non-compliant products being sold to European consumers. The openness and willingness of the HACP to share information and the formal way in which these many international relationships are set up form a good practice. Key lessons relating to starting such a relationship could be passed on to other European MSAs.

### *2.1.4 Target groups*

The direct target group for this measure are MSAs from other non-EU countries. Countries with which potential partnerships could be set up are presented in annual reports in the HACP and these form the more immediate target group. The indirect target group however, are Hungarian consumers and the consumers in the countries with whom partnerships have been set up.

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<sup>1</sup> Previously named the General Administration of Quality Supervision, Inspections and Quarantine (AQSIQ)



## 2.2 Impact and results

### 2.2.1 Valorisation of results

The Memoranda of Understanding state that the international cooperation agreements will be evaluated annually by the parties involved. This requirement is new and no evaluation has been carried out yet. The evaluation will most likely take place in a mutual meeting where the experiences from both sides can be shared. Points for improvement and amendments can be agreed upon as well.

The HACP has an internal evaluation system that also covers international activities. The results are included in the annual report of the organisation. The international section contains details on past experience and identifies possible countries to form future partnerships with. An internal cooperation plan is also established.

There are no specific indicators developed to measure the achievements of these international partnerships. There are certain instances which reflect the status or progress in a working relationship however. In the cooperation with Lebanon for instance, the take-up of some of the consumer awareness raising games and communication methods demonstrates successful information sharing. With China sharing translated documents summarising key aspects of consumer and business awareness raising and product requirement legislation also point to a positive relationship based on information sharing. However in broader terms the contribution of this practice to consumer protection is difficult to estimate.

### 2.2.2 Effectiveness

There is a department within the HACP (known as the Strategic Cabinet) consisting of three employees who focus on bilateral and multilateral working relationships. Their efforts and work are judged to be effective according to the Director of the HACP. Regarding the efficiency of the practice in bringing about product safety and compliance and consumer protection, the sharing of information and knowledge, pooling of resources is judged to be conducted in an efficient way. Especially with its focus on non-EU relationships this practice appears to make an effective contribution to mitigating the important challenge of not being able to enforce product requirements beyond Europe.

## 2.3 Evaluation of measure

### 2.3.1 Known and potential effects

The expected outputs of this practice are working relationships based on information and knowledge sharing. Depending on the partnership in question, other outputs include the setting up of communication channels between countries, helping with implementation (as was the case in Lebanon for instance), and resource pooling. There were no real unexpected outputs from the measure.

### 2.3.2 Impact of current measure and possible results it may contribute to

There are not many quantitative indicators identified and monitored for this measure, as far as contributions to market surveillance of consumer goods bought online are concerned. The partnerships are described in qualitative terms as being effective and useful in upholding product safety and compliance due to the information sharing component. Furthermore, the measure is effective in that there are working relationships with MSAs beyond the EU. These could help with the harmonisation and enforcement of product requirement regulations between the HACP and other countries.



## 2.4 Conditions of transferability

These international collaborations are part of a larger strategy. In 2010 a new Director took charge of the HACP and a priority was to strengthen international cooperation. The first step was to conclude bilateral agreements with countries neighbouring Hungary, such as the Czech Republic, Poland, and Bosnia and Herzegovina. These countries all together formed the most important partners for consumer protection due to the cultural and economic similarities in the countries.

Then, in line with the Hungarian foreign and economic policy, the scope of cooperation was broadened to countries outside Europe.

While the idea of information sharing, best practice exchange, implementation assistance and resource sharing are not particularly innovative practices, they are useful in promoting market surveillance and consumer protection. This holds for cooperation across Europe and beyond the EU, especially with countries in which EU MSAs have less influence regarding product safety and compliance. Mutually beneficial relationships with MSAs in third countries can help address shared challenges faced by both countries in delivering compliant and safe products to consumers.

Achieving the trust of partners is very important. There should be a demonstrated and proven commitment and willingness to share information and experiences. The HACP adopts a very open stance in this regard and is always willing to share. Its consumer awareness raising activities, especially, attract a lot of international attention and the HACP sees the advantages of sharing experiences. Therefore the HACP also tries to contact new partners through, for example, embassies to demonstrate that they mean to start a serious and formal collaboration. Approaching organisations in this way adds legitimacy and credibility to the intentions of the HACP. The HACP is concerned with consumer protection not just in Hungary alone and as such it is always willing to share information and assist with implementation. Their consumer awareness raising activities for instance is seen by others as a good practice.

The 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 are broad results.

Theoretically this measure is quite transferable to other countries. The exact nature of the partnerships between countries depends on aspects such as economic and cultural similarities and the state of the existing diplomatic relationships between countries. In the case of the HACP, MSAs from other countries were interested in the good organisation of the market surveillance activities, notably on consumer awareness raising and communication towards the public. This fitted well with the strategy of HACP to develop international partnerships.

## 2.5 Information sources

A cooperation between the Chinese and Hungarian Consumer Protection Authority:  
[http://www.nfh.hu/en/english\\_pages/informations/cooperation/news\\_140523\\_1.html](http://www.nfh.hu/en/english_pages/informations/cooperation/news_140523_1.html)

National and international cooperation:  
[http://www.nfh.hu/en/english\\_pages/informations/cooperation/news\\_101217.html](http://www.nfh.hu/en/english_pages/informations/cooperation/news_101217.html)

The presentation of György Boda, Coordinator for International Relations (Department for International and Public Relations, Hungarian Authority for Consumer Protection), 2011:



[http://www.nfh.hu/data/cms45828/Market\\_Surveillance\\_Activities\\_of\\_the\\_Hungarian\\_Authority\\_for\\_Consumer\\_Protection.ppt](http://www.nfh.hu/data/cms45828/Market_Surveillance_Activities_of_the_Hungarian_Authority_for_Consumer_Protection.ppt)

Renewed cooperation between the Hungarian and Polish consumer protection authority:

[http://www.nfh.hu/en/english\\_pages/informations/cooperation/news\\_130211\\_1.html](http://www.nfh.hu/en/english_pages/informations/cooperation/news_130211_1.html)

Hungarian Authority for Consumer Protection (HACP), *Information Document – English version*, 2014, Budapest.

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

Country : The Czech Republic  
Organisation : The Czech Trade Inspection Authority (CTIA)

#### **3.1 Purpose of the practice**

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

The Czech Trade Inspection Authority (CTIA) falls under the national Ministry of Industry and Trade. The main aim of the organisation is to monitor and inspect business operators and individuals who supply goods on the Czech market. The focus of the organisation is on consumer rights and protection, as well as product safety. The sub-directorate focusing on product safety consists of different experts and advisors who have expertise on specific product groups. The sub-directorate on consumer rights and protection on the other hand has a more general consumer orientation. This means that the scope of activities of the CTIA is relatively broad. The CTIA has a central body as well as regional inspectorates.

The CTIA has an internal information database which contains information on: control actions, legislation provisions that have been inspected, product categories, any infringements encountered regarding a supplier, enquiries, and complaints from consumers and other bodies. Based on the consumer complaints and other information contained in the database the CTIA conducts inspections of potentially unsafe or non-compliant products and operators.

The CTIA inspectors operate using the methodological guidelines to investigate complaints concerning products and to take proactive control actions. These guidelines are based on EU legislation relevant to market surveillance, consumer rights and product safety, which have been transposed into Czech law. The guidelines are relatively specific for different product areas and tend to be more general for the consumer rights and protection areas. It is on the consumer rights and protection guidelines that this case focuses as these guidelines contain more specific information on how to conduct inspections of online sales.

The guidelines regarding consumer rights online contain information on areas such as: checking the terms and conditions online, criteria as to the product information to be provided, information on the operator to be provided, the pricing of the product and uniformity throughout the ordering process. The guidelines also include descriptions of the legislation regarding consumer rights and protection.

The main objective of the guidelines is to help inspectors of the CTIA to conduct their monitoring and inspection activities effectively. Specifically within the area of consumer rights and protection this measure helps inspectors to locate cases of non-compliant or unsafe operators online. In doing so, the CTIA can better protect consumers and make sure that their rights are being upheld both on and offline.



The objectives of this practice are not formalised. The methodological guidelines are part of the normal working procedures of the inspectors of the CTIA. The inspections online and offline are both undertaken in response to consumer complaints and are therefore quite reactive in nature. No targets are set on the number of inspections to be carried out.

There is the general aim of making sure that consumer rights are upheld by operators both online and offline.

The methodological guidelines are broadly speaking, part of the normal working procedure of the CTIA. The guidelines are formulated in reaction to new or adjusted legislation which concerns the CTIA areas of competence. As such, the guidelines seek to provide an understanding of the legislation, what this entails in concrete terms for product safety and/or consumer rights, and how the inspections should be implemented in practice. Regarding the consumer rights protection of online sales specifically, there is ample possibility for online operators not to uphold consumer rights. Having a more defined search strategy for online shops has therefore been taken up in the general consumer protection activities of the CTIA. With the increase of e-commerce, the number of consumer complaints and consequently inspections online have been increasing.

### *3.1.2 Detailed description of the practice*

The guidelines are developed by the CTIA. Within the Central Inspectorate of CTIA there is an engineering/technical department, an international cooperation department and a consumer rights protection department. The product safety department is in charge of monitoring new legislation in their product areas. They are responsible for using their expertise and insight to interpret the law and to frame this into understandable guidelines for inspectors. The same process applies for the consumer protection department though the guidelines tend to be less technical as they do not require product specifications and testing protocols.

This practice of developing guidelines for inspections of e-commerce started when relevant legislation came into force and the CTIA received the mandate to carry out market surveillance activities in specific product areas. The development of these online guidelines started becoming more common after 2008 with the introduction of the Unfair Commercial Practices Directive and intensified further with the Distance Selling Directive.

Establishing guidelines is part of the working procedure of the CTIA and therefore does not cost anything extra. The guidelines for product areas can take a few months to develop. The guidelines related to consumer protection area are developed in a shorter term since this legislation is usually less complicated.

The development of methodological guidelines is part of the normal working procedure of the CTIA and as such no specific budget is set for the practice. The number of staff involved in the development of online inspection guidelines, differs per product area. Broadly speaking the CTIA has its inspectors and 13 advisors for the product safety areas, and 5 advisors for the consumer protection department of the CTIA.

### *3.1.3 Reasons for highlighting the practice*

This practice contributes to product safety online by establishing which elements must be checked among business operators online with regard to consumer rights. By defining specific procedures for checking consumer rights, including steps for checking these aspects online, the practice helps to detect and take action towards operators engaging in unfair practices towards consumers. While the primary aim is consumer



protection, online operators and non-compliant or unsafe products are located and action is taken by the CTIA.

#### 3.1.4 Target groups

The direct target groups of this practice are non-compliant economic operators. This includes operators who do not adhere to the legislative requirements regarding the products being sold, product pricing, redress procedures, terms and conditions, manufacturer information etc. While the target groups are those operators which the CTIA receives complaints about, the inspection activities can take place both on and offline depending on the operator. The indirect target group of this measure, the ultimate beneficiaries, are the Czech consumers which the CTIA seeks to protect.

### 3.2 Impact and results

#### 3.2.1 Valorisation of results

The CTIA produces annual reports on its activities achievements of the organisation as a whole. The numbers of inspections, types of products inspected, numbers and types of consumer complaints received, are all recorded as well.

While no specific indicators are used to establish the effectiveness of the methodological guidelines, the CTIA reports that this practice is very useful and necessary. Inspectors have a central document written in understandable terms which captures the most recent and up to date legislation, thus effectively guiding their inspection activities. Not all inspectors have a tertiary level education, nor are they all well-versed in judicial or engineering discourse. Therefore having the, sometimes very technical, legislation translated into pragmatic guidelines is very useful. Concerning the consumer rights guidelines and the online component, having a central document providing guidelines on how to search online is considered to be a useful step.

There is a continuous monitoring of e-commerce as well by the CTIA. Statistics from 2013 are presented below as to the progress on consumer rights protection and product safety front:

Title of Inspection	Number of Inspections in total		Inspections with findings		Discovered violations in %	
	2012	2013	2012	2013	2012	2013
E-commerce: Continuous monitoring of development concerning this form of sale	1206	1296	988	1013	81.9%	78.2%

Source: CTIA Annual Report, 2013



### **Number of Inspections Online:**

<b>Year</b>	<b>GPSD*/Harmonised products inspections online</b>	<b>No. of violations/findings</b>	<b>%</b>	<b>E-shop Inspections</b>	<b>No. of violations/findings</b>	<b>Pending cases</b>
2009	33	1	3.0%	486	340	
2010	30	1	3.3%	586	415	
2011	97	10	10.3%	1026	754	
2012	58	15	25.9%	1206	988	
2013	110	27	24.5%	1296	1013	
2014**	37	11	29.7%	456	349	61

Source: CTIA, 2014

\* General Product Safety Directive

\*\* These were the statistics at the time of measurement, in August 2014.

#### **3.2.2 Effectiveness**

This measure can be considered quite efficient in that it does not require extra budget. Generally, though in the case of consumer rights protection especially, the guidelines do not require inordinate amounts of time to formulate either, no more than a few months. The benefits are that inspectors have clear, all-encompassing guidelines. In the case of online operators, this is an effective practice which meets the problems which accompany the growing trend of e-commerce. By stipulating clearly how to search and what to search for, also online, this measure is effective in protecting consumers from non-compliant operators and the unsafe or non-compliant products sold.

### **3.3 Evaluation of measure**

#### **3.3.1 Known and potential effects**

The expected outputs and results of this measure are improved market surveillance regarding online operators who violate consumer rights and offer unsafe or non-compliant products. The CTIA uses a broad range of information sources on which to base its market surveillance activities. Consumer complaints and reports (also from other bodies besides consumers), and the results of inspections of different products are all used. The working processes of inspectors focusing on this area are made easier, more efficient, and more systematic by having guidelines which also specify how to search online. No unexpected outputs have arisen.

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

There are no quantitative indicators set to measure the impact of this specific practice since it is an integrated component of the CTIA's activities. From a qualitative perspective however, the impact of this measure has been termed as quite positive. The inspection guidelines with their focus on online shops meet a definite need amongst inspectors and allow them to conduct market surveillance activities both on and offline in a systematic manner.



### 3.4 Conditions of transferability

While the measure is perhaps not so revolutionary, having a defined strategy and methodology for market surveillance in e-commerce is not yet prevalent across the EU. As such, having a specified strategy for online market surveillance can be considered an innovative and useful practice.

One of the main lessons learned in this practice is that there will always be some gaps which legislation does not cover. For example, some requirements may not be fully specified in legislation and cannot be regulated so easily. There is however not much which can be done about this from a market surveillance perspective. The CTIA must continue to construct guidelines and execute inspections both on and offline in compliance with the mandates they are granted by legislation. A further lesson is that, especially with e-commerce, beyond the Czech Republic the activities become difficult.

Given that this measure contributes 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. The practice is also fairly logical as it addresses the issue of online market surveillance and 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.

Financially speaking the practice does not cost much extra since the guidelines are developed by CTIA inspectors who are experts in their field. This also applies to the consumer rights area. Inspectors track new legislation and incorporate it into the inspector guidelines, also for online shops. The time needed to develop the first set of guidelines did not constitute more than a few months. Neither time nor financial inputs therefore seem to form challenges in transferring the practice. No additional administrative systems appear to be required either in establishing these guidelines.

From an institutional perspective, the CTIA has an uncommonly broad scope in its market surveillance activities. The CTIA is the competent body for consumer rights and protection, as well as product safety and compliance and international cooperation. That said, inspectors for each department and relevant product area are the ones to establish the guidelines relevant to their product or policy area. The measure could therefore also be easily taken up in countries where multiple market surveillance authorities are at work.



### 3.5 Information sources

Annual Reports on CTIA Activities: <http://www.coi.cz/en/about-ctia/annualreports/annual-reports-on-ctia-activities/>:

CTIA Annual Report, 2011

CTIA Annual Report, 2012

CTIA Annual Report, 2013

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## 4 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

Country : Finland  
Organisation : The Finnish Safety and Chemicals Agency (Tukes)

### 4.1 Purpose of the practice

#### 4.1.1 Objectives of the project/programme

The Finnish Safety and Chemicals Agency (Tukes) is the competent national authority for promoting technical safety and conformity of products, consumer safety, and chemicals safety. In 2013 the organisation developed and published a detailed set of instructions regarding market surveillance in e-commerce. The document identifies the competent authorities regarding different product areas and summarises. It also contains important legislation on consumer protection, product safety, and information provision. The instructions contain information on the important stages of market surveillance online. It describes how a case can be initiated, how product compliance can be assessed and which steps Tukes or other market surveillance authorities can take in response. Cooperation with other authorities such as Customs and the Finnish Competition and Consumer Authority (FCCA) are also described, as are communication activities aimed at both consumers and economic operators.

The guide focuses specifically on e-commerce and the issues related to it. It reflects a definite strategy regarding market surveillance and product safety online. The market surveillance online is a fairly reactive process. It uses information from the Tukes information and consumer complaint system, as well as ICSMS and RAPEX and notifications from operators.

The overall objective, as stated in the guide, is to ensure that “operators comply with legislation and introduce safe products on the market”<sup>2</sup>. A related objective is to prevent consumers from suffering accidents, financial loss or other unfair practices from operators. These are also the organisational objectives of Tukes as a whole. Market surveillance of e-commerce specifically aims to make goods bought online just as safe as when they are bought in brick and mortar shops. Regarding operational objectives, no specific targets or aims were established for online market surveillance. This is largely attributable to the fact that most of the market surveillance activities are quite reactive in nature. As described Tukes responds to complaints from a variety of sources including consumers, operators and international systems like RAPEX. As such there are no formal objectives established for the formulation of the instructions on e-commerce surveillance.

During the last 4 to 5 years e-commerce has become increasingly popular in Finland. However, most Finnish consumers do not consider the threat or potential issues involved when ordering consumer goods online, within or outside of Finland. Finnish consumers have lots of confidence in online operators despite the increased possibility of receiving non-compliant or unsafe products, or not having one’s consumer rights

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<sup>2</sup> Tukes, Instructions on surveillance of e-commerce, 2014



respected. Tukes therefore acknowledged the need to establish a more defined strategy for e-commerce focused market surveillance and project was initiated to create a central set of instructions for market surveillance online.

#### *4.1.2 Detailed description of the practice*

The development of the guide addressed problems and threats relating to market surveillance online, which Tukes and its departments had identified. During this development phase other market surveillance organisations that focus on different product areas were also involved. These authorities provided insights as to the main threats, challenges and opportunities they had come across during their own online market surveillance. Drawing together the experience of these authorities and stakeholders helped to identify the stages in the e-commerce market surveillance process which are common to all product areas and those which are not. This consequently helped to establish which were the main issues that should be covered by the guidelines. A project group was set up which included representatives from product areas including cosmetics, chemicals, electronics, and consumer safety. This project group had around 10 meetings during the year when the plan was developed, with the meetings lasting around 3 hours on average. The project leader was considered to be a key element in drawing together the different inputs in an efficient manner to produce the e-commerce instructions. A draft of the instructions was prepared and presented for feedback to the national Ministry of Employment, the Customs authority and the FCCA as well. This feedback was incorporated after which the draft instructions were subject to an internal review by the Tukes Board before being implemented internally.

The instructions on surveillance of e-commerce have been completed and implemented in the organisation this year (2014).

The funding of this measure was arranged internally and was part of normal working procedures within Tukes. As such, a definite cost for the development of these instructions is difficult to establish. The development of the instructions took around one year, though with the collaboration amongst different bodies and the checking of the instructions by different external parties such as the Ministry of Employment and Customs the total time frame was longer.

#### *4.1.3 Reasons for highlighting the practice*

This case of developing a central document presenting the main steps when it comes to market surveillance of e-commerce helps inspectors in Finland to monitor and detect non-compliant and unsafe products. Having a concrete strategy and making the market surveillance activities explicit contributes to effective market surveillance. Along with the relevant organisations, national and international collaborations, and relevant legislation described in the guidelines, the outcome is a streamlined system of market surveillance online.

#### *4.1.4 Target groups*

The direct target group of this measure are the inspectors of Tukes who must carry out market surveillance online as well as offline. The measure aimed to help inspectors undertake online market surveillance more effectively and systematically. Indirectly operators selling non-compliant products selling them online are targeted. Ultimately, the goal is to protect consumers by making sure that non-compliant and unsafe products are found and removed from the Finnish market.





## 4.2 Impact and results

### 4.2.1 *Valorisation of results*

There are no specific indicators to monitor the performance of the market surveillance online. No objectives were formulated for this practice given that it concerns a predominantly reactive working process. Some qualitative indications of its effectiveness can be deduced from the broad involvement of stakeholders and other interested parties in the development phase of these instructions. This suggests that the main problems and insights concerning market surveillance online have been captured by this guide.

### 4.2.2 *Effectiveness*

While the measure has not been formally evaluated, there is qualitative evidence from stakeholders, inspectors and other officials stating that they find the practice to be useful. As such it is considered to be an effective measure in improving market surveillance online.

This measure is considered to be quite efficient. The process did not cost much beyond the usual budget of Tukes. The broad involvement and information sharing of multiple market surveillance and product authorities also suggests a thorough research and development process. The role of the project leader in coordinating and combining the various inputs has been deemed a particularly important component.

No other extra administrative systems or institutional structures were required to develop the instructions and as such it can be considered a relatively efficient practice. The e-commerce market surveillance forms part of normal market surveillance activities though having a defined strategy has been described as a necessary and useful step.

This practice gives Finnish inspectors a systematic methodology for online market surveillance, and provides extra information regarding pertinent legislation and relevant organisations. This means that online market surveillance receives formal organisational attention and the process of online market surveillance 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.

## 4.3 Evaluation of measure

### 4.3.1 *Known and potential effects*

As mentioned, the guide has only recently been completed and implemented but some preliminary effects have been identified. For instance, Tukes' market surveillance process also involves communicating information on non-compliant products and operators to the public. This is done using the organisation website, its Facebook page and using the mainstream media which monitors Tukes quite closely. No unexpected outcomes have been encountered as of yet as result of the guide.

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

The expected impact of this measure is more effective and efficient online market surveillance activities by Tukes. Online operators and unsafe and non-compliant products are expected to be identified more easily and action is thought to be easier to take when they are found.



#### 4.4 Conditions of transferability

Creating a guide for e-commerce market surveillance is a continuation in a sense to existing market surveillance practices online as it draws useful practices and activities together and makes these explicit.

Tukes is not the first organisation to develop a more defined strategy for market surveillance online. However, the all-encompassing nature of the information provided (namely methodological steps in the online market surveillance process, as well as legislation, organisations, communication tools etc.) is an impressive element. Additionally, drawing on the expertise of different stakeholders and interested parties is an interesting and useful aspect of the instructions.

One of the main lessons learned generally is that across the national, EU and international level, cooperation between MSAs remains highly important. Though e-commerce surveillance activities have been set out and made systematic, the enforcement component online remains a problem.

From an operational perspective, a lesson learned is that multiple inputs from organisations is an important factor. The contribution of a coordinating person or body to draw together these various inputs is also a valued lesson.

This measure is considered to be very transferable. 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. It contributes to upholding compliance and safety of products online by making the whole system from receiving a notification to locating and taking action against an operator explicit and clear.

No major financial costs were involved in developing this measure, nor was any special extra expertise required. The administrative burden involved in producing and implementing the guidelines are also considered to be low. The collaboration with stakeholders and other interested parties is a vital aspect to creating all-encompassing e-commerce guidelines. However, this collaboration did not appear to necessitate any complex administrative or institutional structures. Political will of the stakeholders involved was cited by Tukes as an important element to the process. A good project leader seems to have been an important component.

#### 4.5 Information sources

Finnish Safety and Chemicals Agency (Tukes) website: <http://www.tukes.fi/>

Finnish Safety and Chemicals Agency (Tukes), *Instructions on surveillance of e-commerce*, (internal document), 2014.

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## 5 Case 5 Organisation dedicated to market surveillance of online sales and web shops: the DGCCRF and its Centre de Surveillance du Commerce Electronique (CSCE)

Country : France  
Organisation : The CSCE, part of the DGCCRF

### 5.1 Purpose of the practice

#### 5.1.1 Objectives of the project/programme

Within the French Ministry of Economic Affairs, the *Direction Générale de la Concurrence de la Consommation et de la Répression des Fraudes* (DGCCRF) has a range of functions relating to national market surveillance. These include: monitoring competition, ensuring fair practices between businesses, assuring consumer rights, checking product conformity, etc<sup>3</sup>. Within the DGCCRF there is the *Centre de Surveillance du Commerce Electronique* (CSCE) which is dedicated to e-commerce specifically.

The CSCE uses free tools available on the internet (IP address searches, automatic checks of websites, forum discussions) to identify non-compliant or unsafe products traded on the French market. This then leads to intervention and enforcement steps at the local level by one of the 122 local and regional units, mainly at the level of “Départements” in France. These authorities are in charge of market surveillance and inspections and they visit economic operators which have been traced by the CSCE. When operators are from beyond French territory, contact is sought with the market surveillance authorities in the relevant country. Where operators are based beyond Europe, the CSCE and the DGCCRF do not have a legal mandate to act.

The staff of the CSCE are specially trained in the use of information communication technologies in identifying and tracing products and operators online. The activities are carried out by experienced market surveillance employees who received additional training in computer science to go beyond normal internet searches. These specialists can find information on websites like the IP addresses, owners of websites etc.).

These specialised staff are also known as “cyber inspectors” and the CSCE employs approximately 30 of them. The additional training followed to become cyber inspectors lasts 3 days. The operators are not actively selected, but “select themselves” by applying for the training. New sites and operators are routinely checked. If the obligatory information is not available at the website, the economic operators are contacted. If misconduct is suspected, the regional offices are contacted, and these take over the investigation and take any action needed.

The ultimate objectives of the DGCCRF are threefold, namely to monitor competition, to uphold consumer protection, and to survey the safety for products and services. Within the broad area of consumer protection, the CSCE was established, specifically in view of the rise of the importance of e-commerce,. Scanning the internet is the easiest and quickest way to monitor what is offered to French consumers online and

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<sup>3</sup> Presentation by Thomas Berbach, Brussels, March 11th 2014.



when looking for unsafe or non-compliant products using the internet has become indispensable according to the DGCCRF. The CSCE objectives are centred along 3 lines:

1. Exercising control over the market (reactive). Three axes:
  - a. Watching over the operators, ensuring that they identify themselves;
  - b. Checking unrealistic discounts;
  - c. Watching for dangerous products.
2. Proactive signalling of emerging issues on the online consumer market. Examples:
  - a. False consumer reviews;
  - b. IP tracking and personalised offers by service providers, based on user profiles (resulting in unusually high prices for customers deemed rich).
3. Interface function, responding to questions and complaints by consumers (processing, examining, analysing complaints and trends in complaints).

The objectives of the CSCE were established by the DGCCRF in response to the observed growth in the e-commerce market and the growth potential it demonstrated in 2000. Later the SNE, the National Investigations Department was set up in 2009 within the DGCCRF.

#### *5.1.2 Detailed description of the practice*

The DGCCRF was the sole organisation responsible for the initiation of this practice. The CSCE was initiated in 2000 and started operating in 2001. In 2010 the CSCE became part of the *Service National des Enquêtes* (SNE), the national survey service within the DGCCRF. The budget for the department specifically is not specified, but the budget for the DGCCRF in 2011 was 17,5 million euro.

The DGCCRF has a central office in Paris, which is part of the Ministry of Economy and Finance. It has some 122 local and regional units which carry out market surveillance and inspections of economic operators within their designated regions. These local units also carry out the enforcement activities given that they are closer to the economic operators involved. The DGCCRF also has a network of testing laboratories which it runs with the French customs. The CSCE monitors the online market and traces operators selling non-compliant or unsafe products. It collaborates with the local units who approach the relevant operators and take appropriate enforcement action. Besides this diverse internal structure the DGCCRF did not collaborate with other parties to set up the CSCE.

#### *5.1.3 Reasons for highlighting the practice*

With the specific focus of the organisation on e-commerce and consumer protection online, this practice contributes directly to product safety and the compliance of consumer goods bought 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 steps.

#### *5.1.4 Target groups*

The target group of the CSCE are essentially any economic operator who sells non-compliant or unsafe products online to French consumers. These operators are traced and identified. If they are located in France, local units of the DGCCRF take the appropriate steps to ensure product safety and compliance.



Indirectly and ultimately therefore, the target group is French consumers whom the CSCE serves to protect in their online purchases.

## **5.2 Impact and results**

### *5.2.1 Valorisation of results*

There have not been any formal evaluations of the CSCE. However there are annual reports of the activities of the DGCCRF. These include basic statistics on its activities and the results achieved. In 2013 for instance, 10,200 websites were checked by the inspectors of the CSCE of which 27% showed instances of non-compliance. The organisation collects data on the nature of the non-compliance, details of the operators and the details of the enforcement steps taken afterwards. These statistics and data are not made public however.

Concerning objectives, no operationalised objectives or targets are formulated. The CSCE operates in both a proactive and reactive way and as such defining such targets is not seen to be relevant. The CSCE and the DGCCRF as a whole do keep track of a number of indicators which are used for managerial purposes. This includes information such as the number and type of sites that are checked, number and type of sanctions, type of investigation. This information system is completed by all inspectors, not exclusively the specialised cyber inspectors. Main product areas and themes are established in strategic plans, based on the activities and information gathered by the DGCCRF as a whole.

The aims of the CSCE are to generally monitor for compliance is the products offered to French consumers online and to find dangerous or non-compliant products. The CSCE mainly tracks the number of websites checked and the proportion of operators offering non-compliant or unsafe products. These two pieces of information form the main indicators for the CSCE activities it seems, though it should be borne in mind here that the CSCE does not establish specific operationalised targets.

### *5.2.2 Effectiveness*

This practice is quite efficient according to the CSCE. This efficiency is largely attributable to the centralised organisational structure of the CSCE combined with the local units for market surveillance and enforcement. The specialised expertise of the CSCE online inspectors is a second important factor. The centralised structure and the systems for communication and cooperation between different levels within the DGCCRF generally are considered to be useful in promoting quick responses to non-compliance products and operators. This organisational set-up overcomes a good part of the administrative obstacles which slow down the reactivity of a market surveillance organisation. The fact that there are some 122 local units which know the environment at the local, regional level and are closer to economic operators means that the appropriate follow-up market surveillance and enforcement activities can be handled more rapidly. Additionally, the centralised team of some 30 cyber inspectors are used efficiently by using communication and co-operation systems through which follow-up steps can quickly be delegated to the local units. The expertise of the online inspectors is quite unique as well. The CSCE has made a conscious choice to train individuals already active in the market surveillance and enforcement areas. By offering employees of the DGCCRF the opportunity to take the training, people with knowledge of the challenges, issues and details of market surveillance supplement their existing knowledge with improved methods of searching, tracing and identifying non-compliant or unsafe products and operators. This method of recruitment and training is considered to be an efficient way to put together the CSCE cyber inspector team, and is one of its defining features.



## 5.3 Evaluation of measure

### 5.3.1 *Known and potential effects*

As was started earlier, there are no formal evaluations of the CSCE specifically. Rather annual reports of the activities of the DGCCRF as a whole are produced which also capture the market surveillance activities carried out online. No unexpected outputs or results have been recorded recently.

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

The impact of this practice is difficult to estimate given the lack of concrete indicators with which to measure the progress regarding the CSCE's three objectives. However speaking in broader more qualitative terms, the CSCE is a front runner when it comes to online market surveillance. Few organisations in other countries have such a specific strategy and staff expertise with which to tackle the market surveillance of e-commerce. This is something which may contribute to the overall confidence of the French consumers, not to mention the effectiveness of the CSCE in locating online business operators, which naturally has positive impacts for product compliance and safety of consumer goods sold online.

## 5.4 Conditions of transferability

Having a defined organisation for online market surveillance and enforcement of consumer goods appears to have been one of the earliest measures regarding market surveillance of consumer goods online. It was initiated in 2000 when the e-commerce market was starting to take hold and forms one of the first steps in the French strategy for protecting its consumers online to the same extent as they are protected when buying from brick and mortar shops.

There are not many organisations comparable to the CSCE in other countries. Germany (see the G@ZIELT case) has adopted a more specific online strategy and other more defined strategies for online market surveillance are emerging. However, a practice such as the CSCE's, with a centralised organisation for monitoring and tracing, combined with local units and specialised ICT market surveillance staff does not appear to have been implemented to any great extent in any other countries.

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 follow-up steps. 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 set-up in combination with an efficient communication and coordination system.

Representatives of the CSCE indicate that a relatively modest investment is required, apart from 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 before. Designing an information system (dashboard) would be advisable as well.

## 5.5 Information sources

Ministère de l'Économie et des Finances, DGCCRF, Résultats 2013 de la DGCCRF, 2013: <http://www.economie.gouv.fr/dgccrf/resultats-2013-dgccrf>



Ministère de l'Économie et des Finances, DGCCRF, Bilan de l'action de la DGCCRF sur la toile en 2012, 2011:  
[http://www.economie.gouv.fr/files/files/directions\\_services/dgccrf/consommation/commerce\\_electronique/Bilan\\_control\\_Internet2012.pdf](http://www.economie.gouv.fr/files/files/directions_services/dgccrf/consommation/commerce_electronique/Bilan_control_Internet2012.pdf)

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Website: <http://www.economie.gouv.fr/dgccrf/Consommation/Commerce-electronique>







## 6 Case 6 Organisation dedicated to market surveillance of online sales and web shops: the German Federal Office of Consumer Protection and Food Safety (BVL) and G@ZIELT

Country : Germany  
Organisation : G@ZIELT, the Federal Office of Consumer Protection and Food Safety

### 6.1 Purpose of the practice

#### 6.1.1 Objectives of the project/programme

In July 2003, G@ZIELT, was set up at the Federal Office of Consumer Protection and Food Safety (Bundesamt für Verbraucherschutz und Lebensmittelsicherheit - BVL). G@ZIELT is short for the Common Central Unit "Control of Food, Feed, Cosmetics, Consumer Goods and Tobacco Products Traded on the Internet.

With G@ZIELT, the German food control authorities took the lead in the enforcement of consumer protection of food and some non-food products sold online. As a central body, this common central unit is in a better position to face the online trade, which overlaps regional ('Länder') and national borders. The overall objective of the Centre is to create a safe online market place. Online sales should be just as safe for consumers as when they purchase products in brick and mortar shops. The initial main focus of the Unit is on products traded by unregistered food businesses and food that could potentially damage or harm the health of consumers or which misleads them. At a later stage the products covered were broadened to include animal feed products, cosmetics, consumer goods and tobacco products.

#### 6.1.2 Detailed description of the practice

In 2008 the Federal Office of Consumer Protection and Food Safety (BVL) started with the development of a pilot project to survey on online sales of food products. The project "Control of E-Commerce in Food" ran from January 2011 to June 2013 and was carried out in cooperation with 10 'Länder' (German federal states). In this pilot project, the strategy, developed by BVL, was implemented, procedures were applied and optimised, the escapes from online control were identified and the necessary legislative proposals were drafted. In addition, cooperation with other relevant agencies was established. These include the Federal Criminal Police Office, the Länder Police Offices, the Customs Authority, and the Central Authority for Medical Devices and also relevant agencies in other EU Member States. During the pilot project, more than 3,000 web shops in food and 1,200 online offers from 450 web shops were reported to the competent authorities in the 'Länder'. These are responsible for the enforcement and therefore take the action needed.

For the operation of G@ZIELT, there is a budget of 500,000 euro available in 2014 and a staff of 6 FTE are employed at the centre.

Due to the success of the pilot project, the Unit was set up in July 2013. The focus was then broadened to online sale of feed products, cosmetics, consumer goods and tobacco products. In 2015 the Centre will be evaluated and based on this evaluation a



decision will be taken on the unit's continuation. At present (2014) 16 'Länder' are participating in G@ZIELT. The Centre is financed by BVL and the participating 'Länder'.

Regarding the different product areas for feed, cosmetics, consumer goods and tobacco products, G@ZIELT tries to carry out similar activities as for food products.

The following activities are carried out:

- Testing of products sold online on the basis of alerts in RAPEX, complaints of consumers or alerts of the competent authorities in the "Länder". Considering their focus 70 to 80% of the RAPEX alerts are not relevant.
- Informing consumers on the advantages, disadvantages, rights and risks of buying online, the obligations of the sellers and the rights of consumers. Tools used in this respect are the website, special brochures, participation in fairs etc.
- In line with EU legislation, web shops selling food products are obliged to register at one of four national trust marks. The Unit tries to stimulate registration also for web shops of non-food consumer goods.

In the first instance, websites to be checked are selected through an automated system. The selection criteria applied are: that the German language is used, payments can be made in euro and there is no disclaimer indicating that the product is not offered to the German market. Where unsafe or non-compliant products are offered a risk assessment is carried out. Three levels of risks are applied and the products with the highest risk level are handled first.

When non-qualifying products are offered by web shops established in Germany, the competent authority of the 'Land' in which the economic operator is established is informed. Only the competent authority at the Land'-level is empowered to take necessary enforcement measures. G@ZIELT does not have the power to take action themselves. That said, there is collaboration between G@ZIELT and other organisations to identify and tracing operators. Besides online market places, organisations like PayPal, the German Network Information Center (DENIC) and domain providers can also be called upon to help in the market surveillance process online.

If the economic operator is established in another EU Member State, G@ZIELT informs the relevant competent authority in the country. Together with 15 other Member States they cooperate in FLEP (see [www.flep.org](http://www.flep.org)). FLEP is an informal grouping of European food law enforcement organisations that seeks to share information, exchange experience and build up knowledge of good practice. E-commerce is part of the activities covered by the FLEP forum.

By definition FLEP focuses on food products and members are representatives of food law enforcement organisations. But most member organisations also have broadened their activities to certain categories of non-food products so more and more cooperation also takes place in this field. Through FLEP it is very easy to cooperate with organisations in other EU member states in a quick and informal way.

FLEP was set up in 2001 on the initiative of the German authority and is now led by the German and Dutch members (NVVA). The intention of the authorities involved is to broaden the platform to more Member States.

Cooperation with authorities in third countries is developed as well. Cooperation with China is organised via the German embassy in China. Additionally, BVL is trying to get into contact with the U.S. Food and Drug Administration, which is represented in Brussels, to discuss further cooperation.



The surveillance of other products is undertaken by other ministries. Manufacturing products for example are checked by the German National contact point of RAPEX, which is the Bundesministerium für Arbeitsschutz und Arbeitsmedizin. (Federal Ministry for Occupational Safety and Health)<sup>4</sup>.

#### *6.1.3 Reasons for highlighting the practice*

The objective of G@ZIELT is to ensure a safe market for consumers for goods sold online. As online sales cross 'Länder' as well national borders, the federal organisation for consumer and food protection and some 'Länder' have joined forces to identify the online sellers offering non-qualifying products. In this way the activities can be carried out more efficiently.

#### *6.1.4 Target groups*

G@ZIELT focuses on sellers of food, animal feed, cosmetics, consumer goods and tobacco products that are sold online to German consumers independent of where the economic operator offering the products is established. The direct target group are the web shops. The indirect target group are German consumers and as a consequence of their cooperation with competent authorities in other EU Member States and third countries, also consumers in these countries.

## **6.2 Impact and results**

#### *6.2.1 Valorisation of results*

Each year BVL and the 'Länder' involved, make a plan of the activities to be carried out. The activities are described in as much detail as possible. The results of the activities are included in a database. This database includes details of the activities carried out for all categories of products covered, so that the information is easily available for the employees working on the different product categories.

In the period July 2013 – June 2014, 200 product searches have been carried out, leading to around 1,000 products being checked. Of these, 500 products were sold by websites established in Germany, 440 in other EU Member States and the remaining ones by web shops outside the EU. Around 25% of these products were non-food consumer goods.

For the operation of G@ZIELT, there is a budget of 500,000 euro available in 2014 and a staff of 6 FTE are employed at the centre.

#### *6.2.2 Effectiveness*

The Centre operates on behalf of the 16 'Länder'. Instead of several 'Länder' carrying out the same activities, a single agency is now responsible. The main gains for this central organisation are that duplication of search work is avoided, resources are preserved and work processes are organised more efficiently. In total 6 persons are employed by the Unit. If each 'Land' organised the activities themselves, many more people would be needed and costs for example of automated software would have to be incurred by each Land.

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<sup>4</sup> <http://www.baua.de>.



## 6.3 Evaluation of measure

### 6.3.1 Known and potential effects

As described, G@ZIELT identifies the e-sellers offering the relevant products and executes a product control of the goods offered. If the product does not comply and/or is not safe, the economic operator is identified and the relevant competent authority at 'Land' level is informed. Eight weeks after the seller has been warned, G@ZIELT checks the website again to see whether the seller is still offering the non-qualifying products. In the majority of cases this is not the case, so an impact is visible. No quantification of the impact has yet been made.

In general G@ZIELT does not get feedback from the competent authorities at "Land" level and therefore no information is available on the indirect impact. At the start this information was received but the administrative burdens were shown to be too high. There are no unexpected outputs or results from the coordination and bundling of the activities.

### 6.3.2 Impact of current measure and possible results it may contribute to

The Unit was only set up in July 2013 so information on the impact in the longer term is not yet available. The activities have definitely value added since before the set-up of the organisation the checking of the products sold on line did not take place.

## 6.4 Conditions of transferability

The Unit was set up after a pilot project. Previously the activities did not take place. It is a particularly interesting practice for the larger countries where the responsibility for market surveillance is decentralised. It could also be useful for countries where surveillance of e-commerce of similar products is distributed over a number of institutions. Considering the specific character of online sales, it is possible to carry out part of the activities, in particular the identification of the economic operators, at a central level. The efficiency effects can be judged to be high. Several countries such as France, the Czech Republic, the Slovak Republic, Austria, the Netherlands and, Sweden have set up similar centres for e-commerce in food products. Once a centre is set up for food products, the activities can be easily extended to related non-food products.

Cooperation with the regional competent authorities in Germany works well, which is also influenced by the fact that G@ZIELT is financed by both the federal organisation and the 'Länder'. The annual working plan is set up in close cooperation with the 'Länder' which means that that the plan fits their needs.

One of the challenges is the cooperation with the competent authorities in other countries, when the economic operator is established outside the EC. Cooperation with a number of EU countries on food is well organised through participation in the FLEP forum. Cooperation with authorities in third countries is in the set-up phase.

Other important challenges G@ZIELT has to deal with are:

- Acquisition of test samples. Apart from receiving the samples, the samples they receive are not acquired according to the national regulation regarding acquisition of food samples and checking.
- A related problem is the payment of the samples, since samples are often not provided for free.
- Identification of the economic operator is often complicated since the contact details included on the websites are either missing or not complete.



The organisation is considered to be successful if consumer safety of buying on line is at the same safety level as buying in brick and mortar shops.

## 6.5 Information sources

[http://www.bvl.bund.de/EN/01\\_Food/06\\_E-Commerce/Im\\_E-Commerce\\_node.html;jsessionid=B9AE295EBFED0BE9C70D269F13239458.1\\_cid340](http://www.bvl.bund.de/EN/01_Food/06_E-Commerce/Im_E-Commerce_node.html;jsessionid=B9AE295EBFED0BE9C70D269F13239458.1_cid340)

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

Country : France  
Organisations : The Direction Générale de la Concurrence de la Consommation et de la Répression des Fraudes (DGCCRF) F and Customs

### 7.1 Purpose of the practice

#### 7.1.1 Objectives of the project/programme

Under Regulation 765, national MSAs in the EU must collaborate with their national customs authorities concerning 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 Direction Générale de la Concurrence de la Consommation et de la Répression des Fraudes (DGCCRF). Part of the French Ministry of Economic Affairs has a close working relationship with the customs and the nature of this cooperation forms the subject of this case.

The DGCCRF and the French customs have a protocol for collaboration. Both customs and the DGCCRF have a central organisation with a number of local and regional units. Given this, knowing which central and local departments are in charge of which geographical and product areas is important for collaborative reasons. Consequently this is stipulated in the protocol. In knowing who to address for which purposes, the regional, local and central units can quickly approach the relevant unit, making the market surveillance activities much quicker and responsive. Additionally, regular meetings between the organisations are established in the protocol and based on these meetings annual control plans are developed. These plans specify the priority areas identified by both customs and the DGCCRF. A final note is that the customs in France have the same market surveillance competences as the MSAs so that they can take on many market surveillance activities themselves, thus promoting efficiency. The DGCCRF and customs also share the network of testing laboratories. Customs do therefore not have to wait for DGCCRF responses to certain market surveillance issues or cases of non-compliance, since they can take action themselves. In 2011 a new protocol was implemented with the ambition of further reinforcing the collaboration between the customs and the DGCCRF by further integrating the organisational structures.

There are no formal objectives established for the cooperation between customs and the DGCCRF. In general terms, protecting French consumers and maintaining fair competition on the French market form overarching aims, but there are no formal objectives. Each organisation checks which products are most important to monitor and checks. Sample sizes of products to check are defined by budgetary considerations, but these do not form a quota or target of the number of products to check in pursuit of the organisation's aims.

Product areas are defined as important on the basis of monitoring data collected on products by the DGCCRF and the customs,. The DGCCRF uses consumer complaints received by its central and local units. Customs have their own system of digitally stored compliance and identification documents which are used to identify products, warranting extra market surveillance attention.



French customs and the DGCCRF have been cooperating for the last two decades at least. More restricted protocols for cooperation were in place from the early 1990s, but these tended to focus on specific product areas or competences. The first general protocol came about in 2006. The reason for this was partially that Regulation 765 stipulated that there must be a certain degree of cooperation between customs and the MSAs of a country, but also a desire for effective and efficient cooperation. As such the good working relationship, which could take place quite informally between the different levels of both organisations, was formalised in a general protocol.

#### *7.1.2 Detailed description of the practice*

The DGCCRF and the French customs have historically worked quite well together in a relatively informal manner. In fact, the working relationship was something which developed over time and as such the organisation which initiated the more formal protocols, not to mention the most recent one in 2011, is not clear.

#### *7.1.3 Reasons for highlighting the practice*

This case contributes to market surveillance online and the upholding of product compliance and safety through a close and efficient working relationship between the DGCCRF and customs. By pooling resources, sharing information, coordinating monitoring and detection activities the activities of the organisations are more efficient. They are also more effective at monitoring and detecting goods being sold to French consumers, both on- and offline.

#### *7.1.4 Target groups*

The protocol itself involves the DGCCRF and the French customs. While these are not target groups as such they are directly involved in the working relationship. The indirect target group of this measure are the French consumers, whom the market surveillance and enforcement activities of both organisations aim to protect from unsafe and non-compliant products.

## **7.2 Impact and results**

#### *7.2.1 Valorisation of results*

Both the DGCCRF and the French customs publish annual reports of their activities. For the DGCCRF these reports are not fully available to the public, but summaries of the main activities are available. These reports document details such as the number of audits made, the number of inspections carried out and the number of websites checked. The customs annual report provides insights to the number of cases of fraud and trafficking caught, as well as other areas of activities such as developing relationships with enterprises and activities to support competitiveness of the French market. Reports are made of the instances of cooperation, such as when both organisations undertake to monitor the same product over different time periods or at different locations. In 2010, some 724 coordinated controls were conducted.

	2007	2008	2009	2010
Joint controls DGCCRF and French customs	607	1173	504	419





### 7.2.2 Effectiveness

The protocol is said to be effective in that the organisations have formal indications of who carries out what tasks. This avoids double work but also the knowledge of who to contact lead to significant gains in efficiency<sup>5</sup>. The protocol can be considered an effective measure in improving the quality of market surveillance in France and in doing so, protecting French consumers. The control plans developed and the coordinated and joint actions undertaken by the organisations reflect the coordinated market surveillance efforts. These are more efficient because both organisations cover a given time period or stage of the distribution chain in their market surveillance activities of priority products.

The control plans tend to entail a more extensive market surveillance initiative focused on a specific product where one organisation covers for instance, goods as they enter the French market. The other then monitors those specific goods sometime later when more have appeared on the market itself. In this way the scope of the market surveillance activities have expanded through the joint action. The shared use of resources, including human resources and having the same competences also means that generally, the organisations can achieve more in monitoring and detection as well as the testing of products. The information systems between the organisations are also shared, though these are not fully integrated. This in any case leads to good operational information sharing as well, besides that provided in the regular formal (and informal) meetings between the organisations.

## 7.3 Evaluation of measure

### 7.3.1 Known and potential effects

The expected outputs here are a more efficient and effective form of market surveillance. There have been no unexpected or surprising outcomes, though a note was made that a certain degree of secrecy from the organisations is necessary. The speed with which online operators specifically adapt their behaviour necessitates a certain amount of discretion regarding the market surveillance activities carried out.

### 7.3.2 Impact of current measure and possible results it may contribute to

The DGCCRF deems the collaboration to be very effective and to have a broadly positive impact on market surveillance of consumer goods both on and offline. As no concrete indicators have been established to monitor all the forms of collaboration between the two organisations, the cooperation is considered to be very effective. As such this practice is also judged to have a positive, broad impact on market surveillance.

## 7.4 Conditions of transferability

This protocol represents the continuation of a long-term working relationship between the customs and the DGCCRF which has gradually become more formalised.

Some of the most innovative elements of this measure are the joint control plans and the joint actions which these entail in relation to specific product areas. As customs have similar competences to those of the MSA and the two share certain resources, they are also in a position to undertake more market surveillance and product testing.

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<sup>5</sup> The customs having the same competences as the DGCCRF is another effective component because customs do not need to wait for the MSA to get involved in certain areas. They can also have potentially non-compliant products tested themselves at the network of laboratories.



This measure could indeed be transferable to other countries, but time would be needed for this. The centralised structure complemented by local units of both organisations and the description thereof in the protocol is a useful element. It is one which could require a considerable amount of time to implement unless such an organisational structure already exists. Beyond this however, developing the protocol itself, establishing channels for communication, organising formal meetings, making joint control plans are relatively easy to transfer. The results in this case in France appear to be particularly good and efficient due to the competences of the customs authority, which is not the same across the EU.

## 7.5 Information sources

Ministère de l'Économie et des Finances, DGCCRF, *Résultats 2013 de la DGCCRF*, 2013: <http://www.economie.gouv.fr/dgccrf/resultats-2013-dgccrf>

Ministère de l'Économie et des Finances, DGCCRF, *Bilan de l'action de la DGCCRF sur la toile en 2012*, 2011:  
[http://www.economie.gouv.fr/files/files/directions\\_services/dgccrf/consommation/commerce\\_electronique/Bilan\\_control\\_Internet2012.pdf](http://www.economie.gouv.fr/files/files/directions_services/dgccrf/consommation/commerce_electronique/Bilan_control_Internet2012.pdf)

Douanes & Droits Indirect, DOUANE Résultats 2013:  
<http://www.douane.gouv.fr/articles/a11882--resultats-2013-de-la-douane>

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

Country : The United Kingdom  
Organisation : The Hampshire County Council Trading Standards

### 8.1 Purpose of the practice

#### 8.1.1 Objectives of the project/programme

This practice involves cooperation with intermediaries, such as the online market places Amazon and eBay, in market surveillance and enforcement activities. When Trading Standards Offices receive a complaint or other signals regarding the non-compliance of a product sold via one of these intermediaries, they contact the intermediary with evidence on the non-compliance of the product. The product can then be taken down from the platform. In cases of multiple non-compliance and unsafe products by the same supplier, the supplier too can be removed from the platform.

The collaboration between the 202 local level market surveillance officers (Trading Standard Offices) across the UK and intermediary organisations like Amazon and eBay takes place on a fairly reactive basis. These two sales platforms dominate the online sales platform market and as such are the main intermediaries with which the Trading Standards co-operate. When a complaint is received by a Trading Standards Office, via RAPEX, or some other alert system, the MSA can notify Amazon or eBay about non-compliant or unsafe products being sold on their sales platforms. There are set procedures for how this collaboration works exactly.

The Trading Standards Offices operate on the local level and each collaborates with intermediaries individually when they receive a notification in their jurisdiction. An Enforcer's Guide has been developed by the Internet Auction Working Group (IAWG) which focuses on how best to co-operate and resolve issues which occur on online marketplaces. This ensures uniformity in the working procedures. This guide sets out the relevant clauses from EU legislation which must be adhered to by online marketplaces and explains how best Trading Standards Officers can act in response.

However in general terms, Trading Standard Officers can notify the intermediaries in the event of non-compliant products, usually by also providing evidence as to why the product appears to be unsafe or non-compliant. Sometimes when a product has been purchased by the MSA and tested, the test report can be sent. Sometimes pictures of the products in question suffice if the product visibly does not comply with product requirement standards. In some cases, when a supplier on Amazon or eBay consistently sells products that do not comply, the supplier itself can be taken down as well. For this communication and interaction with the Trading Standard Officers eBay operates using a central e-mail address for the UK which all Trading Standards Officers can use. Amazon on the other hand has one individual who acts as a central point of contact for the Trading Standard Officers.



It should be noted here that regarding the organisation of market surveillance in the UK, the arrangement of the UK market surveillance is such that there is a Trading Standards Officer in every local authority. These officers are in charge of market surveillance and product safety for their geographical area. There are regional and national co-ordinating bodies. This means that market surveillance and product safety actions are implemented and carried out at the local level. Information sharing and communication systems are naturally in place to promote coordination and cooperation between the authorities to receive and monitor complaints regarding non-compliant or unsafe products. These include the National Consumer Advice portal, the Tslink Intranet, and partnerships with other bodies. There is also communication between the local Trading Standards Offices and international bodies, through systems such as RAPEX, ICSMS, and ADCO meetings. Personal networks and contacts amongst the Trading Standards Officers and their counterparts in different countries are also used.

The aim of this practice of collaborating with online market places is ultimately to promote consumer protection. It forms another practice which is geared to achieving the overarching aims of the MSAs in the UK in this regard. As the practice is relatively reactive in nature and depends on the cooperation with eBay and Amazon, there are no operationalised targets for this practice.

Given the challenges facing the Trading Standards Offices based on lower levels of human and financial resources since 2008, co-operating with intermediaries can prove an efficient and cost-effective way. Amazon and eBay are in a better position to reach the operators and their products and as such, can save Trading Standards Officers the resources 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, which forms one of the main market surveillance challenges accompanying the increase of e-commerce.

#### *8.1.2 Detailed description of the practice*

The practice of working with intermediaries has been in place for around 5 years at this point and is relatively informal. Beyond the Enforcer's Guide produced by the IAWG there do not appear to be formalised working procedures between intermediaries and Trading Standards Officers. The Home Authority Principle adopted by the MSAs meant that initially, when a Trading Standard Officer encountered a non-compliant or unsafe product being sold by an operator on Amazon they themselves would address Amazon with the issue. Given that there are some 202 Trading Standard Officers this meant that Amazon could potentially receive many messages and even duplicate reports concerning the same products. This has changed however since Amazon has designated person within the UK who deals with the MSAs. EBay uses one central e-mail address whereby MSAs in the UK can contact them.

In terms of time and budget, the practice of having products and at times operators removed from online market places is quite efficient. It is seen as a preventative market surveillance measure. The time and cost attached depend on how much it costs to gather the evidence demonstrating the non-compliance of a product. If a fully-fledged test is needed this will take longer than when the product is clearly non-compliant from pictures.



### *8.1.3 Reasons for highlighting the practice*

By making use of the access which online market places have to economic operators, products contacts can be made with economic operators more quickly and more easily and products can be more quickly removed. This saves time and resources and in this way, contributes to more effective market surveillance of goods bought online. Identification and tracking of goods and operators can be especially difficult elements in market surveillance online and as such collaboration with this type of intermediary is especially useful.

### *8.1.4 Target groups*

The direct target groups of this measure are economic and business operators who sell non-compliant products via internet marketplaces.

## **8.2 Impact and results**

### *8.2.1 Valorisation of results*

There are no formal evaluations of this practice, nor is it recorded exactly how many times collaboration with such intermediaries takes place. The interviewees estimate that per year intermediaries remove a product between 20 – 30 times. This information is not tracked or recorded by the Trading Standards Offices and as such numbers describing the outcomes of requests for removal are not known. However, when the Trading Standard Offices notify the intermediaries with evidence of the non-compliant or unsafe products they usually tend to take steps to have the product taken down from the platform.

### *8.2.2 Effectiveness*

The practice is reasonably 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 relatively effective and efficient as well as it can save the MSA the time of buying, testing, identifying and tracing sellers themselves. In this way some important challenges inherent in e-commerce are overcome by this practice, namely the difficulties in identifying and tracing business operators and their products, and taking some form of enforcement action in response.

The fear remains though that as quickly as products get removed, they resurface again somewhere else on the internet. By keeping a product or operator off a known intermediary like eBay or Amazon, the MSA can keep the product out of the sight and mind of consumers for a while. Making products less visible can make a small difference according to MSAs.

It should be noted at this point as well that market surveillance online specifically is a national level issue and the local Trading Standard Offices don not have specific strategies for this. They tend to carry out market surveillance and enforcement activities for all products available to consumers in the UK regardless of whether they are sold online or in brick and mortar shops. The Trading Standard Offices takes a holistic view across all forms of retailing.



## 8.3 Evaluation of measure

### 8.3.1 *Known and potential effects*

The expected outputs of this practice are that operators and suppliers selling non-compliant products on Amazon or eBay have the products in question removed when evidence for the non-compliance is provided. There have not been any unexpected outcomes from this measure so far.

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

In broader terms, the impact of this practice can be seen as a “drop in the ocean” given that once a product or operator is removed from an intermediary site, it can pop up again quite easily under another name or on another platform. This is a recognised outcome when it comes to carrying out markets surveillance online.

## 8.4 Conditions of transferability

Cooperating with online market places is not a new practice. Previously the interaction with intermediaries occurred individually between the Trading Standards Officers throughout the UK. This has now become more of a centralised system with designated points of contact from the intermediaries for all officers.

One of the more useful aspects of this measure is that a good deal of the monitoring and enforcement activities involved when enforcing product compliance amongst online sellers directly is not needed, when working through intermediaries. The intermediary knows the economic operator and approaches the operator in light of sufficient evidence.

One of the main lessons learnt is that operators tend not to like what they view as government intervention. In the UK in any case some operators still view MSAs in a negative, interfering light despite most local Trading Standard Offices seeking to inform operators and cooperate with them to achieve product compliance and safety. Additionally, Amazon tends to require high standards of evidence on products or operators which may be non-compliant or unsafe.

The transferability of this measure depends mainly on whether a protocol for cooperation has been established by an intermediary like Amazon or eBay with the MSA of a given country. Regarding human resources, financial considerations or necessary administrative systems to be implemented as part of this practice very little appears needed. As such the practice would appear to be quite transferable to other contexts.

## 8.5 Information sources

Trading Standards Institute (TSI):

<http://www.tradingstandards.gov.uk/policy/index.cfm>

Department for Business Innovation & Skills, Proposals for two new European Regulations aimed at improving consumer product safety and the functioning of the European Internal Market through effective market surveillance, 2013:

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

Country : Sweden  
Organisation : The Swedish Consumer Agency

### 9.1 Purpose of the practice

#### 9.1.1 Objectives of the project/programme

The Swedish Consumer Agency has a clear and simple way in which consumers can raise a variety of complaints. The grounds for a complaint and the process of submitting one are explained in an exemplary way on the Agency's web site - in a number of languages.

The site contributes to increasing the awareness of consumers of their rights. It also encourages the public to provide the Agency with significant information on products and services and thus forms an effective part of the Agency's intelligence system.

#### 9.1.2 Detailed description of the practice

The Swedish Consumer Agency is a state agency with the task of safeguarding consumer interests. Its overall objectives are to promote awareness and the safety of consumers. This involves the Agency in a variety of issues, including the safety of goods and services, and company advertising and contract conditions. It is also involved in domestic finance and consumer aspects of other policy areas, such as those relating to disabled persons or the environment. The Director General of the Swedish Consumer Agency is also Consumer Ombudsman (Konsumentombudsman).

An important consequence of the Agency's responsibility for promoting awareness of consumer issues is its approach to providing up-to-date, relevant information for consumers on its web site. Part of this approach is the provision of clear information on the procedures by which consumers can make a complaint.

#### *The Consumer Agency's Guidance on Complaints*

It should first be stated that the Agency is not itself responsible for assisting individual consumers, for responding to their particular problems or intervening in disputes. Individual consumers can get access to personalised advice through local (municipal) consumer advisers. The Agency does, however, have a responsibility for ensuring that consumers know the procedures to follow, if they wish to make a complaint. It does this with succinctness and admirable clarity.

The Consumer Agency's web site has a clear section for complaints. This initially displays the appropriate points of contact that consumers can use if they wish to make a complaint, including one for questions or problems relating to purchases from other countries within the EU.

This is followed by a page clearly labelled 'This is how you file a complaint'

This page explains that the Swedish Consumer Agency can take measures against:

- misleading advertising and other types of marketing;
- unfair contract terms;
- incorrect price information;
- dangerous products and services.

It then goes on to explain the information that it is necessary to provide to make an effective complaint. Consumers are advised that complaints should include the advert,



the contractual terms, information on the packaging, the product or anything else that was not as it should be. Consumers are also advised to provide contact details, including a telephone number, so that the Agency can get in touch if there is a need for additional information.

An address to which to send the complaint is clearly set out and an email alternative is provided, with a reminder that scanned copies of the documents with the necessary information need to be attached.

Finally, the web site explains what support a consumer may receive in pursuing a complaint. The Consumer Ombudsman ( KO) can sometimes help consumers to solve a dispute with a company, by representing the consumer in court or in relation to the Enforcement Authority. However, the Ombudsman will only provide this support if the dispute is significant for the application of the law. For example, where it is necessary to clarify the legal situation or if the dispute is of common consumer interest, in that it concerns a large number of consumers. A formal application for support by the Ombudsman has to be made.

#### *Further Explanation - Product Safety*

Additional explanations are also provided in the form of overviews of the law relating to particular circumstances. So, there are explanations of consumer rights relating, for instance to defective goods. There is also a page on product safety that is of particular interest for surveillance authorities.

The information on product safety briefly describes the legal situation and the significance of CE marking, using the example of toys and the dangers to small children. It also points out that companies that have sold dangerous products and services in Sweden have the duty to notify the Swedish Consumer Agency. Furthermore, consumers can report dangerous products to the Agency, using the complaints procedure described above. The web page on product safety provides a direct link to the description of this procedure .

#### *Languages*

One of the features that improves the accessibility of the information on complaints is that it is available in a number of languages – in the Sami language and Finnish, in major European languages (English, French, German, Polish, Spanish), but also in Arabic, Hebrew, Persian, Kurdish, Bosnian/Croat/Serb, Albanian and Roma. Not all of the information is available in all these languages, but basic indications are provided in all cases and overall the provision for minorities is nonetheless impressive.

#### *9.1.3 Target groups*

The target group of the initiative is consumers in general, but the service is particularly valuable for online shoppers, since they often have no alternative recourse.

## **9.2 Impact and results**

The Swedish Consumer Agency's web site is frequently used by all the interested parties. In recent years there have been around 200,000 to 250,000 visits per month. Over the period September 2013 to August 2014, there were over 95,000 visits to the product safety pages – a substantial increase from the previous year, when these pages were launched.

Over the slightly different period from 4th September 2013 to 4th September 2014, there were 4836 visits to the page where a complaint can be filed. This, of course, is not the same as the number of complaints actually submitted, but it gives an indication of the level of interest.



Complaints from consumers are vital for the Swedish Consumer Agency as a basis for proactive market surveillance. It not only provides information on problems in specific products, but an insight into the awareness, knowledge and attitudes of economic operators and of consumers. It is thus a good source of market intelligence that is used in collaborative work at the national and European level.

Of 135 cases closed in 2013, 11 complaints resulted in compulsory measures by the Swedish Consumer Agency and 29 led to voluntary measures by the economic operator.

## 9.3 Evaluation of measure

### 9.3.1 *Known and potential effects*

This case study is focused on the specific issue of effective communication with consumers and particularly on how consumers can be encouraged to provide useful feedback to consumer authorities. The Swedish Consumer Agency's website is seen as a model in this respect.

Provision of feedback by consumers in this way is an important source of market intelligence for the Swedish Consumer Agency and can support proactive market surveillance. The growing use of the website by consumers is therefore encouraging.

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

There has been no assessment of the extent to which complaints received through the website have contributed directly to improving the effectiveness of market surveillance of consumer goods bought online. The development can therefore only be seen as a useful (though indirect) addition to the information gathering processes of the market surveillance authority. It is part of a series of measures that are contributing to an improvement in effectiveness

## 9.4 Conditions of transferability

The lessons from this good practice case are readily transferable, since they are principally a matter of good web design, where illustrative examples are much more valuable than any amount of direction through codes of good practice etc. Of course, anyone adopting a similar approach would have to modify the detail and the format of the information provided, but the example provides sufficient indications of what it is possible to provide.

## 9.5 Information sources

The Swedish Consumer Agency (in Swedish):

<http://www.konsumentverket.se/>

Site in English (and other languages):

<http://www.konsumentverket.se/otherlanguages/English/>

### **Contact Details:**

The Swedish Consumer Agency

Address: Konsumentverket, Box 48, 651 02 Karlstad, Sweden

Telephone: +46 771 42 33 00

E-mail: [konsumentverket\(a\)konsumentverket.se](mailto:konsumentverket(a)konsumentverket.se)

Website: <http://www.konsumentverket.se/>





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

Country	:	Belgium
Organisation	:	The Department of Internet Surveillance, Economic Inspection Directorate, Ministry of Economics

### 10.1 Purpose of the practice

#### 10.1.1 Objectives of the project/programme

The internet surveillance department within the Economic Inspection Directorate of the Ministry of Economics of Belgium examines the process of buying a consumer good online up until the payment stage. In some cases the returning process also falls under the mandate of the department. Based on reports of suspicious products or operators, the internet surveillance team visits the site and acts on it as a consumer would, to explore the situation.

If the website is registered in Belgium, the complaint is transferred to the appropriate organisation responsible for enforcement. If the website is registered in Europe then the relevant MSA in the country concerned is contacted. If the website is registered outside of Europe but in a country where surveillance is organised such as the USA or Canada, bilateral (informal) relationships are used to help trace the operator. In the case of other countries, such as China the department's action is more restricted.

Information provision by operators online is an important component of e-commerce legislation. Operators are obliged to provide details such as their name, geographical address, e-mail address, and the trade register in which the service provider is entered and the registration number. This legislation is in place to help the identification and monitoring of online operators. The way in which the internet surveillance department searches for online operators forms the specific focus of this good practice.

There are around 5 people working at the internet surveillance department. The persons identify operators online using readily accessible online tools and by asking for information amongst other operators, although the persons involved are not specialised in information and communication technology. It has nonetheless been useful to have a designated department in the Economic Inspection Unit, (one central point of contact) in the organisation for internet surveillance for consumer protection. Organisations that can be used to identify operators include telecom companies (for phones and such but also for finding IP addresses), banks, online market places like eBay, online advertisement websites. Specialised websites such as "whois.domaintools.com" are free and available and they help trace certain details like IP addresses, websites and e-mail addresses. They can therefore contribute to finding out the basic registration details of an operator.

In some cases there are operators that only have one advertisement. The department can then ask for the IP address from where the advertisement has been placed online. Using a phone number or e-mail address, along with other more "old school activities"



such as a simple internet search can yield results, as can using such specialised search sites like “whois”. Often the internet surveillance team only use the advertisement or IP address if no phone number or e-mail address can be found. Out of efficiency considerations, the organisation does not start with the most sophisticated practices.

The main objectives of this department and its search procedures are to respond efficiently to consumer notifications regarding non-compliant and unsafe products. The underlying principle in the organisation is that e-commerce is just another form of distance selling and the same laws apply to online operators. Information should be provided by operators so that the internet surveillance department can, (together with other departments and units), uphold consumer safety by locating operators which sell non-compliant or unsafe products. In operational terms the aims of this practice is to quickly and efficiently locate online operators selling products to Belgian consumers.

The overall objective of upholding consumer safety is one of the main organisational goals of the Economic Inspection Directorate within the national Ministry of Economics. There was therefore no formal process through which these objectives were established. On a more operational level, the objective of the internet surveillance department is to find online operators and delegate further market surveillance steps to other regional units and departments. This was broadly established as a response to the increasing levels of e-commerce in Belgium. There is not a formal process to establish operational targets. The activities of the internet surveillance are quite reactive, being based on notifications received by the organisation.

The department internet surveillance “internet bewaking” or internet surveillance, started around 10 years ago. At first this was undertaken in addition to the normal work activities of those involved, but with the rise of the internet and e-commerce the need for a proper department became apparent and the department was set up.

#### *10.1.2 Detailed description of the practice*

The internet surveillance department was established within the Economic Inspection Directorate. At first the search activities were relatively informal, but as e-commerce increased the value of a central, designated unit for monitoring and identification of online operators was established.

The internet surveillance department has been at work for around 10 years. Given that the tools used are free or charge and easily accessible online, there are no extra costs involved in setting up administrative or internal systems or use of the tools.

#### *10.1.3 Reasons for highlighting the practice*

This measure contributes to product safety and compliance of consumer goods online by using quick, easy to use and cheap tools to identify and trace online operators. Based on notifications and reports on products from a variety of sources the internet surveillance department identifies operators. Where there obligatory information is lacking on the website, or unfair procedures are encountered, the unit delegates the enforcement of consumer rights to the responsible units. Though the emphasis is thus on consumer protection, non-compliant operators are located as part of the process. Where these are located outside of Belgium this is communicated to the relevant MSA in the relevant country. In this way, the method of searching for online operators engaging in illegal or unfair practices contributes to consumer safety.



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.

#### 10.1.4 Target groups

The direct target group of this measure are online economic operators who participate in unfair or illegal activities towards consumers. The indirect target group and ultimate beneficiaries of this measure are consumers. Their rights are protected by locating and taking action against online operators who participate in illegal or unfair practices.

## 10.2 Impact and results

#### 10.2.1 Valorisation of results

The activities of the internet surveillance department are captured in the annual activity reports of the Economic Inspection Directorate.

To monitor the activities of this practice details regarding the number of websites checked are gathered and the nature of information provided. In 2012, 451 websites were checked, of which 292 were in some kind of breach of the law. At first glance, around 47.45% of the websites checked were lacking one of the 4 mandatory identification details or had not presented this properly<sup>6</sup>:

Provision of name	: 8.2%
Provision of geographical address	: 8.2%
Provision of business registration number	: 34.62%
Provision of e-mail address	: 13.89%

#### 10.2.2 Effectiveness

The measure is quite efficient in that a central body uses free, accessible tools and information sources to identify and find operators. The inspectors do not need to be specialised ICT experts. They are trained on the job. Cases of non-compliant or unfair activities are passed to the enforcement unit of the Economic Inspection Directorate or to a different relevant MSA. The process is quite a reactive one, based on a system of reports and notifications which can come from consumers, operators or other departments within the Economic Inspection Directorate.

This method of searching for online operators is very useful in contributing to product safety and compliance of consumer goods bought online as it helps MSAs to find the economic operator. This makes surveillance and enforcement activities easier to undertake. The scope of the practice covers the entire internet, any operator selling to Belgian consumers is covered. The practice of searching using accessible tools and basic information about the operator is relatively straightforward. It yields quick results regarding the identification of non-compliant operators. Market surveillance of e-commerce is made easier as a whole by using accessible online tools and media.

## 10.3 Evaluation of measure

#### 10.3.1 Known and potential effects

The known and expected outputs of this measure are that operators are found quickly and easily with the use of basic identification tools. The enforcement lies with other entities and thus an anticipated outcome is also that where operators are located outside of Belgium, the actual enforcement steps taken can vary. Another known and expected outcome is that not all operators can be traced using these straightforward

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<sup>6</sup> Annual Report 2012, Ministry of Economics



accessible search methods like Google searches or using the Whois websites. Some operators knowingly try to circumvent such practices and the mandate of the Economic Inspection Directorate does not warrant the use of more sophisticated monitoring technologies. There do not appear to have been any unexpected outcomes of this practice at this point.

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

The measure of searching using relatively straightforward existing tools has helped the Belgian Economic Inspection Directorate to widen the scope of its online market surveillance at relatively little cost. Much can be done with little it seems and given the pressure on resources which most MSAs in the EU face due to budget cuts, this is a good practice which contributes to the market surveillance of e-commerce as a whole.

## **10.4 Conditions of transferability**

This measure is a continuation of the general strategy of the Economic Inspection Directorate which includes the protection of consumers. Making sure that online operators selling to Belgian consumers comply with the relevant legislation forms a part of this strategy.

Similar measures where a central organisation uses available internet tools to find and locate an operator are also in place in France and Germany. In these cases as in Belgium, other departments and regional units can take on the follow up detection and enforcement steps.

One of the main lessons is that some operators are quite aware of how they can be found online. As such a percentage of non-compliant online operators cannot be found using the search procedures applied by the internet surveillance department. Additionally, some of the processes of searching for operators could be automated to a degree using programmes, but the department is of the opinion that it can actually be quicker to do the search oneself. There is also always the question of how trustworthy the information found is.

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 as a whole. Identification and tracking of operators is quite successful 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 budget being invested.

From a financial perspective the measure does not cost much. The search tools used are readily available and the process of searching in this way is part of the internet surveillance departments' regular working activities. Concerning human resources, no extra or specialised ICT knowledge is required either. It is a process of learning by doing.

The activities of the internet surveillance department were already undertaken as a side project before the department became formalised. A few extra institutional and administrative structures were required to set up the department and its search procedures.

The levels of resources required for this search process to be implemented are low. Given the resource pressure which most MSAs across the EU face, this practice has obvious appeal. A good proportion of non-compliant operators can be found quickly and efficiently.





## 10.5 Information sources

FOD Economie K.M.O., Middenstand en Energie, Jaarverslag 2012, Algemene Directie  
Controle en Bemiddeling:

[http://economie.fgov.be/nl/binaries/Jaarverslag\\_2012\\_E7\\_tcm325-229353.pdf](http://economie.fgov.be/nl/binaries/Jaarverslag_2012_E7_tcm325-229353.pdf)

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Website: <http://economie.fgov.be>





# 11 Case 11 Online Mystery Shopping: the case of the United Kingdom

Country : The United Kingdom  
Organisation : Trading Standards Offices

## 11.1 Purpose of the practice

### 11.1.1 Objectives of the project/programme

'Mystery shopping' does not always have a positive connotation, but Trading Standards Offices in the United Kingdom (UK) have a long tradition of 'test purchasing' of products. This forms part of an intelligence-led enforcement process 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.

The process is not without some practical difficulties when it is applied. The case therefore also points to some of the practical considerations that need to be taken into account.

### 11.1.2 Detailed description of the practice

In the United Kingdom, the responsibility for market surveillance and for a whole series of consumer protection and product safety issues lies with the 202 Trading Standards Offices of the local authorities. This responsibility includes that for products traded online.

The Trading Standards Offices, however, co-operate extensively with other bodies responsible for aspects of consumer protection, such as the Citizens Advice Bureaux. They are also supported by national organisations, such as the Trading Standards Institute, which works with the separate authorities to develop and improve professional practice. They also works with national organisations, such as the National Trading Standards eCrime Team (NTSeCT) that has been set up to investigate online scams and abuses of national significance.

Within this co-operative framework, various initiatives have touched on aspects of online trading, including one specifically dedicated to e-commerce.

#### *The Legal Framework*

The practice of 'test purchasing' of products is well-established in the UK and is not considered to be 'entrapment'- a practice where a law enforcement agent induces a person to commit a criminal offense that the person would not have otherwise been likely to commit.

However, the law in the UK is not always straightforward. There are no direct powers under the general rules covering e-commerce to conduct mystery shopping. That is, the UK's Consumer Protection (Distance Selling) Regulations 2000 or the regulations implementing the e-Commerce Directive – the Electronic Commerce (EC Directive) Regulations 2002 do not provide such powers. In this framework, it is only possible to apply test purchasing for an injunction when the authorities receive complaints.

However, other legislation does provide powers to mystery shop in order to check compliance with Consumer Protection Act 1987 and the Electronic Commerce Regulations 2002 (EC Directive). For example, section 20 of the Consumer Protection from Unfair Trading Regulations 2008 establishes actions and omissions regimes that potentially have very wide application.



Similarly, in relation specifically to checking whether goods sold online are of satisfactory quality and/or if services are provided with reasonable skill and care<sup>7</sup>, there are no powers within the legislation to use mystery shopping as such. However, under the Localism Act 2011, there are powers for local authorities to undertake mystery shopping to check compliance for most consumer protection laws. So, while the powers to conduct test purchasing of products sold online are clearly there, there is still room for some improvement in the legal basis, notably by addressing the issue directly in the legislation.

#### *Conducting Test Purchasing Online*

Market surveillance of goods sold online involves not only ensuring that goods are compliant and safe, but also that the rules relating to e-commerce have been complied with (provision of appropriate contact information, clarity in relation to the price, cancellation rights etc.).

An initiative in Scotland in 2012 - 13 made use of test purchasing, primarily to assess the extent to which e-commerce rules were being complied with. Any problems uncovered relating to product safety and compliance were also followed up.

This initiative was undertaken by the Society of Chief Officers of Trading Standards (SCOTSS) in Scotland. SCOTSS is an association of professional officers representing every Scottish local authority Trading Standards Service. A total of 220 websites selling consumer goods were selected for assessment, operated by the broadly reputable trade (i.e. possible "scam" sites were avoided), with businesses of all sizes and types included. 22 Scottish local authority Trading Standards Offices participated. An initial 'web sweep', consisting of website inspections to check compliance with key online requirements, was followed by a test purchasing exercise to see how a purchaser was treated. In particular, since the issue of rights to cancel had been identified as a key issue, the test purchasing included 'test cancellations'. Note that the sites chosen for test purchasing were from among those where the initial web sweep had indicated possible problems.

Overall a relatively high degree of non-compliance was found. 2 in 5 of the test transactions, for instance, failed to provide full refunds. Furthermore, although there was some evidence that the type of non-compliance varied according to product type, it was not found that some product sectors were especially worse than others. Overall, in this and similar studies, conducted in Scotland, the rate of non-compliance was found to be in the order of 20 to 40%. This is a much higher level of non-compliance than Trading Standards Officers would typically observe in brick and mortar shops.

The non-compliances identified were followed up either directly with the operator involved, or through the relevant Trading Standards Officer.

#### *Practical Issues to Address*

Development of the use of test purchasing of online goods is now being undertaken in a Trading Standards Institute initiative on e-commerce, for which the lead officers are from the Trading Standards officers of Richmond and the Highlands.

A practical consideration is how Trading Standards Officers can effectively conduct covert operations. These officers normally operate from premises belonging to local authorities, using local authority computer systems. However, to conduct test purchasing they cannot reveal their normal identity, use normal credit cards or email addresses, nor provide an address for delivery that indicates their official status. They therefore need their authorities to be able to accommodate covert identities, credit cards and email addresses and to arrange for deliveries to take place away from

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<sup>7</sup> I.e.: In compliance with the Sale of Goods Act 1979, The Sale and Supply of Goods to Consumers Regulations 2002 or the Supply of Goods and Services Act 1982 (as amended).



normal premises. This represents a challenge to some authorities, both procedurally and, increasingly because of budget constraints.

#### *Extending the Practice*

One of the limitations of test purchasing is that there is very little scope for following up economic operators which are located beyond UK borders, even in other EU countries. A major strengthening of the approach, therefore, would follow from greater co-operation with other EU MSAs.

#### *11.1.3 Reasons for highlighting the practice*

Besides using consumer complaints in identifying non-compliant and unsafe products and the economic operators, Trading Standards Officers also make use of online 'test purchasing' in their efforts to counter the risks from unsafe goods. In addition, this approach has been used to assess the compliance of online traders with recent legislation specifically governing e-commerce.

This practice is not used in some of the other Member States and this case sets out how it is done in the UK as the basis for consideration elsewhere.

#### *11.1.4 Target groups*

Although the practice of 'test purchasing' is used by Trading Standards Offices in the UK in relation to a range of goods and for several different policy purposes, initiatives of the Trading Standards Institute on e-commerce have addressed the application of the practice to purchasing goods online. Goods have been bought directly from online suppliers.

## **11.2 Impacts and results**

No information is available on the results of test purchasing (mystery shopping) related to the identification of non-compliant or unsafe products.

An initiative was undertaken by the Society of Chief Officers of Trading Standards (SCOTSS) in Scotland to assess compliance with the obligations stipulated in the E-commerce Directive. This revealed high levels of non-compliance in the test purchasing phase, including the following:

- 7 in 10 of the websites required action from Trading Standards Officers;
- Over 50% did not provide a full refund when a purchase was properly cancelled;
- Over 1 in 4 illegally deducted the original delivery charge from returns refunds;
- 43% of sites failed to inform consumers of their right to cancel;
- 1 in 5 added unexpected surcharges late in the buying process.

## **11.3 Evaluation of measure**

#### *11.3.1 Known and potential effects*

The use of 'test purchasing' of online products is established in the UK, although the legal situation could be clearer. It is expected to be revised and consolidated in the none-too-distant future. 'Test purchasing' has to be conducted on the basis of complaints from consumers or other intelligence suggesting that illegal or unsafe trading is taking place. There are also a series of practical considerations if 'test purchasing' is to be conducted effectively. The scope of this instrument has therefore to be regarded as restricted and, in fact, most of the evidence found relates to testing for contraventions of e-commerce regulations. However, it can be argued that the effective enforcement of e-commerce provisions also provides a means for better enforcing product regulations.



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

The evidence on the effectiveness of 'test purchasing' is restricted to the outcomes of certain specific cases. However, the exercise conducted in Scotland, relating primarily to e-commerce, does seem to indicate a greater than expected incidence of non-compliance. More extensive actions of this type may therefore be relatively effective in revealing issues in online trading.

## 11.4 **Conditions of transferability**

There are difficulties in some Member States in conducting mystery shopping exercises because of the legal basis for doing so. This situation has not been helped by the poor reputation of some private firms that conduct mystery buying exercises for the corporate sector.

Nonetheless, there are lessons to be learned from the experience in the UK and other Member States may well adopt similar approaches, especially if there is greater co-operation on pursuing operators trading illegally from other countries within the EU.

## 11.5 **Information sources**

Scottish Trading Standards Internet Project 2012-13:

<http://www.scotss.org.uk/pages/scotssip.pdf>

The National Trading Standards eCrime Team:

<http://www.tradingstandardsecrime.org.uk/>

### **Contact Details:**

Hampshire County Council Trading Standards

Address: Hampshire County Council, the Castle, Winchester, Hampshire, SO23 8UJ, United Kingdom

Telephone: +44 1962 833620

E-mail: [info@hants.gov.uk](mailto:info@hants.gov.uk)

Website: <http://www3.hants.gov.uk/tradingstandards.htm>



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

Country : The United Kingdom  
Organisation : The Trading Standards Public Protection Directorate, Suffolk County Council

### 12.1 Purpose of the practice

#### 12.1.1 Objectives of the project/programme

In an effort to promote consumer awareness of consumer rights, as well as product compliance and safety, Trading Standards Offices in the UK also make use of the media. This case examines the communication cooperation between the national consumer television programme “Watchdog” and the Trading Standards Service of Suffolk County Council. In the United Kingdom, the responsibility for market surveillance and a series of consumer protection and product safety issues lies with the 202 Trading Standards Offices of the local authorities. This responsibility includes that for products traded online.

The co-operation with media outlets like Watchdog can happen proactively, but tend on the whole to take place in a reactive manner. Sometimes Trading Standard Offices approach programmes with stories they feel are important to the public interest. Mainly however, Watchdog approaches the Trading Standards of Suffolk County Council (TSSCC) when a story appears relating to anything from market surveillance and enforcement, to border controls, to faulty products and consumer rights.

There are collaborations between TSSCC and other media channels such as the ITN, a national television company which have more of a news driven focus when they seek out stories with the TSSCC. Watchdog on the other hand as a consumer programme has more of a consumer orientated focus in their programming. Another programme is “Fake Britain” which tends to focus more on counterfeit products. The majority of the media collaboration happens with Watchdog however.

The main objective of this activity is to inform consumers. With market surveillance and enforcement an authority can target either the supply or demand side of the consumer’s goods production and supply chain. In the case of awareness raising activities the demand side is addressed by giving consumers confidence and information to make informed decisions. Using the media can be a great help in achieving such consumer awareness, especially more established mainstream media programmes such as “Watchdog”.

There are no particular targets defined for the Watchdog collaboration. The normal procedure tends to be that Watchdog gets in touch with the TSSCC when they read or hear about an issue or aspect of consumer safety or consumer rights. It should be noted that there is a lack in methods to measure the effectiveness of the awareness raising activities in Trading Standards Offices generally.



During the last few years there has been an increasing recognition of the importance of consumer awareness-raising as part of the market surveillance process. Consumers should know of their rights and of which organisations they can expect what kinds of services in this context. However, getting any information concerning product safety and consumer rights is a challenge, especially when the information is relatively generic and not related to a specific theme. People tend to ignore such messages and only really pay attention when messages are relevant to them personally (i.e. concerns a problem they have encountered or a product they wish to buy). Watchdog is a well-established and well-known programme in the UK which has been airing on a weekly basis since the 1980s. As such when it broadcasts a given message people are more likely to take notice.

#### *12.1.2 Detailed description of the practice*

The collaboration with Watchdog can be either proactively or reactively instigated. However, for the most part it is the programme coordinators of the television programme which initiate the coverage of a story.

In the UK there are around 202 local authorities (Trading Standard Offices) doing market surveillance and product safety. There is also a national consumer body for professional goods. There is also a body for mechanical goods and another for medical goods.

There is a "Home Authority Principle" amongst the regional and national groups. These groups come together in the UK and talk. This is a relatively informal style of communication and networking. There are also two intranet sides shared by these organisations (access only) which facilitate collaboration.

Other organisations involved in the activities of the TSSCC vary. The organisation focuses on enforcement and so when it comes to informing and disseminating information it often relies on the expertise of other consumer or trade organisations which have knowledge of a specific theme or product area. "WHICH" for instance is a well-established organisation with websites and magazines on product safety, collaborating and using these established communication channels is an efficient way of getting the word out about market surveillance issues.

The Trading Standard Offices are locally organised authorities which are located in each local authority. Collaborations with other organisations tend to constitute regionally coordinated initiatives by Trading Standards. This avoids duplicated effort.

The practice of collaborating with Watchdog has been going on for around 5 years at this point. This is related to the fact that the issue of border controls and product safety have gained a more national profile in recent years. Watchdog monitors the TSSCC website and when interesting information arises they can work together. The nature of the collaboration is quite informal.

Not a lot of time is needed when Watchdog wishes to cover a story or issue, though this can depend on the angle of the story. There are no financial costs generally either. The value of this type of awareness raising activity is difficult to estimate. However, the sheer number of people which the programme reaches is beyond what the TSSCC could achieve. This makes it seem quite an efficient and good practice to keep undertaking.





### *12.1.3 Reasons for highlighting the practice*

By efficiently making use of the expertise and reach of the Watchdog programme, consumers are made aware of their rights, obligations and the risks they face when buying online. By making consumers more aware, they are in a better position to recognise issues and in doing so can make informed complaints or take appropriate action. This makes the process of market surveillance and enforcement easier for authorities and in this way contributes to their ability to uphold product safety and compliance amongst non-food consumer products. The degree to which this practice is actively carried out for online purchases is not known as there is no data on this.

### *12.1.4 Target groups*

Consumers form the ultimate target group for this initiative. Those actors directly involved in the process are the Trading Standards Office and the Watchdog programme coordinators.

## **12.2 Impact and results**

### *12.2.1 Valorisation of results*

No formal evaluations have taken place regarding the effectiveness of Watchdog programmes on consumer awareness raising in connection with market surveillance and enforcement. No targets were set either for this activity and it occurs on a generally reactive basis with broadcasts being initiated largely by the Watchdog programme coordinators.

Indicators are also difficult to establish for the effectiveness of this practice and how it contributes to consumer awareness. The national consumer advice organisations are the parties to receive questions from consumers.

Besides the numbers of viewers which Watchdog reaches other indications of the effectiveness of this type of awareness raising activities come in the form of anecdotal evidence from those who contribute to the Watchdog programmes from the TSSCC. However generally there is a lack in methods to measure the effectiveness of the awareness raising activities in Trading Standards Offices generally.

### *12.2.2 Effectiveness*

This practice is very efficient in that it costs very little time and energy from the employees of the Trading Standards Office. Furthermore, it capitalises on the media expertise, the trusted reputation, and the broad reach of the television programme. In this way, at relatively low investments from the MSA side, consumer awareness can be raised quickly for given stories and incidents.

As has been indicated earlier, this practice is effective due, in no small part, to the established name of the programme "Watchdog". To give an indication of the programme's popularity, this programme drew 21% of the UK television audience when an established TV presenter started to present the programme in 2009. While this may have declined somewhat due to the novelty of the new presenter wearing off, the point stands that this is not a marginal television programme. Besides the trusted voice of the programme when it comes to informing the general public, the media expertise and broad reach of the programme are very valuable assets in generating consumer awareness. However, although as a TV programme Watchdog does sometimes have a tendency to sensationalise the content, overall it is a trusted programme. TV is a medium with a broad reach and one which is quite accessible. People have their TVs on in the background for instance and can pick up information



on programmes running in the background more easily than from say, print media. Therefore Watchdog is a broad reaching and trusted voice for consumers to hear about consumer issues.

## **12.3 Evaluation of measure**

### *12.3.1 Known and potential effects:*

Currently there have been no unexpected results from this practice. One lesson learned however (covered in more detail below) is that Watchdog remains a television programme where considerations such as drama and viewers play a role. This means that at times stories are more sensationalised than the market surveillance authorities might like, but on the whole the practice is deemed successful.

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

The activity is undoubtedly effective according to the TSSCC though it is very difficult to measure the effects of these measures; more expertise is needed for that. However the TSSCC would not be able to present the messages in the same way with the same success as a programme like Watchdog. The presenters have more experience and expertise in how to present such stories and the TSSCC can capitalise and benefit from this when the programme covers stories relevant to their profession.

## **12.4 Conditions of transferability**

This activity is part of a general approach of using media to reach as many consumers as possible and to inform them of their rights and obligations as consumers and how they can protect themselves when purchasing products (online). Indeed the market surveillance authority has a media planning calendar where chances for proactive communication through the media are noted down and continuously updated.

The degree to which using a nationally established consumer television programme is used is not clear at this point. However one of the main successful elements of this practice is the trusted reputation of Watchdog, its reach and the media expertise of those who work on the programme. By collaborating, these factors are also used in an efficient way by TSSCC.

Amongst the main lessons learned during this practice is the fact that one cannot always control how the messages on TV programmes are edited and presented. The media enjoy sensation and drama and sometimes spin the TSSCC as a big player telling businesses how to behave when in reality for instance the relationship with operators is much more collaborative.

Often the edited version of a programme is not seen before broadcasting and therefore TSSCC employees should always be mindful of how they talk to the media. Some form of training in how to deal with the media has proven to be a useful strategy. Most Trading Standard Offices have a communications team or person to provide guidance when TV programmes come to cover a story; these individuals handle the collaboration with media outlets.

In the case of the TSSCC a number of people have had trainings regarding the media generally; print, websites, social media etc. They say that these trainings are very useful for the interaction with Watchdog for instance. They are aware of which risks and aspects to look out for (e.g. what the interview might focus on, techniques or



approaches they might adopt etc.). Such trainings give people the confidence and skills to work with the media.

This practice seems to be readily transferable to other regions or countries. From the perspective of temporal, human and financial resources required, the practice is very efficient. 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. The TSSCC indicates that the practice is highly adaptable and expects that it would transfer relatively easily.

Two elements do warrant attention at this juncture however 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 channel. The success of this practice seems to depend to a great extent on the media expertise and the trusted voice of the programme Watchdog. As such a comparable organisation in another context appears to be necessary for a transfer of the practice. Secondly, the informal nature of the collaboration between Watchdog and the market surveillance authorities is something which will also require some effort. The current collaboration occurred in a relatively organic way and is not a systematic process. However, the lines of communication with a consumer orientated media channel (not necessarily television per se) could pave the way for such a collaborative working relationship to start however.

## 12.5 Information sources

Trading Standards Institute (TSI):

<http://www.tradingstandards.gov.uk/policy/index.cfm>

For more information on the programme "Watchdog":

<http://www.bbc.co.uk/programmes/b006mq74>

Department for Business Innovation & Skills, Proposals for two new European Regulations aimed at improving consumer product safety and the functioning of the European Internal Market through effective market surveillance, 2013:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/211265/bis-13-1045-product-safety-and-market-surveillance-package.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211265/bis-13-1045-product-safety-and-market-surveillance-package.pdf)

Department for Business Innovation & Skills, The General National Market Surveillance Programme for the United Kingdom 2014 – 2015, 2014:

<file:///C:/Users/amgra/Downloads/UK%20NMPSP%202014-15.pdf>

The Guardian, *TV ratings: New Watchdog draws 4.5m, but still slips to soaps*  
*Return of Anne Robinson on BBC1's revamped hour-long consumer show gains 21% share in 8pm slot, 2009*, <http://www.theguardian.com/media/2009/sep/11/anne-robinson-watchdog-tv-ratings>



**Contact Details:**

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Website: <http://www.suffolk.gov.uk/emergency-and-safety/community-safety/suffolk-trading-standards/>



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

Country : Malta  
Organisation : The Office for Consumer Affairs (Malta Competition & Consumer Affairs Authority)

### 13.1 Purpose of the practice

#### 13.1.1 Objectives of the programme

As part of a comprehensive range of measures to raise awareness of consumer issues among both consumers and producers, the Maltese Office for Consumer Affairs has recently completed a project centred on a series of high profile seminars to which there was free access by interested parties. The seminars were supported by TV adverts and information material.

This initiative has helped to ensure that a broad range of consumer issues are live topics in Malta.

#### 13.1.2 Detailed description of the practice

The Malta Competition & Consumer Affairs Authority (MCCAA) was established by an Act of Parliament which came into force on 23 May 2011. It brings together a range of bodies that address competition issues and consumer rights, reflecting a perspective that sees consumer issues as being intrinsically tied to effective competition. These bodies include:

- The Office for Competition;
- The Office for Consumer Affairs;
- The Technical Regulations Division;
- The Standards and Metrology Institute.

Within the Office for Consumer Affairs, three directorates are responsible for Complaints and Conciliation, Enforcement and Information, Education and Research. In the area of information, education and research, the main activities revolve around the planning and executing of ongoing educational campaigns to ensure that both consumers and traders are aware of their rights and obligations under the laws and regulations administered by the Office for Consumer Affairs. As well as informing consumers of their rights and providing routes for conciliation and remedy, the Office for Consumer Affairs very much aims to stimulate good trading practice among producers and retailers, including online traders.

#### *Awareness Measures*

In addition to 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, as well as 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.

The website of the Office for Consumer Affairs also facilitates the process whereby consumers raise complaints. In particular, there is a product safety and compliance



form consumers can complete and send to the Authority. The Authority can then investigate the claim and take appropriate action, if necessary.

Attention can also be drawn to specific issues by Public Warning Statements, issued by the Director General under powers granted by the Consumer Affairs Act to identify the persons supplying the goods or services that are unsatisfactory or dangerous and provide information on these goods or services or on trading practices that are detrimental to the interest of consumers or on any other matter adversely affecting the interests of consumers acquiring goods or services from traders.

This public face of the office is supported by a programme of visits to both primary and secondary schools, where talks are delivered on consumer rights, and also information meetings, seminars, and conferences where specific consumer related subjects and issues are explained and discussed with experts and the general public. In 2013-14 a specific initiative, described in the following paragraphs, built on this aspect of the information service.

#### *The Trust Mark Scheme*

The Trust Mark Scheme is a voluntary arrangement, similar to other schemes operating across the EU whereby traders and other providers of goods and services (such as NGOs) can promote sound and trust-based business relationships between customers and sellers and indicate their commitment to respecting consumer rights. In the case of the Maltese scheme, this approach is seen to be implementing the philosophy behind the MCCA which wishes to promote trust between consumers and traders and sees a close link between effective competition and consumer rights.

The primary objective of the scheme is to promote and standardise good commercial practices. Businesses subscribing to the Trust Mark Scheme commit themselves to the Scheme's Code of Conduct, which covers the entire service/ product acquisition cycle. The scheme has been kept simple for suppliers implementing the Code of Conduct, but the essential aim is to signal to customers the business' commitment to safeguarding their interests and providing value-for-money. To participate, a self-declaration has to be signed. No reports, documentation or records have to be kept (except those required by law), though the code does have to be displayed in a prominent position in the business' premises, so that all concerned are reminded of its provisions. A logo can be used in advertising material, in shop windows and on websites to indicate participation in the scheme. By promoting this scheme the MCCA is contributing to a culture in which the respect for consumer rights is an active part of the concerns of business.

#### *The Awareness Campaign*

A further strengthening of the support for consumer rights - and the specific focus of this good practice case - is a development of the programme of information meetings, seminars, and conferences provided by the Office for Consumer Affairs that has taken place in the last two years. This initiative relied on existing frameworks, but sought to amplify their effectiveness by a specific high profile training and information programme, plus the production of new information material and the development of TV adverts.

The first seminar in the series took place in April 2013 and was addressed by the Minister for Social Dialogue, Consumer Affairs and Civil Liberties. Attendance was free of charge and was open to whoever wished to participate. Part of the purpose was to improve the knowledge and understanding of officials of the MCCA and other public authorities, but equally the seminar was open to businesses and to consumers.



The first seminar addressed the following issues:

- the most recent legislation on competition and consumer affairs;
- the rights and obligations of consumers and sellers;
- the Trust Mark Scheme;
- services offered by the MCCA;A;
- product safety;
- the role of market surveillance authorities.

Four other seminars followed over the period up to March 2014, organised in different locations. These addressed:

- Consumer rights and the pitfalls of purchasing away from trading premises;
- Do You Know Your Consumer Rights?
- Competition Law - How Does It Affect You?
- Do You Know The Content Of Your Mobile Phone Contract, Or Haven't You Even Read It?

All the seminars had a high profile, being addressed by high level officials and experts from abroad.

A series of 8 television adverts were also screened over the period and a series of 11 attractive leaflets published (in Maltese and English) and made available on line. These covered such subjects as the Trust Mark Scheme, Price Indication, Air Passenger Rights, Liability for Defective Products and the Consumer Claims Tribunal. Of particular interest in the current context, however, were the leaflets on 'Looking into Products for Your Safety' and 'Distance and off-premises contracts'. The former set out the concept of a safe product in law and outlined the responsibilities of manufacturers, importers and retailers and explained obligations in relation to product compliance and safety, while the latter included descriptions of cancellation procedures and the rights of purchasers to refunds and to return goods to traders. Taken together the elements of the campaign have made a considerable contribution to ensuring that traders, consumers and officials are better aware of the EU legislation and the process of ensuring that consumers cannot buy unsafe or non-complying products.

#### *13.1.3 Reasons for highlighting the practice*

The Maltese Office for Consumer Affairs has used an European Social Fund supported initiative to strengthen existing provision promoting awareness of consumer rights among both consumers and traders. This has included elements relating to product safety and compliance and to products bought online

#### *13.1.4 Target groups*

The Awareness Campaign aimed to improve awareness of consumer rights across a broad range of groups in Maltese society, including public officials, consumers and traders. In doing so, it built on existing the provision by the Malta Competition & Consumer Affairs Authority.

## **13.2 Impact and results**

The Awareness Campaign was funded under the European Social Fund 2007-13 Operational Programme II – Empowering People for More Jobs and a Better Quality of Life. The budget was €534,000 (85% European Social Fund).



The issues of product safety and market surveillance were mainly discussed in the first two seminars. About 150 people attended each seminar.

While no TV spot was produced on product safety, the issue of the CE mark is one of the radio spots that have been aired. A 30 second spot is not enough to impart all the information that one would wish, but it can at least stimulate consumers to request further information that can be obtained either through a free phone service or the leaflets that can be sent to consumers.

Regarding the leaflets, these are distributed during seminars, in talks with local councils and in schools and through the information desks that have been set up in the main shopping centres in Malta.

Apart from this, officers from the authority participate in radio and television programmes (which include phone-ins) and product safety is one of the consumer topics that are discussed.

### **13.3 Evaluation of measure**

#### *13.3.1 Known and potential effects*

Although the seminar component of the awareness campaign that is the specific focus of this case involved a relatively restricted audience, the TV adverts reached a much wider section of the population and together they represented a useful addition to the initiatives of the Malta Competition & Consumer Affairs Authority that aim to raise awareness of consumer issues and product safety.

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

The MCCAAs sees this campaign as an effective addition to the on-going activities to promote awareness and to establish the position of the authority in its integrated approach to the promotion of consumer rights and effective competition.

### **13.4 Conditions of transferability**

Of particular interest in the Awareness Campaign featured in this good practice case is how the Maltese Office for Consumer Affairs has gone beyond similar awareness campaigns to incorporate elements relating to product compliance and safety into its seminar programme and information provision. In particular the attention of traders has been brought to their responsibility to ensure that the products they offer are compliant and safe. This approach has been integrated into a broader promotion of awareness of consumer rights.

### **13.5 Information sources**

The Malta Competition and Consumer Affairs Authority (MCCAAs):  
<http://www.mccaa.org.mt/>

The Office for Consumer Affairs:  
<http://www.mccaa.org.mt/en/office-for-consumer-affairs>

The Awareness Campaign:  
<http://www.mccaa.org.mt/en/mccaa-awareness-campaign>

Information Leaflets:  
<http://www.mccaa.org.mt/en/consumer-information-leaflets>





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Website: <http://mccaa.org.mt/>





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

Country : The Netherlands  
Organisation : Thuiswinkel.org

### 14.1 Purpose of the practice

#### 14.1.1 Objectives of the practice

The purpose of a trust mark is to help consumers identify reliable operators online. The trust mark presented here as an example is the Dutch Thuiswinkel Waarborg provided by Thuiswinkel.org. Trust marks give consumers the opportunity to avoid fraudulent web traders as well to get good advice on reliable traders. Market surveillance authorities can use trust or quality marks as tools in setting priorities for web shops to be investigated. This is the approach taken for example by the Netherlands Food and Consumer Product Safety Authority (NVWA) and the quality mark for online shops. The Dutch web shops with the quality mark Thuiswinkel.nl are responsible for a large share of the market of consumers goods sold online and as such, the NVWA focuses its activities on making sure that the products sold by these certified shops are safe and compliant. In this way a good part of e-commerce of non-food products to Dutch consumers is covered

#### 14.1.2 Detailed description of the practice

The Thuiswinkel Waarborg mark is one of the best known quality trust marks 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 an association for online stores offering products to consumers in the Netherlands. Thuiswinkel.org was founded in 2000 by 38 companies. It resulted from the formal merger of two existing organisations: The Dutch Mail Order Association and the Online Retailers Association. The two organisations decided to join forces and to jointly continue as a new association for all distance sellers: Thuiswinkel.org. Thuiswinkel.org has more than 2,100 members that sell online products and services to consumers. The members together cover over 70% of all online consumer spending in the Netherlands. They come from various industries, including a large proportion of the home & garden, fashion, technics/IT/Office, consumer electronics and sports/toys markets.

The mission of Thuiswinkel.org is to represent the interests of its members and promote and enhance confidence in distance selling.

The economic and social impact of the growing home shopping market is large. That brings with it responsibilities for the industry. To be able to fulfil these responsibilities there are three drivers:

- Profit: good business for merchants;
- People: consumers can shop safely and securely;
- Planet: the project involves merchants committed to sustainability

In addition to the trust mark, the association provides other services to their members, such as legal advice, mediation in case of conflicts with consumers, advocacy for the sector (e.g. online payment), research and knowledge exchange and



information from customers' reviews. In addition, the web shop is included on the website of Thuiswinkel.org, so that these shops can be easily identified by consumers

Before entry and each year subsequently, the member is assessed by the certification foundation Thuiswinkel. The bylaws of the association are available on the web site of Thuiswinkel.org.

The members are obliged to follow the rules of the mark, meaning in practice that the requirements as set in the E-Commerce Directive and other legislation are followed. This is confirmed by the members when they sign the participation agreement and this is checked regularly by the Thuiswinkel waarborg organisation. Consumers buying from web shops with the trust mark are assured of the following:

- Financial stability: the financial position of members is checked annually to assess whether the shops are sufficiently financially healthy to fulfil their obligations to consumers;
- Clearness about costs: consumers are informed before ordering on additional costs such as delivery costs, shipping costs and administrative costs;
- Payment: consumers have the possibility to pay at a minimum 50% of the total costs at or after delivery.
- Consumers have at least 14 days in which the product can be returned without a stated reason. As well as the price, additional costs such as the costs of returning the product are reimbursed within 14 days.
- A Guarantee is arranged via the web shop. The web shops take care of repairing or replacement of a defective product and reimburse the price if this is not possible
- Complaints: a reaction from the web shop to a complaint is received within 14 days and if needed Thuiswinkel.org acts as independent mediator between the web shop and the client.
- Privacy: consumers are informed via the web shop which personal data are collected and for what reasons.
- Security: the ICT systems of the shops should be secured.

The website of thuiswinkel.org also includes information for consumers and businesses regarding their rights and obligations related to buying online.

#### *14.1.3 Reasons for highlighting the practice*

Trust marks help consumers to identify reliable operators online and to avoid fraudulent sellers. In some countries, the availability of a trust mark is used as a tool by market surveillance authorities to select economic operators to be inspected. The members of Thuiswinkel.org cover over 70% of all online consumer spending in the Netherlands. Therefore the Netherlands Food and Consumer Product Safety Authority (NVWA) uses this mark as an indicator to select economic operators to be investigated. If these members comply to the relevant legislation a large part of the market is already secured. In this way the practice contributes to product safety and compliance.

#### *14.1.4 Target group*

The direct target groups are web shops which sell online to consumers in the Netherlands. The final target group are consumers. Through purchasing of products from certified web shops, certain guarantees are provided to consumers.



## 14.2 Impacts and results

In March 2014, Thuiswinkel.org covered more than 2,100 certified shops. A study in 2013 showed that 90% of consumers know the Thuiswinkelwaarborg and 72% of consumers are buying more at online shops that carry the Thuiswinkelwaarborg trust mark. Around 26% do not purchase from web shops that do not have the Thuiswinkelwaarborg trust mark. The members together account for over 70% of all online consumer spending in the Netherlands. They come from various industries, including a large proportion of the home & garden, fashion, technics/IT/Office, consumer electronics and sports/toys sectors.

## 14.3 Evaluation of measure

In 14 years the number of shops that are members of Thuiswinkel.org has increased from 28 to more than 2,100. Through membership a number of guarantees are available to consumers purchasing from these web shops. In addition, independent mediation is provided by thuiswinkel.org. Web shops that have passed the assessment of the certification foundation Thuiswinkel, and have become a member are allowed to include the logo of the trust mark on their web site. In addition, their name can be found easily on the web side of Thuiswinkel.org. At the Thuiswinkel.org website a search database is available through which consumers can find web shops that are members of thuiswinkel.org. The web shops are not only assessed when they want to become a member but they are also checked on an annual basis.

In addition, the website of the trust mark organisation offers detailed information related to online sales and in this way contributes to raising awareness among consumers and businesses on the rights and obligations related to online sales. In addition, network events are organised for members and market research is available, through which web shops can improve their performance.

The overwhelming percentage of consumer goods bought by Dutch consumers is via the members of Thuiswinkel.org and therefore it would be good if these web shops offered products which are safe and compliant with existing regulations. This is however not one of the requirements for becoming a member and using the trust mark. Considering however the share in the market, the Netherlands Food and Consumer Product Safety Authority (NVWA ) uses this membership as one of the criteria to prioritise web shops to be investigated.

## 14.4 Conditions of transferability

The practice is easily transferable to other countries and in a large number of Members States similar trust marks exist. The members are obliged to follow the rules of the mark, meaning in practice that there are a large number of requirements that safeguard the protection of consumers purchasing products from the certified web shops. Given that these web shops cover a reasonable share of the market this criterion can be used by market surveillance authorities (MSAs) in prioritisation of web shops to be investigated. If these shops offer safe and compliant products a substantial share of the market of consumer goods can be covered.



## 14.5 Information sources

<http://www.thuiswinkel.org>

### **Contact Details:**

Thuiswinkel.org

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Horaplantsoen 20, 6717 LT Ede, the Netherlands

Telephone: +31 318 64 8575

E-mail: [info@thuiswinkel.org](mailto:info@thuiswinkel.org)

Website: <http://www.thuiswinkel.org>



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

Country	:	Denmark; then Belgium, Czech Republic, Denmark, Finland, Hungary, Iceland, Ireland, Lithuania, Malta, Norway, Portugal, Sweden, the United Kingdom
Organisation	:	ECC Denmark, other European Consumer Centres in EU Member States

### 15.1 Purpose of the practice

#### 15.1.1 Objectives of the practice

The purpose of this practice is to help consumers investigate online operators and make a choice as to whether they order from the online operator or not. It is a measure based on collaboration between organisations including surveillance authorities in their own country, surveillance authorities in other EU Member States, business organisations and consumer organisations.

#### 15.1.2 Detailed description of the practice

The Howard Shopping Assistant provides the possibility to check if a certain web trader can be trusted. It helps to:

- avoid fraudulent and non-serious web traders;
- find the serious web traders and get good advice on shopping online;
- know your rights when shopping online in Europe.

The system works in the following way. Consumers enter the url (website address) of the European website that he/she wish to buy something from (any website that ends in .com, .net, .eu, .nu) and then Howard tells them what is known about this website. Information provided includes e.g. the date of registration of the web shop, results of a search in various search engines which might show positive or negative comments on the web shop and trade organisation of which the web shop is a member.

Such platforms can be developed to be a necessary and useful tool in assisting the consumer with information on the reliability and level of compliance of web shops. The practice of introducing such a system can be considered as a good practice in preventing consumers from buying non-compliant or unsafe non-food consumer products online. By providing consumers with a space to enter the url of a website, the Howard Shopping Assistant (HSA) would then provide information such as the age of the website, where it is registered, and other information gathered using Google analytics for instance. In this way the objective was to allow consumers to establish whether an operator is trustworthy and to protect themselves preventatively from unsafe or non-compliant online operators.

#### 15.1.3 Reasons for highlighting the practice

The rationale for including this practice is that such an European system and the development process behind it could be used in pursuit of a different objective. It could also work, for instance, to help consumers establish the trustworthiness of an operator or website. It should be noted here that the Howard Shopping Assistant will not be continued in its current form. As explained below it is no longer fulfilling its purpose as the nature of how people shop online has changed since the inception of



the practice. Consumers now require different information to establish trustworthiness of an operator or website.

#### 15.1.4 Target groups

The target of the practice is the consumer. This online tool helps consumers to investigate whether a certain web trade is reliable.

## 15.2 Impacts and results

Evaluations have been carried out for the HSA. This and other feedback regarding the results of this practice demonstrate that the tool is effective and well known amongst consumers. Providing the information which consumers need to judge whether a website is trustworthy or not is a decisive benefit of the HSA. Additionally, this system is in place across several European Member States and has been translated into different languages accordingly. There is also considerable value in working in a network setting, with the multiple European Consumer Centres (ECC) across Member States discussing and contributing to the effectiveness of the practice.

The idea of having such a tool which draws together relevant information on online web shops and operators for consumers is seen as a good practice. That said however, the nature of the content and information which the Assistant searches for needs updating. This is connected with the developments in e-commerce and the fact that consumers now use other information to judge the trustworthiness of an online shop. For more information on this, please see the next section.

## 15.3 Evaluation of measure

The shopping assistant is a good way to avoid fraudulent web traders as well to get good advice on reliable traders. The website also gives links to price comparison sites, explains warranty cancellation rights etc. the HSA is not new, it was created in 2007, but with every year it becomes accessible to more and more EU consumers (more countries create their national HSAs, in their own languages), so hopefully soon it will be of use to all EU consumers. Of course, all the information which the HSA provides can be easily found if consumers do research themselves, but to have it all in one place may be helpful for less internet savvy consumers.<sup>8</sup>

The system was developed in 2006 and implemented in 2007. However, after an evaluation by the Danish Consumer Ombudsman in 2014, it became apparent that the HSA was not fulfilling its purpose. Consumers can inform themselves quite easily without the use of the HSA on characteristics like the age of a website by conducting their own google searches and by checking other consumer reviews on a website. What consumers really wish to know is how trustworthy an operator is and this was not captured in the indicators provided by the HSA system. Only static information is produced which cannot be analysed in order to make an estimation of an operator's trustworthiness. Consequently, the HAS will be ending in the near future.

Some of the main lessons learned from this project can be borne in mind and applied to a similar project in future. One key conclusion is the importance of explaining to consumers how to be safe online. The HSA became relatively well known at a certain point though the functionality of the website was evaluated less positively. The awareness of the HSA therefore appears to be good and the promotion methods could be applied to a different type of website. The best way forward appears to be to provide consumers with static information on an online operator on the one hand (using for instance, trust marks and consume reviews), and to provide valid

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<sup>8</sup> <http://recent-ecl.blogspot.nl/2011/05/howard-shopping-assistant.html>





information on how to behave for consumers on the other hand. A key component for a successful website for gauging trustworthiness would be to find a way to best combine and use existing consumer information.

#### **15.4 Conditions of transferability**

This measure is considered quite transferable. It is a relatively straightforward measure to develop and implement according to the initial developers at ECC Denmark. From a financial and human resource perspective, the levels of the resources needed are not particularly high. The main element for this practice which requires more attention is the translation required for the Howard Shopping Assistant to a Member State's national context. Besides this, developing the website for the HSA is a one-time investment in human and financial resources. After this, resources are required only for the maintenance of the Assistant by the national ECC.

From an organisational and institutional perspective, more than 30 countries in Europe have an ECC organisation. These centres can implement the Assistant with relative ease given that the ECC organisation already exists; ECCs can easily become part of the HSA network. Legally speaking there are also no obstacles to implementing such a practice as the website simply draws together information gathered by other online tools or information sources. As has been mentioned earlier, the nature of the information requires adjustment, but the rest of the practice and the function it aims to fulfil can be transferred with relative ease.

#### **15.5 Information sources**

**Contact Details:**

**Howard** was developed for: European Consumer Centre Denmark

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Website: [www.consumereurope.dk](http://www.consumereurope.dk)





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

Country : Estonia  
Organisation : The Consumer Protection Board of Estonia

### 16.1 Purpose of the practice

#### 16.1.1 Objectives of the project/programme

The main objective of this practice is to improve the awareness of business operators about the rights and obligations of producing and supplying consumer goods to consumers online. Such awareness-raising activities are viewed as pre-emptive measures to reduce the amount of non-compliant and unsafe goods bought by consumers. In this way awareness-raising activities contribute to market surveillance and enforcement.

The process for the development and dissemination of these information letters is quite straightforward. When a new piece of legislation is introduced which affects the purchasing of consumer goods, either by impacting the supply or the demand side of the process, the Consumer Protection Board of Estonia identifies those parties which might be affected by this legislation change. For instance business operators (both online and in brick and mortar shops), selling a specific product which is covered by the legislation change can be targeted. At other times a broader change in legislation affecting many types of operator is made and this calls for a broader dissemination strategy which can reach the broader group of operators.

The Consumer Protection Board develops the letter, pinpointing the main alterations and frames this in understandable language. Often the legislation constitutes EU regulations, and the main problematic or the more complex areas of these regulations are highlighted. The operators identified are then sent this letter (in an electronic format usually, though post is also used) and in the cases where changes must be made to their business procedures, they are given a designated amount of time within which to implement those changes.

The inspectors of the Consumer Protection Board of Estonia work together with an affiliated organisation, the Consumer Complaints Committee to put together lists of operators. Google searches are used, as are other Estonian databases such as the Estonian Register for Economic Activity, a database on which most business operators in Estonia are listed both those operating online and offline. For instance, in May 2014 a letter was sent to business operators about changes to the EU Cosmetics directive, specifically the new requirements regarding the labelling of ingredients on the packages of cosmetics. Relevant operators were found by conducting a Google search. Recently an information letter was also sent to business operators in Estonia concerning the change to the Consumer Rights Directive, which contained information on the changes in the Directive plus links in the e-mail to further information.

With web shops, similar methods are used for identifying potentially relevant operators. However web shops are not always registered on the Register for Economic Activity, nor can one always be sure of reaching the appropriate or responsible person using contact details presented on an e-shop website.



The Consumer Protection Board however uses many different types of awareness raising tools to supplement the information letters to make sure that operators are still aware of relevant changes to legislation. As a formal complement to the information letters press releases are also made to catch a broader audience. Additionally, social media such as Facebook are used to present information and the website of the CPBE, as well as (eesti.ee).

One of the main problems which these letters aim to remedy is that online operators are often not aware that certain EU regulations and national legislation apply to them. The aim of the letters is to make business operators and especially those online, aware of their duties and obligations when it comes to producing and selling consumer goods. In raising awareness amongst both consumers and business operators generally, the Consumer Protection Board and Consumer Complaints Committee hope to raise awareness amongst the actors on both the demand and the supply side of the chain.

#### *16.1.2 Detailed description of the practice*

The Consumer Protection Board of Estonia is the only organisation involved in these information letters. Other market surveillance authorities such as the Technical Surveillance Institute and the Tax Authority in Estonia do contribute to awareness raising seminars but are not involved in the information letter practice.

The Consumer Protection Board of Estonia started writing such letters around a year ago when the product safety aspect became a greater policy priority. Consumer rights on the other hand have seen more effort since they have been a policy priority for longer than product safety. There is not much data therefore on product safety efforts by the Consumer Protection Board; to date proper product labelling has formed the main area of focus. The practice of sending information letters regarding consumer rights has been undertaken for the last five years. Each information letter however is very cheap to formulate and costs nothing extra. The whole process of establishing which legislative changes have taken place and which are the most important or problematic, identifying the target groups, and disseminating these letters takes anything from a few weeks to a month.

#### *16.1.3 Reasons for highlighting the practice*

This case is considered to be a good practice worthy of further consideration because of its contributions to consumer and business operator awareness raising. As can be seen below in the Impacts & Results section, there is reason to believe that these information letters do indeed reach people and that there is a demand for information on the subject of consumer goods amongst both businesses and consumers. Besides meeting the challenge therefore of under informed consumers and businesses, the practice seeks to reach e-shops specifically who 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; as such it contributes in a preventative manner to product safety and compliance.

#### *16.1.4 Target groups*

The target group of this practice are business operators. For each information letter a different target group is established, often business operators selling a particular type of product or engaged in a specific field. At times however broader legislative changes are communicated, such as the recent alteration of the Consumer Rights Directive. While business operators (online and in brick and mortar shops) are targeted, consumers also benefit indirectly from the information which is made available on the



website and other digital platforms of the Consumer Protection Board, Consumers can read and visit information events and in doing so learn about their own rights and obligations and become more alert when buying online.

## 16.2 Impact and results

### 16.2.1 Valorisation of results

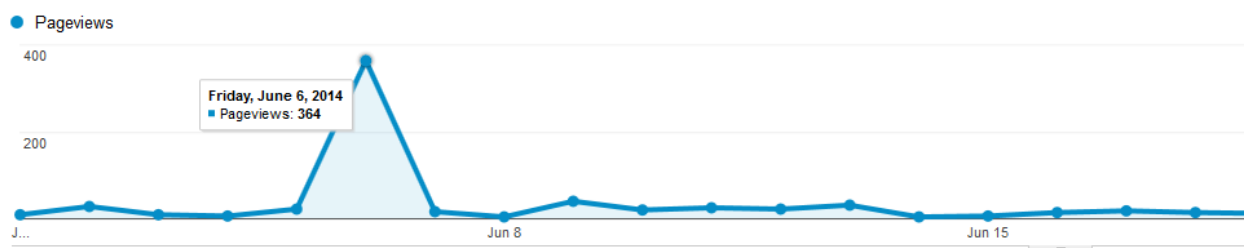
There have been no formal evaluations of this measure. The information letter writing practice is subject to more continuous, informal evaluation with the aim of improving the process, though this exercise is applied to all the activities of the Consumer Protection Board of Estonia.

There are no formal objectives established for the information letters and no quotas regarding the numbers of letter campaigns undertaken or the number of actual letters sent. As this is an awareness raising activity measuring the impact can be difficult given that the sought after effect is of a softer, intangible nature. That said however, the Consumer Protection Board considers the practice effective when looking at proxies and indicators. For instance, the organisation notes that once a press release has been made concerning a change in legislation and a letter has been sent out regarding these changes, there is an increase in the number of questions they receive from web shops and businesses, suggesting that these information campaigns do have an impact on consumer awareness. Though such data is not retrievable, other indicators can also be used to establish that the activity is effective. For instance, when the letter on the Consumer Rights Directive was sent out, the letter contained a link to more information on the organisation website; the number of times this link was clicked and the number of times which the guidelines were downloaded could be monitored.

The data below are connected to the information letters sent out in connection with the Consumer Rights Directive:

<b>Reactions to Information Letter on the Consumer Rights Directive</b>	
Number of companies to which letters were sent	689
Number of times the web link included in the letter was opened	364
Number of times the guidelines were downloaded by companies	177

Source: Consumer Protection Board of Estonia, 2014



Source: Consumer Protection Board of Estonia, 2014

An indirect indicator of the effect of such awareness raising activities takes the form of the number of consumer complaints which the Consumer Protection Board has received over the years. The organisation interprets the increase in consumer complaints throughout the last 5 years as a positive indicator for awareness amongst



consumers as they appear to be more aware of their rights and of which organisations they must approach for help.

<b>Number of consumer complaints received</b>	
2009	170
2010	129
2011	143
2012	422
2013	414

*Consumer Protection Board of Estonia, 2014*

The number of written letters from business operators is also used to estimate the awareness concerning e-commerce and the obligations concerning online shops specifically.

<b>Numbers of letters received (with questions regarding e-commerce) from enterprises regarding e-commerce</b>	
2009	0
2010	0
2011	statistics enterprises are not retrievable but all together with consumer questions 388
2012	statistics for enterprises are not retrievable but all together with consumer questions 645
2013	61 letters (together with the consumers 675)

*Consumer Protection Board of Estonia, 2014*

Additionally, though not directly linked to the information letters specifically, the informational seminars which are held by the Consumer Protection Board some 10 times a year are becoming increasingly popular. They cover different themes and the organisation notices that the numbers of visitors has been increasing, with seminars often being sold out. The seminars were started around 3 years ago and were initially only held in Tallinn. Now they are held in different cities and Russian translators are often needed for the increasing numbers of Russian speaking operators which visit the seminars. Though this is not necessarily directly related to the information letters being sent out by the organisation, it could be that this increasing popularity of the seminars points to a good information dissemination strategy generally by the Consumer Protection Board. The demand for information by consumers, business operators and web shops (for which seminars are increasingly in demand) indicates there is a high level of interest which is being met by the organisation.

### 16.2.2 Effectiveness

This measure is deemed to be quite efficient by the Consumer Protection Board of Estonia. The practice forms part of the work activities of the employees of the Consumer Protection Board and as such it is financially efficient. Furthermore the practice is relatively quick to undertake and appears to contribute to a general increasing awareness amongst both consumers and businesses regarding the duties and rights of each party in the process of producing and supplying goods to consumers.

In informing parties of these rights and obligations, the practice helps to prevent certain issues with business operators and consumers from surfacing in the first place. The practice helps to reduce the cases of non-compliant or unsafe products which



come about as a result of ignorance or a lack of awareness regarding the requirements for products and business operators.

## **16.3 Evaluation of measure**

### *16.3.1 Known and potential effects*

An unexpected element of the practice is the increasing number of people who are interested in consumer rights and product safety. This suggests that the Consumer Protection Board are meeting a definite demand for information amongst both consumers and operators alike. The seminars for instance demonstrate a need to go beyond the standard themes in that so many different types of question are received. During the seminars in fact the questions were all recorded, answered the next day, and this document was then sent around to the visitors of the seminar.

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

The measure improves the market surveillance practices in Estonia in that the proportion of non-compliance in both products and businesses that occurs due to a lack of awareness is targeted. The Consumer Protection Board of Estonia also indicates that only a small degree of the cases of non-compliance require enforcement steps to be taken, suggesting that a significant proportion of non-compliance can be targeted using awareness-raising activities such as these information letters. In this way the practice makes the market surveillance activities more efficient.

## **16.4 Conditions of transferability**

This measure has been in place for around five years, though the scope of the targeted groups and subject areas covered has expanded since then. The practice forms part of a general trend in the market surveillance field in Estonia towards more information provision and awareness raising concerning the Consumer Protection Board and its role, as well as the rights and obligations of both consumers and business operators.

Other countries undertake similar measures, including Finland, the UK and France. The measure is relatively straightforward and would perhaps not be deemed a highly novel approach. This however, does not in any way detract from the usefulness and efficiency in terms of resources of such a measure.

One of the main lessons learned, from the perspective of the Consumer Protection Board of Estonia is that it is important to be persistent and to keep going concerning information provision. Additionally, widening the target groups and the scope of the issues covered is important, especially with regards to subjects related to e-shops; there is an increasing demand for information on these topics.

This practice is considered to be readily transferable. According to the Consumer Protection Board, it is just a matter of taking a leading, proactive role. From a financial and human resource perspective the practice does not require extra investment, nor is the process of the practice particularly complex. Therefore obstacles such as not having the administrative systems or resource capacities do not play a strong role here.

One potential issue is the way in which the target group contact details are gathered. In Estonia there is a national register for economic activity which, until recently, required all businesses to annually update their contact and business details. While this is no longer compulsory and details can become outdated, this register provides an extra source of business information which helps with putting together target group lists.



Having an efficient system through which contact details of targeted companies can be obtained (not necessarily such a register though), appears to be an important condition for transferring the practice.

## 16.5 Information sources

European Consumer Centre of Estonia, Annual Report 2012:

[http://www.consumer.ee/public/aastaruanne\\_2012.pdf](http://www.consumer.ee/public/aastaruanne_2012.pdf)

Estonian Ministry of Economic Affairs and Communications, MARKET SURVEILLANCE PROGRAMME 2014: [file:///C:/Users/amgra/Downloads/ee-nmsp-2014\\_en.pdf](file:///C:/Users/amgra/Downloads/ee-nmsp-2014_en.pdf)

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## 17 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

Country : Australia  
Organisation : The Australian Competition and Consumer Commission

### 17.1 Purpose of the practice

#### 17.1.1 Objectives of the project/programme

This case examines the guidelines on consumer product safety online published by the Australian Consumer and Competition Commission (ACCC) in March 2014. The guidelines present the main requirements which businesses selling online to consumers in Australia must adhere to. The document also outlines issues such as 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 selling to Australian consumers.

The ACCC is the national regulator for product safety in Australia. Its main aim is to uphold healthy, efficient and fair competition for the Australian community as a whole by targeting both consumers and businesses alike with its activities. The official objectives and functions of the ACCC are<sup>9</sup>:

- maintaining and promoting competition and remedying market failure by preventing anti-competitive mergers, stopping cartels, and intervening when misuse of market power is identified
- protecting the interests and safety of consumers and supporting a fair marketplace—addressing misleading behaviour, removing unsafe goods, and tackling unconscionable dealings
- driving efficient infrastructure through industry specific regulation and access regimes.

The organisation undertakes a range of practices in the field of product safety and market surveillance in Australia. The ACCC also tracks emerging issues in these fields and responds to these wherever possible. In the context of the consumer product safety guidelines, the main emerging issue was the supply of unsafe goods online.

Every year the ACCC reviews its product compliance priorities. Consumer protection from unsafe is an issue rising in importance and which is becoming more of a pressing matter in the online context. Hence action was planned and undertaken by the ACCC.

In Australia as well it should be noted, the level of e-commerce is very high. In fact based on PayPal figures, data demonstrates that Australia is in 6<sup>th</sup> place worldwide when it comes to the level of online consumer transactions being made. (This is related to the relative geographic isolation of the country).

<sup>9</sup> ACCC <http://www.accc.gov.au/publications/accc-aer-annual-report/accc-aer-annual-report-2012-13/accc-aer-annual-report-2012-13/part-2-overview-of-the-accc-and-aer/role-and-functions>



The ACCC tends to generally judge the degree to which awareness can help to reduce certain problems in the product compliance and market surveillance areas. The organisation undertakes strict enforcement actions but complements this with quite a proactive attitude, engaging in preventative activities as well.

The main idea behind the guidelines for consumer product safety online was to address problem areas before they could become actual problems by taking preventative action. The guidelines are essentially a communication tool to raise awareness amongst business operators, including those from overseas<sup>10</sup>, as to 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, which is that online operators often do not realise that the same compliance requirements apply to them as to brick and mortar shops. The ultimate objective is thus to address this gap in the knowledge and awareness of operators selling online to Australian consumers.

The ACCC became aware of the need for more awareness regarding consumer product safety regulations amongst online operators by talking with stakeholders and whilst carrying out regular research activities as well as inspections. Based on this the ACCC saw that there was no one guide containing the basic information concerning what to look out for when starting a business, the requirements, relevant laws, nor the obligations which also apply when selling products online. Resolving this lack of a holistic set of all-encompassing guidelines was one of the important drives for developing the guidelines.

The low barriers to entry and the lower levels of resources needed when setting up an online shop mean that operators quite easily set up a business online without being fully aware of the risks and obligations they must bear in mind. Most brick and mortar shops tend to be more aware of the requirements they have to fulfil regarding product compliance and safety, but most online shops appeared not to be. This became apparent from research towards the project and from the daily, regular investigations of the ACCC. For brick and mortar shops this lack of awareness amongst online operators formed an uneven playing field and these operators have made complaints in the past. The ACCC clearly recognised the need to address this gap in awareness and knowledge amongst online operators especially.

#### *17.1.2 Detailed description of the practice*

The guidelines were developed mainly by the ACCC, though as part of the process of developing these guidelines stakeholders were consulted. The possible messages to be taken up in the guidelines were put to industry representatives and associations to see how effective and useful these would be to operators. Additionally, the Australian state authorities were also consulted and the main challenges and issues discussed at the OECD Working Group for product safety. Besides such information gathering and feedback from other organisations, the ACCC was the sole organisation involved in developing and disseminating the guidelines.

The research portion of the project took around 8 months, though the actual writing and development of the guidelines document took around 6 weeks. The research involved was part of business as usual and so there were no extra costs incurred to developing the guidelines. The guidelines were published in March 2014.

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<sup>10</sup> ACCC press release 20.03.2014



### *17.1.3 Reasons for highlighting the practice*

The guidelines provide a holistic, central overview for all business operators wishing to sell online to Australian consumers. As such this preventative measure contributes to product safety and compliance by lowering the amount of risky products available by generating awareness amongst operators.

### *17.1.4 Target groups*

The main target group for these guidelines are business operators selling to Australian consumers. Given that the objective is to raise awareness regarding product compliance and safety requirements and that the guidelines are a communication tool, dissemination of the guidelines is an important component of the process underling this practice.

The ACCC have quite a developed set of dissemination methods. The organisation liaised with stakeholders in the dissemination process and industry associations were consulted. Their networks were used to spread the information. Additionally, the ACCC loops back to the stakeholders which helped them develop the guidelines and consulted and talked with them regarding the guidelines. Social media were also used to positive effect namely Facebook and Twitter. On Facebook the announcement of the guidelines and reference to further information received many comments and "likes", and the month where the guidelines were launched was one with the most Facebook activity for the ACCC, demonstrating positive reception of the guidelines.

Besides social media, SME newsletters were also used to promote the guidelines and ACCC commissioners refer to them in speeches and press releases. The ACCC also has a good outreach system with SMEs and the guidelines were distributed through these channels.

Furthermore, the OECD clean space intranet was also used to spread the guidelines on an international level amongst interested counterparts from other countries.

## **17.2 Impact and results**

### *17.2.1 Valorisation of results*

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. The ACCC has information on aspects like the breaches in compliance over time but given that the guidelines were only completed and published in March of 2014, it is too early to collect the data which would usually be used to judge the progress of the measure. More information will become available on this towards the end of the year when more data becomes available and the annual report of the ACCC is published.

In general terms, the ACCC uses project management models in its activities to establish objectives and how to measure the progress towards them. Though indicators for how effective the development of the guidelines have not been formalised yet nor formally measured in an evaluation, the ACCC mentions a number of informal indicators which demonstrate that the guidelines are being disseminated well and are deemed a good step by stakeholders. For instance, the numbers of times the messages are picked up in the mainstream media and in industry magazines or media give an indication as to the level of awareness concerning the guidelines. The number of "likes", comments and other responses on the ACCC Facebook page upon posting information about the guidelines was the highest level of Facebook activity in a month which the ACCC had ever had, demonstrating a positive reception to the guidelines.



Additionally, more qualitative indicators come in the form of, amongst others, the feedback which the ACCC receives from its stakeholders. From a more anecdotal perspective, the effectiveness of the guidelines is also reflected by industry representatives who feel reassured that the ACCC is taking action on important prevalent product compliance issues.

The guidelines have been useful up until now as the ACCC can use them as a reference - as a concrete point of information; the guidelines provide an authoritative aid which the ACCC and its commissioners can refer to. The guidelines have also helped the ACCC to engage more internationally with MSAs from other countries regarding market surveillance activities. This is especially useful since a lot of the e-commerce in Australia is cross-border. Additionally, the level playing field issue has become less prevalent to some degree; brick and mortar operators realise that action is being taken on an important issue.

#### *17.2.2 Effectiveness*

From a practical perspective the measure is quite efficient; the research which went into gathering information, opinions and feedback for the guidelines and the development of the guidelines themselves took place within the normal working activities of the ACCC employees; as such no extra time or financial resources were required beyond the normal work activities of the ACCC. The guidelines were also not published in a hard copy form to save on publishing costs and to make the dissemination of the guidelines easier and more efficient (copies being easily distributed digitally).

Furthermore, though the exact value of having such a central set of guidelines for operators selling online is difficult to measure, the extent to which the guidelines have been disseminated, the positive feedback from stakeholders, and the international interest in this measure point to the fact that it is effective. Given that the input resources are relatively low this makes the practice an efficient form of awareness raising and will ultimately reduce the number of non-compliant and unsafe products being sold to Australian consumers.

### **17.3 Evaluation of measure**

#### *17.3.1 Known and potential effects*

The anticipated results of this measure are that the number of cases of non-compliant and unsafe products available to Australian consumers due to the lack of awareness of business operators will decrease. The awareness of the guidelines amongst relevant parties and stakeholders appears to be progressing well at this point based on the few indicators presented above.

The extent of the popularity of the online market places and the desire for information on this was unexpected. Furthermore, there was not much push back or resistance to the guidelines. At times guidelines or statements from the ACCC can be seen as controversial by stakeholders but in this case the ACCC communicated beforehand that such guidelines were being developed; this could explain the lack of resistance to some extent, as could the fact that the guidelines are not product specific and describe current legislation (as opposed to introducing new requirements for instance).

Additionally, the international interest was also unexpected; given that e-commerce and product compliance and safety is a relatively prevalent issue world-wide it was surprising to find that few countries had such a set of holistic, overarching guidelines.



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

At present there are not yet evaluations or reviews of the number of product compliance of safety breaches or similar indicators. It is therefore difficult to estimate at this point in time whether the awareness-raising amongst business operators selling to Australian consumers (online) has taken hold or had a measurable effect. Feedback from stakeholders and industry associations point to a positive impact, but this is relatively anecdotal evidence at this point. The international interest is another indicator that the guidelines are making a positive impact concerning business operator awareness-raising.

## 17.4 **Conditions of transferability**

The guidelines are part of the general aim and strategy of the ACCC to improve product compliance; this is an on-going interest and the guidelines are one of many activities undertaken in pursuit of this strategy.

A surprising outcome of this measure for the ACCC was the international interest in the guidelines; the issues facing business operators selling online to consumers is not unique to Australia and affect countries world-wide. The lack of similar guidelines for business operators in other countries was unexpected in this sense.

According to the ACCC, there is lots of efficiency to be gained by noting down the expectations which stakeholders have of the market surveillance organisation in a country. The guidelines are essentially a communication tool and one that covers concerns shared by other countries across the world. The challenge for suppliers everywhere includes the expectations amongst consumers that operators know of all the regulations and requirements they must know and adhere to. The guidance in the guidelines is therefore also deliberately not product-specific to make it less time or product sensitive.

Maintaining and building relationships with stakeholders and industry associations is also an important feature of the operations of the ACCC. Indeed the organisation puts a significant amount of effort in maintaining these good relationships as they help to efficiently hone in on the real and most pressing issues facing business operators in connection with delivering compliant and safe goods to consumers.

This measure is fairly transferable. The process behind the development of the guidelines does not require much extra investment in terms of human, temporal or financial resources. Nor are extra administrative or legislative structures needed to develop these guidelines. The template provided by these guidelines could also be used by market surveillance authorities from other countries making future developments of such guidelines more efficient for international counterparts to the ACCC.

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, but generally, by attending industry events and talking to representatives and people involved demonstrates the interest of the authority in industry issues. In the case of the ACCC, the organisation tries to be in contact with industry groups once every few months. There is a face to face group session to promote and strengthen these good relationships.



A key feature which is also important to bear in mind concerning the transferability of the measure concerns the fact that the ACCC is the regulator for competition at the national level in Australia and has a quite a high profile. It is regularly noted in the media for its enforcement activities and its name and brand are well known.

## 17.5 Information sources

Australian Competition and Consumer Commission, A Guide for Business – Consumer product safety online, 2014:

<http://www.accc.gov.au/system/files/Consumer%20product%20safety%20online.pdf>

Australian Competition and Consumer Commission and the Australian Energy Regulator, Annual Report 2012 – 2013:

<https://www.accc.gov.au/system/files/ACCC%20Annual%20Report%202012-13.pdf>

### **Contact Details:**

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E-mail: (Online reply form: <http://www.accc.gov.au/contact-us/contact-the-accc>)

Website: <http://www.accc.gov.au>



## 18 Case 18 Raising business operator awareness: the Netherlands Food and Consumer Product Safety Authority. & the information and learning website TradeRouteAsia.nl

Country : The Netherlands  
Organisation : The Netherlands Food and Consumer Product Safety Authority (NVWA)

### 18.1 Purpose of the practice

#### 18.1.1 Objectives of the project/programme

The website [www.traderouteasia.nl](http://www.traderouteasia.nl) is an initiative of the Dutch government organised by the Netherlands Food and Consumer Product Safety Authority, the NVWA. The aim of the website is to make importers aware of the 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 necessary legislation to be aware of, supply chains and culture. In this case potential importers can check how prepared and informed they are and if necessary, follow an e-learning module to learn more. Checklists of what to look out for and to have taken care of before importing are also presented as well as news and recent developments relevant to trading with Asia. There is also a tab with interesting links and organisations for importers. In this way the NVWA hopes to inform businesses better as to trading with Asian and to ultimately make sure that quality products reach Dutch consumers. A promotion campaign was also launched to increase the awareness and use of the website in 2011, a year after the initiation of the measure which has successfully improved the number of users of the website.

The main objective of this measure is to make potential and future importers aware of what they must do and know when trading with Asian countries. The aim is to satisfy the demand for information amongst importers, given that this is known to be strong. Trading with Asia is seen as a complex endeavour and finding information on this was also deemed complicated by potential importers. A more specific objective is to also make (potential) importers realise that they may not be as informed as they think when it comes to trading with Asia; this is where the e-learning tests on the website play an important role in highlighting gaps in importers' own knowledge. Knowledge was found to be lacking on areas such as the laws and legal requirements in place and linguistic and cultural aspects. Additionally, many organisations were found to be provided with information on importing from Asia, meaning that information which was available was in turn fragmented, dispersed (and as a result difficult to find), and left the importer having to judge which information seemed most useful and trustworthy. In having the information in one place, as well as links to the relevant organisations, information is much easier to find.

The objectives were established based on the experiences and working activities of the NVWA.



### *18.1.2 Detailed description of the practice*

The Dutch government, the NWVA and other relevant organisations and interest groups were consulted during the development of the website. These other organisations include industry associations, associations related to setting up businesses in China, associations of importers, and enterprise and trade associations.

There are three main partners involved in this initiative and these are presented on the website as well. These are the Dutch Chambers of Commerce, KIWA the Netherlands (an independent quality certification organisation) and SGS the Netherlands (a company focusing on quality control and offering services in this to businesses across a range of industries).

The website has been active since 2010. The measure has been running since its start in 2010. The annual costs for the maintenance of the website are between 15,000 and 20,000 euro.

### *18.1.3 Reasons for highlighting the practice*

By informing business operators in a centralised and unified manner of what they must know when trading in Asia this measure contributes to product safety and compliance in a preventative manner.

### *18.1.4 Target groups*

The target group for this measure are SMEs and large companies which are or wish to start importing non-food products from Asia.

There are no databases describing the direct target groups of this measure and as such it was important for the website that awareness regarding the existence of the website was raised. The group of businesses in the Netherlands which aim to or which are already trading with Asia numbers around 100,000. This number is expected to keep growing as well.

## **18.2 Impact and results**

### *18.2.1 Valorisation of result*

In preparation of the promotion campaign of the website in 2011, the performance of the website was evaluated. A report was also made describing the results of the TRA website after the promotion campaign.

The report on the results of the TRA presents a number of indicators across which the performance of the website is measured. These include the number of visitors (both per year and per month), the number of returning visitors, number of people following an e-learning course, and time spent on the website. Besides this the social media presence of the NWVA and its TRA website is also monitored; the Facebook page, Facebook profile, LinkedIn page and Twitter account are all monitored as well.

From this report, prepared in 2012, the results demonstrate that the promotion campaign had a decided positive effect. Some key data regarding the use of the website is presented below.





Table 1 Number of visitors September 2011 – February 2012

Month	Number of new visitors	Number of returning visitors	Number of visitors
September 2011	373	129	502
October 2011	547	341	888
November 2011	1185	340	1525
December 2011	2644	562	3206
January 2012	3154	775	3929
February 2012	3000	832	3832

Source: NWVA

Table 2 Time spent on website September 2011 – February 2012

Month	Time in seconds							Average time on a web page
	0 – 10	11 – 30	31 – 60	61 – 180	181 – 600	601 – 1800	1800+	
September 2011	206	49	52	63	73	57	15	1.20
October 2011	440	91	49	89	92	79	67	1.26
November 2011	834	141	128	181	170	131	54	1.25
December 2011	2041	277	281	325	224	139	29	1.11
January 2012	2404	328	327	425	248	164	33	1.08
February 2012	2335	328	299	442	249	143	36	1.43

Source: NWVA

Table 3 Most popular webpages September 2011 – February 2012

Month	#1	#2	#3	#4	#5
September 2011	How to_FAQ page	Training page Laws and regulations page	About page	Checklist page	FAQ
October 2011	News page	How to_FAQ page	E-learning page	Checklist page	About page
November 2011	Checklist page	E-learning page	Laws and regulations page E-learning page	About page	News page
December 2011	Checklist page	Laws and regulations page E-learning page	About page	E-learning page	News page
January 2012	Checklist page	Laws and regulations page E-learning page	About page	E-learning page	News page
February 2012	Checklist page	Laws and regulations page E-learning page	About page	E-learning page	Calendar page

Source: NWVA



Around 26.5% of the visitors of the TRA website follow one or more e-learning modules, which is considered to be quite high. An overview is presented below:

Table 4 E-learning module use September 2011 – February 2012

<b>E-learning module</b>	<b>September</b>	<b>October</b>	<b>November</b>	<b>December</b>	<b>January</b>	<b>February</b>	<b>Total</b>
<b>Laws and regulations</b>	329	92	320	426	563	525	2255
<b>Trade expertise</b>	82	36	164	248	301	294	1125
<b>Culture</b>	43	31	127	152	202	172	727
<b>Total</b>	454	159	611	826	1066	854	4077
<b>% of total visitors</b>	90%	18%	40%	26%	27%	22%	-

Source: NVWA

### 18.2.2 Effectiveness

This measure appears to be effective in countering the lack of awareness and knowledge surrounding trading in Asia. The measure is efficient in that it targets some key problems faced by importers in a straightforward and cost-effective manner. The information on training in Asia is now centralised and no longer fragmented, importers can test themselves to check whether they have the appropriate knowledge to trade and if they do not, can find further information and organisation, as well as being able to follow an e-learning module. The total costs of maintaining the website fluctuate between 15,000 and 20,000 euro, making this an efficient form of awareness raising and information provision for business operators. After the initial development between 4 and 5 people from the NVWA maintain the website, while questions which come in from operators or other interested parties are forwarded to whomever in the NVWA can answer them best.

This practice would seem to be effective in contributing to product safety and compliance of consumer goods in a preventative manner. In raising the awareness of the success factors and the risks of trading in Asia amongst businesses, they are in a better position to make sure that, amongst other things, the products they import are compliant and safe. Though this is not an online policy specifically, the NVWA finds the lack of awareness and knowledge amongst business operators to be a significant issue when it comes to product safety and compliance of consumer goods. Businesses are often unaware of the obligations and requirements they must fulfil and adhere to as well, 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.

## 18.3 Evaluation of measure

### 18.3.1 Known and potential effects

The expected outcome of this measure was to improve the awareness and knowledge of business operators seeking to trade with Asia. This appears to have had a clear effect judging by the data on the use of the website. No unexpected outcomes have been encountered as yet.



### 18.3.2 Impact of current measure and possible results it may contribute to

The impact of this website appears to be quite positive with regards to informing operators about trading with Asia. As there are no formal indicators for the impact, this is based on qualitative accounts.

## 18.4 Conditions of transferability

This measure represents an important step in the general information provision strategy of the NVWA. Preventative measures seeking to raise both consumer and business awareness when it comes to buying and selling online have been identified as important areas by the NVWA; as such the development of the TRA website represents a continuation of this information provision and awareness raising policy.

This measure is not unique in the sense that there is an informational website trading in Asia. Rather the fact that the information is being presented in a unified, coherent manner by the national authority on the subject is an important, good element which makes finding information easier for (potential) importers. Innovative elements 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.

An important lesson is 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. This was evidenced by the low levels of visitors in the first year of the website; it was though that the professional network of the NVWA would help awareness of the website to take off. However given the breadth of the target group this was not the case and a conscious promotion campaign was started which successfully raised the use of the website.

This measure appears quite readily transferable. Its appeal is quite easy to understand in that it addresses a problem shared by most MSAs across the EU with respect to market surveillance and the enforcement of regulation on non-food consumer goods bought online. The measure is also not very expensive to implement; the cost of developing the website was and the maintenance costs annually are also not high when one considers the increase in awareness and knowledge amongst business operators.

No large new administrative systems were required to develop the website either; in principle any MSA could develop such a website as it requires gathering and selecting appropriate information, consultation with key stakeholders and interest groups, and website maintenance once the site has become active.

## 18.5 Information sources

NVWA website: <https://www.vwa.nl/>

### **Contact Details:**

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