

MASTER THESIS

Internal Market and Consumer Protection, Achievements and Challenges

Elena Papachristoforou

Supervisor

Daina Nicolaou

May, 2017

Abstract

The present dissertation seeks to provide an overview of the EU consumer protection policy, outlining the history and development of consumer law and policy in the EU over the years, while it focuses on a comprehensive and up-to-date presentation on a number of policy areas related to consumer protection, highlighting past improvements, achievements and success stories. It attempts to identify the shortcomings and future challenges, especially due to the technological and digital development, but also due to the increased complexity of financial products and services, the increasing influence of environmental, social, ethical and other quality aspects in purchasing decisions.

The dissertation includes the presentation and evaluation of statistical data collected by the Cyprus Consumer Protection Service of the Ministry of Energy, the European Commission (statistical data of EU Networks, FIN-NET, RAPEX, ECC-Net and CPC), market and behavioral studies commissioned by the EC and information gathered from the Consumer Scoreboards, published by the EC in alternate years.

The *Consumer Conditions Scoreboard* monitors national conditions for consumers in 3 dimensions (knowledge and trust, compliance and enforcement, complaints and dispute resolution) and examines progress in the integration of the EU retail market based on the level of business-to-consumer cross-border transactions and the development of e-commerce. The *Consumer Markets Scoreboard*, tracks the performance of 42 goods and services markets, taking into account the ease of comparing goods/services, consumers' trust in retailers/suppliers to respect consumer protection rules, the degree to which problems experienced in the market cause detriment and consumer satisfaction.

Even though a large number of achievements have been made throughout the years and despite the high level of consumer protection already achieved, the EU still needs to respond to the current challenges, adapt consumer law to the digital age, promote sustainable growth, support consumer interests in key sectors and restore confidence in the European economy by enhancing consumer empowerment and policy synergies.

Περίληψη

Η παρούσα μεταπτυχιακή διατριβή σκοπό έχει να παρέχει μια ανασκόπηση της πολιτικής για την προστασία του καταναλωτή στην Ευρωπαϊκή Ένωση, με μια αναδρομή στο ιστορικό και την εξέλιξη του νομοθετικού πλαισίου και της πολιτικής για την προστασία του καταναλωτή εντός της ΕΕ και συνεχίζοντας με μια σύντομη και επικαιροποιημένη παρουσίαση των επιμέρους τομέων προστασίας του καταναλωτή, επισημαίνοντας προηγούμενες βελτιώσεις, επιτεύγματα και ιστορίες επιτυχίας. Η διατριβή επιχειρεί να αναγνωρίσει τις ελλείψεις και τα κενά, καθώς και τις μελλοντικές προκλήσεις, ειδικά ως επακόλουθο της τεχνολογικής και ψηφιακής εξέλιξης, αλλά επίσης και συνεπεία της αυξημένης πολυπλοκότητας των χρηματοοικονομικών προϊόντων και υπηρεσιών και της υψηλής επίδρασης από περιβαλλοντολογικές, κοινωνικές, ηθικές και άλλες ποιοτικές διαστάσεις, οι οποίες καθορίζουν τις αγοραστικές αποφάσεις των καταναλωτών.

Η διατριβή περιλαμβάνει την παρουσίαση και αξιολόγηση στατιστικών δεδομένων, συλλεχθέντων από την Κυπριακή Υπηρεσία Προστασίας του Καταναλωτή του Υπουργείου Ενέργειας, την Ευρωπαϊκή Επιτροπή (στατιστικά δεδομένα από Ευρωπαϊκά Δίκτυα, FIN-NET, RAPEX, το Δίκτυο των ΕΚΚ και CPC), μελέτες αγοράς και συμπεριφοράς καταναλωτών παραγγεληθείσες από την Ευρωπαϊκή Επιτροπή, καθώς και πληροφορίες από τους Πίνακες Αποτελεσμάτων των Καταναλωτικών Αγορών και Επιδόσεων των Καταναλωτικών Αγαθών, οι οποίες εκδίδονται από την ΕΕ εναλλάξ κάθε χρόνο.

Ο πίνακας αποτελεσμάτων, για τις καταναλωτικές συνθήκες παρακολουθεί τις συνθήκες των καταναλωτών, σε εθνικό επίπεδο, εξετάζοντας τρεις διαστάσεις (γνώση και εμπιστοσύνη, συμμόρφωση και επιβολή, παράπονα και επίλυση διαφορών) και εξετάζει την πρόοδο όσον αφορά την ολοκλήρωση του λιανικού εμπορίου στην ΕΕ. Η αξιολόγηση βασίζεται στο επίπεδο του διασυνοριακού εμπορίου μεταξύ επιχειρήσεων και καταναλωτών και στην ανάπτυξη του ηλεκτρονικού εμπορίου. Ο Πίνακας επιδόσεων των καταναλωτικών αγαθών παρακολουθεί τις αξιολογήσεις των καταναλωτών της ΕΕ σχετικά με τον τρόπο λειτουργίας των αγορών 42 αγαθών και υπηρεσιών. Για την αξιολόγηση χρησιμοποιούνται κριτήρια όπως η συγκρισιμότητα των προσφορών, η

εμπιστοσύνη ότι οι πωλητές συμμορφώνονται με τους κανόνες προστασίας των καταναλωτών, ο βαθμός στον οποίο πληρούνται οι προσδοκίες των καταναλωτών, και οι ζημίες που προκαλούνται από τα προβλήματα που αντιμετωπίζουν οι καταναλωτές.

Παρά το σημαντικό αριθμό επιτευγμάτων διαμέσου των χρόνων και παρά τη διασφάλιση υψηλού επιπέδου προστασίας του καταναλωτή, η ΕΕ οφείλει να ανταποκριθεί στις τρέχουσες προκλήσεις, να προσαρμόσει το νομοθετικό πλαίσιο προστασίας του καταναλωτή στην ψηφιακή εποχή, να προωθήσει τη βιώσιμη ανάπτυξη, να ενισχύσει τα συμφέροντα των καταναλωτών σε βασικούς τομείς και να αποκαταστήσει την εμπιστοσύνη στην οικονομία της ΕΕ, ενδυναμώνοντας το καταναλωτή και τις πολιτικές συνέργειες.

Acknowledgements

I would like to express my special thanks and sincere gratitude to my supervisor Dr. Daina Nicolaou for her advice, valuable guidance and support throughout writing this dissertation. Her aspiring guidance, constructive criticism and friendly advice during the research and writing of this dissertation has been invaluable.

Furthermore, a very special gratitude goes out to my life companion Antonis, my family and friends for their constant love, encouragement and support throughout the years.

CONTENTS

1. Introduction	1
1.1. The history of the shaping of consumer protection policy in the EU.....	3
1.2. The development of consumer protection provisions in the EU and the evolution of EU consumer law and policy.....	5
1.3. The current shape of EU consumer policy.....	8
2. Protection of consumers' economic interests	10
2.1. Information society services and electronic commerce.....	10
2.2. The Directive on Consumer Rights.....	13
2.3. Sale of goods, legal guarantees and unfair contract terms.....	16
2.4. Unfair commercial practices/Comparative and misleading advertising..	18
2.5. Price Indication.....	21
2.6. Liability for defective products	21
2.7. Consumer credit.....	23
2.8. Package holidays and timeshare properties.....	24
2.9. Air transport.....	27
3. Other key EU policy areas related to consumer protection	30
3.1. Product safety.....	30
3.2. Digital single market.....	31
3.3. Financial services.....	33
3.4. Food safety and labelling	34
3.5. Energy.....	35
4. Protection of consumers' rights, enforcement and redress	38
4.1. Cross border consumer protection and European Networks	39
4.2. Alternative dispute resolution (ADR) and online dispute resolution (ODR).....	43
4.3. Collective redress.....	45
5. EU consumer protection policy/Achievements, shortcomings and future Challenges	47
6. Conclusions	50

Chapter 1

Introduction

Today, over 500 million Europeans benefit from the huge European Union's (EU) marketplace without borders. The aim of the European consumer policy is to make the EU a tangible reality for all European citizens by guaranteeing their rights as consumers. That means protecting consumers from serious risks and threats that they are unable to tackle as individuals; empowering them to make choices based on accurate, clear and consistent information; enhancing their welfare and effectively protecting their safety, as well as their economic interests. That is to be achieved by aligning consumer rights and policies to changes in society and economy. The legislation adopted at EU level aims primarily to protect the safety, health, economic and legal interests of consumers, as well as offering redress and general product safety systems (Valant 2015: PE 565.904).

The present dissertation seeks to provide an overview of EU consumer protection policy, outlining the history and development of consumer law and policy in the EU over the years, while it focuses on a comprehensive and up-to-date presentation of a number of key policy areas related to consumer protection, highlighting past improvements, achievements and success stories.

Through the presentation and analysis of the legal framework of each of the key policy areas related to consumer protection (health, safety, legal and economic interests), accompanied by other relevant information and statistical data, the present dissertation seeks on the one hand to assess the effectiveness and efficiency of a great number of EU consumer protection measures, to identify provisions that work well and to highlight the implementation successes, while on the other hand to identify any problems, implementation burdens and shortcomings that have appeared over time.

The dissertation concludes that the technological and digital development, the rapid increase of cross border trade and e-commerce, the unsustainable and changing patterns of consumption, the increased complexity of financial products

and services, as well as the emergence of a new kind of vulnerable consumer lead to new challenges in the area of consumer protection in the EU, requiring a more functional EU consumer protection regime, better market surveillance and more effective implementation and enforcement of current legislation in this area.

The dissertation is mainly literature based (selection and discussion of theoretical material and literature review), including the presentation and evaluation of statistical data collected by the Cyprus Consumer Protection Service of the Ministry of Energy, the European Commission (statistical data and information collected by the European Networks, such as FIN-NET, RAPEX, ECC-Net and CPC), market and behavioral studies commissioned by the European Commission and information gathered from the Consumer Conditions Scoreboard and the Consumer Markets Scoreboard.

Chapter 1 of the dissertation makes an outline of the history of the shaping of consumer protection policy in the EU and the evolution of EU consumer law and policy, ending up to an analysis of the current shape of EU consumer policy. Chapter 2 provides a comprehensive and up-to-date overview of the legal framework of the areas covering consumers' economic interests, including information society services and electronic commerce, the new directive on consumer rights, sale of goods, legal guarantees and unfair contract terms, unfair commercial practices and comparative and misleading advertising, price indication, liability for defective products, consumer credit, package holidays and timeshare properties, and air transport. Chapter 3 provides a comprehensive and up-to-date overview of the legal framework of other key EU policy areas related to consumer protection, such as product safety, digital single market, financial services, food safety and labelling and energy. Chapter 4 introduces the existing European Networks, such as the ECC-Net and CPC, while it provides an overview of the existing state of redress and enforcement in the area of consumer protection, with particular reference to the Alternative Dispute Resolution (ADR), the Online Dispute Resolution (ODR) and collective redress. Chapter 5 highlights past improvements, achievements and success stories, underlying any shortcomings and future challenges and Chapter 6 includes conclusions and suggestions.

1.1.The history of the shaping of consumer protection policy in the EU

Consumer protection is a group of laws and organizations designed to ensure the rights of consumers, as well as fair trade, competition and accurate information in the marketplace. To discuss the consumer protection one must define the notion of "consumer". The word "consumer" is the agent noun of the verb to consume, which is derived from the Latin word "consumere". This Latin word means to use up, eat or waste. (D. HARPER, Online Etymology Dictionary, http://www.etymonline.com/index.php?term=consume&allowed_in_frame=0, 2014).

The notion of consumer stems from economics and sociology; Consumer in general indicates the person who pays money for services or goods. As such, consumers play a vital role in the economic system of a nation, as they form part of the chain of distribution. In the absence of their effective demand, producers would lack a key motivation to produce, that is to sell to consumers.

At the beginning of the European integration, consumer protection was only a side effect of the economic integration and the creation of the common market, namely the free movement of goods and services. In the early stages of integration, consumer protection issues were absent, even though they were essential for the implementation and effective functioning of the internal market. The Treaty Establishing the European Economic Community (Treaty of Rome) of 25 March 1957 did not provide a specific legal basis for consumer protection, while it made only five explicit references to the "consumer" in Articles 39, 40, 85(3), 86, 92(2).

The above mentioned provisions have been renumbered by the Amsterdam Treaty and then again by the Lisbon Treaty with effect from December 2009 and they are today Articles 39, 40, 101, 102 and 107 of the Treaty of the Functioning of the European Union (TFEU) respectively. Even though the original Treaty of Rome included certain provisions referring directly or indirectly to consumers, mostly in provisions on competition, nevertheless no specific reference was made to a specific consumer policy.

The Council Resolution of 14 April 1975 (OJ 1975 C92/1) on a preliminary programme of the European Economic Community for a consumer protection and information policy and the annexed " Preliminary Programme of the European Economic Community for a Consumer Protection and Information Policy" (OJ 1975 C092/2) constituted the formal inauguration of consumer protection policy at EU level and became the cornerstone of the Community's consumer legislation. The Resolution recognized the need of implementing such policy to fulfill "the task of improving the quality of life of member countries" through the "protection of the health, safety and economic interests of the consumer."

The said preliminary programme, in effect, has recognised that consumer needs required special consideration in the development of the European Economic Community (EEC). The Annex identified five basic rights, namely (1) the right to protection of health and safety, (2) the right to protection of economic interests, (3) the right of redress, (4) the right to information and education and (5) the right of representation (the right to be heard). Allegedly, those five basic rights were inspired by US President Kennedy's declaration to the US Congress on March 15, 1962, in which he extolled four basic consumer rights, later called the Consumer Bill of Rights.

The 1975 Resolution was followed in 1981 by a further Council Resolution on a second programme for a consumer protection and information policy (OJ 1981 C133/1) based on the same premises, as those which underlie the first Resolution of 1975, as it reaffirmed the five basic rights provided under the First resolution and expressed a priority for action in the field of quality of goods and services, the conditions affecting their supply and the provisions of information about them.

It was with the enactment of the Single European Act (SEA) in 1987, which stated quite firmly that the internal market must be formed by the end of 1992, that consumer protection was formally recognized with a legislative basis, as laid down in Article 100a (3) (later Article 95 (3) EC and now Article 114 of the TFEU). According to the said Article , "the Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection."

The Third Council Resolution of 23 June 1986, on Future Orientation of the Policy of the EEC for the Protection and Promotion of Consumer Interest, (OJ 1986 C167/1) and the subsequent Fourth Council Resolution of December 1986 on the integration of Consumer Policy in the other Common Policies (OJ 1987 C3/1) were both expressed within the context of internal market policy.

According to the two last Council resolutions, consumer protection should be linked with the notion of the People's Europe and the European Commission's policy should focus at three main objectives: Products should comply with safety and health standards, consumers must be able to reap the benefits of the common market and the "consumer" dimension must be taken into account whenever new measures are proposed under other Community policies, particularly competition policy, common agricultural policy and transport policy.

The Fifth Council Resolution of November 1989 on Future Priorities for Relaunching Consumer Protection Policy (OJ 1989 C294/1) reemphasized the fact that the completion of the internal market would increase the benefits for consumers, while in its Annex, it listed a number of priority areas such as the integration of consumer protection policy into other common policies; the enhancement of consumer representation; the promotion of general safety of goods and services and of better information on the quality of goods and services; encouragement of MS to promote access to legal redress and pursue work on other specified initiatives.

1.2. The development of consumer protection provisions in the EU and the evolution of EU consumer law and policy

Consumer protection was not introduced as a separate policy until the Treaty on European Union (Maastricht Treaty), which entered into force on 1st November 1993. The Maastricht Treaty took the next step in consumer protection and established the EU's commitment to consumer protection. The most important amendment in the Maastricht Treaty, was the inclusion for the first time of a

separate Title XI on consumer protection. In particular, according to the provisions of Article 129a (now Article 153):

"1. The Community shall contribute to the attainment of a high level of consumer protection through: (a) measures adopted pursuant to Article 100a in the context of the completion of the internal market; (b) specific action which supports and supplements the policy pursued by the Member States to protect the health, safety and economic interests of consumers and to provide adequate information to consumers.....".

Accordingly, for the first time the European Commission was authorised to adopt consumer protection measures, without requiring a direct connection with market integration, establishing the significance of an integrated common consumer policy in its own right.

The Treaty of Amsterdam amending the Treaty of the EU, the Treaties establishing the European Communities and certain related acts, which was enacted on 1st May 1999, introduced some changes to Article 129a, also renumbering it as Article 153 (now 169 TFEU). Accordingly, the Treaty of Amsterdam gave fresh impetus to EU consumer policy. Provisions concerning consumers have been improved by clarifying and extending the objectives of Community action in this area, while the right of consumers to information, education and organisation has been recognised. Previously, consumer rights were merely recognised as an interest to be taken care of, therefore this explicit recognition of consumer rights can undoubtedly be regarded as one of the main contributions of the Amsterdam Treaty.

With the subsequent enactment of the Lisbon Treaty on 1st December 2009, new provisions affecting consumer law were introduced, while the Charter of Fundamental Rights of the European Union was given a binding full legal effect. The Lisbon Treaty amends the Treaty on European Union (TEU) and the Treaty establishing the European Community (TEC), which is renamed "Treaty on the Functioning of the European Union" (TFEU).

According to Article 4 (2) (f) TFEU, consumer protection will be an area of shared competence between the Union and the Member States. Article 153 TEC, which has been renumbered as Article 169 TFEU, provides that:

1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organize themselves in order to safeguard their interests.

2. The Union shall contribute to the attainment of the objectives referred to in paragraph 1 through:

(a) Measures adopted pursuant to Article 114 in the context of the completion of the internal market;

(b) Measures which support, supplement and monitor the policy pursued by the Member States.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall adopt the measures referred to in paragraph 2(b).

4. Measures adopted pursuant to paragraph 3 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with the Treaties. The Commission shall be notified of them.

Article 169 supplements Article 144 of the TFEU, which indicates that in its proposals concerning health, safety, environmental protection and consumer protection, the Commission will take as a base a high level of protection. Article 12 TFEU adds that "consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities", while Article 38 of the Charter of Fundamental Rights of the European Union also confirms that Union policies shall ensure a high level of consumer protection. The Charter was proclaimed in 2000 and it has become legally binding on the EU with the entry into force of the Treaty of Lisbon. The Charter sums up all the fundamental rights protected in the EU, while it lists all rights and freedoms under six titles: Dignity, Freedoms, Equality, Solidarity, Citizens' Rights, and Justice.

1.3. The current shape of EU consumer policy

The development of EU consumer policy appears as a gradual process, carried out alongside internal market dynamics (Ene 2012:39), while it may be seen as one of the most transversal EU policies, including among others, product safety, digital market, financial services, food safety and labelling, energy, travel and transport.

Currently, the programme of EU action in the field of consumer policy is based on two measures: the ***European Consumer Agenda***, which is the new strategy for EU consumer policy in line with the EU's growth strategy – Europe 2020 – and the ***consumer programme 2014-20*** – the financial framework complementing the strategy. The European Consumer Agenda has several objectives such as:

- promoting consumer safety (such as the 2013 Product Safety and Market Surveillance Package, in particular through enhanced product identification and traceability, measures reinforcing safety in the food chain and new rules in mid-2013 on the safety of cosmetic products);
- enhancing knowledge of consumer rights (interactive tools have been developed to inform, educate and help consumers fully participate in the single market, such as the Consumer Classroom);
- strengthening the enforcement of consumer rules (such as coordinated actions against breaches of EU consumer law in the form of checks of websites (sweeps) by networks of national consumer protection authorities; simple, fast and low-cost out-of-court procedures for consumers to seek redress available as a result of the Directive on Alternative Dispute Resolution and the Regulation on On-line Dispute Resolution (2013));
- integrating consumer interests into key sectoral policies (new legislation in sectors such as telecommunications, digital technologies, energy, transport and food, and new measures to increase transparency and access to retail financial services and facilitate switching of bank accounts);
- empowerment (the main overall objective of the EU Consumer Policy Strategy as described in the Commission working paper entitled 'Consumer Empowerment in the EU', aimed at empowering EU consumers

through choice, information and awareness of consumer rights and means of redress) (http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_5.5.1.html). The Consumer Agenda also identifies challenges, such as moving towards more sustainable consumption and addressing the specific needs of vulnerable consumers, such as children.

The Consumer Program 2014-2020 with a budget of EUR 188, 8 million aims to help citizens fully enjoy their consumer rights and actively participate in the Single Market, thus supporting growth, innovation and meeting the objectives of Europe 2020. Build on the previous Consumer Program (2007-2013), the 2014-2020 program focus on four key areas:

- a single market of safe products for the benefit of citizens and as a component of competitive businesses and traders;
- a single market where citizens are well represented by professional consumer organizations whose capacity is built to meet the challenges of today's economic environment;
- a market where citizens are aware and exercise their rights as consumers so that they contribute to the growth of competitive markets, citizens must enjoy access to redress mechanisms in case of problems without needing to resort to court procedures which are lengthy and costly for them and the governments;
- A concrete and effective collaboration between national bodies to support the enforcement of consumer rights, support the consumers with advice.

Chapter 2

Protection of consumers' economic interests

As analyzed in Chapter 1, the Council adopted its first special program for consumer protection and information policy in 1975, where it defined among the five fundamental consumer rights, *the right to protection of economic interests*, as also provided under Article 169 TFEU.

The key areas of consumers' economic interests' comprise of the following: information society services and electronic commerce; distance selling contracts and contracts negotiated away from business; sale of goods, legal guarantees and unfair terms in contracts; unfair commercial practices and comparative and misleading advertising; liability for defective products and price indication; consumer credit; package holidays and timeshare properties; air transport.

In particular, the legislation covering all the aforementioned key areas, mainly concerns the appropriate description of the products and/or services (characteristics, price, weight, size, destinations, etc.); the provision of clear and adequate information to the consumers, so as to be able to exercise their right to choose; and the restoration of the economic interests of the consumers when they circumvented.

2.1. Information society services and electronic commerce

Today's world is impossible to imagine without the online market place. The development of electronic commerce and online services offers enormous potential for beneficial economic, social and societal change. The EU estimates that a fully functioning e-commerce market could deliver Europe-wide benefits of up

to €154 billion a year with consumers benefiting from greater choice and lower prices.

The Directive on certain legal aspects of information society services, in particular electronic commerce, (2000/31/EC of 8 June 2000 (ECD)) adopted in 2000, created the basic legal framework for electronic commerce in the internal market, providing legal certainty for business and consumers alike. Pursuant to Article 1, point 2 of Directive 98/34/EC amending Directive 98/48/EC, an information society service is understood to be any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

The Directive removes obstacles to cross-border online services in the EU internal market (free movement of services), establishes harmonized rules on issues such as the transparency and information requirements for online service providers, thus providing legal certainty to traders and consumers, while it also enhances administrative cooperation between the MS and the role of self-regulation. Furthermore, the Directive offers a flexible, technically neutral and balanced legal framework and it enhances the competitiveness of European service providers. Examples of services covered by the Directive include online information services, online selling of products and services, online advertising, professional services, entertainment services and basic intermediary services.

One of the 16 initiatives of the Digital Single Market strategy, adopted on 6 May 2015, aims to define an appropriate e-commerce framework and prevent unfair discrimination against consumers and businesses when they try to access content or buy goods and services online within the EU.

Despite the rapid growth of e-commerce, the full potential of online sales still remains untapped, as most consumers and businesses do not yet make the most of the Digital Single Market.

	Proportion of individuals who:	
	Used internet within the last 12 months	Purchased online within the last 12 months
EU-28	84	55
Belgium	87	57
Bulgaria	62	17
Czech Republic	83	47
Denmark	97	82
Germany	91	74
Estonia	88	56
Ireland	83	59
Greece	70	31
Spain	81	44
France	88	66
Croatia	74	33
Italy	71	29
Cyprus	76	29
Latvia	81	44
Lithuania	75	33
Luxembourg	98	78
Hungary	81	39
Malta	78	47
Netherlands	94	74
Austria	85	58
Poland	75	42
Portugal	71	31
Romania	66	12
Slovenia	76	40
Slovakia	83	56
Finland	94	67
Sweden	95	76
United Kingdom	95	83
Norway	98	78
FYR of Macedonia	75	15
Turkey	59	17

Table 1. Proportion of individuals who used internet within the last 12 months and purchased online within the last 12 months (2016)

Source: Eurostat ([isoc_ci_ifp_iu](#)) and([isoc_ec_ibuy](#))

According to the main statistical findings of 2016, two thirds of internet users in the 12 months prior to the survey made online purchases in the same period. The most popular type of goods and services purchased online in the EU was clothes and sport goods (61 % of e-buyers), followed by travel and holiday accommodation (52 %). 32 % of e-buyers purchased from other EU MS, compared with 25 % in 2012 (http://ec.europa.eu/eurostat/statistics-explained/index.php/E-commerce_statistics_for_individuals)

The proportion of e-shoppers varied considerably across MS, ranging from 18 % of internet users in Romania to 87 % in the United Kingdom. **Notably in Cyprus 76% of the individuals used the internet with only 29% of those purchasing online. It should be noted that in 2005 only 5% of individuals in Cyprus used the internet to order goods or services, therefore one might argue that there has been a steady increase during the last decade. However, if one takes into account the proportions in the other MS, undoubtedly the Cyprus proportion of 29% would be considered among the lowest proportions in the EU.**

As part of its efforts to unlock the potential of e-commerce, the Commission adopted in May 2016 an e-commerce package of proposals, composed of a legislative proposal to address unjustified geoblocking and other forms of discrimination on the grounds of nationality, residence or establishment; a legislative proposal on cross-border parcel delivery services to increase the transparency of prices and improve regulatory oversight and a legislative proposal to strengthen enforcement of consumers' rights and guidance to clarify, among others, what qualifies as an unfair commercial practice in the digital world.

A special reference should also be made to the proposals on harmonised rules on certain aspects concerning contracts for the supply of digital content and the online and other distance sales of goods, adopted within the context of the Digital Single Market Strategy (COM(2015) 192 final <http://ec.europa.eu/priorities/digital-single-market>). These proposals will provide the same set of rules in all 28 Member States contributing to the strengthening of the European digital economy, increasing consumer and businesses confidence in online trade across EU.

2.2. The Directive on Consumer Rights

Differing levels of consumer protection in the laws of the MS and variation in national contract laws create barriers to cross-border trade. Barriers and fragmented rules discourage companies from crossborder trading, while EU consumers do not always feel adequately protected and confident about making purchases, especially online and/or across borders, thus missing out on the potential of broader choice of products and better prices.

The new EU Consumer Rights Directive (CRD) aims to enhance consumer rights by giving consumers the same rights across the EU, while striking the right balance between consumer protection and business competitiveness. The Directive on Consumer Rights 2011/83/EC replaces, as of 13 June 2014, Directive 97/7/EC on the protection of consumers in respect of distance contracts and Directive 85/577/EEC to protect consumers in respect of contracts negotiated away from business premises. Whilst these former Directives only provide for a minimum level of harmonisation of consumer protection rules, the CRD is a horizontal piece of legislation, which regulates some aspects of distance, off premises and on-premises contracts between consumers and businesses.

The said Directive covers contracts for the purchase of goods, services, digital content not supplied on a tangible medium and supply of public utilities with certain exceptions (e.g. contracts concerning social services, healthcare, gambling, immovable property, financial services etc). It provides that consumers must receive complete and transparent information about key contractual elements, formal requirements for distance and off-premises contracts, cancellation rights and responsibilities where the consumer buys goods or services away from the trader's premises or at a distance. According to the provisions of the directive, clear rules should also be provided regarding the delivery of goods, the fees charge for a particular method of payment (e.g. credit card surcharge) and rules regarding additional payments which would need to have active or express consent of the consumer (i.e. pre-ticked boxes which the consumer must 'untick' will no longer be allowed).

The advantage of the CRD, compared to the previous EU consumer law, is that it has harmonised key consumer rights for all types of purchase since 2014, thus doing away with different national requirements that previously fragmented the internal market. Traders trading across national frontiers should benefit from this uniformity of regulation, as it should reduce compliance costs for cross-border sales, while consumers will enjoy new online rights for the first time.

It should be noted that the Commission recently co-ordinated one of its compliance 'sweeps' (checks organised regularly to verify how EU consumer rules

are applied in practice) across 743 EU, Icelandic and Norwegian websites in multiple market sectors, focusing on the quality of the information that is available to consumers online before the purchase.

The results of the sweep indicated that almost two-thirds of those were not compliant with the CRD's pre-contractual information requirements. In total, the EU MS' authorities checked 743 websites; 697 of the swept websites still existed in the enforcement phase and irregularities were confirmed in 436 cases (63%). Up to date 353 out of 436 websites have been corrected, while enforcement action is currently in progress against 83 websites which are still not compliant.

http://ec.europa.eu/consumers/enforcement/sweeps/directive/index_en.htm)

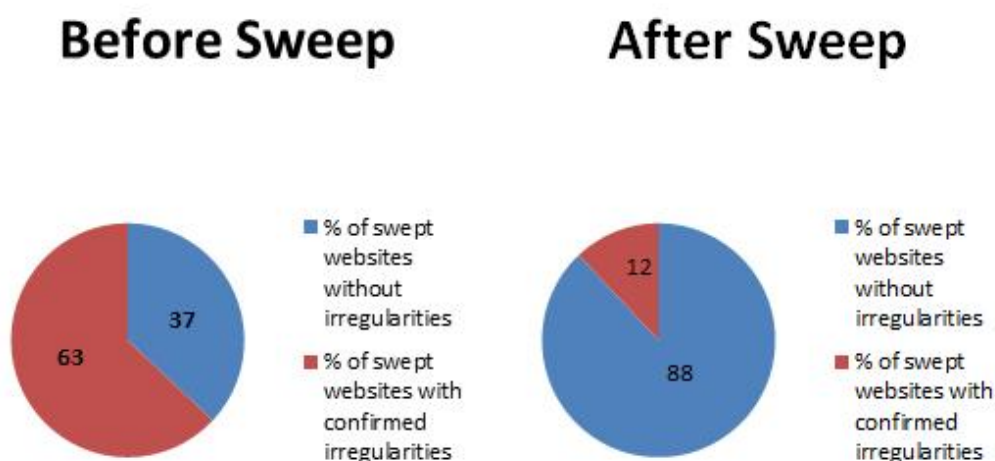


Table 2: % of swept websites without irregularities and with confirmed irregularities before and after the sweep

According to the statistical data of the Consumer Protection Service in Cyprus, the Service in 2016 investigated 10 cases regarding the Consumer Rights Law of 2013, which transposed the CRD into the national law. Most of the cases involved breach of consumers' withdrawal rights and in most of these cases, the trader was obliged to comply with the relevant provisions of the legislation.

2.3. Sale of goods, legal guarantees and unfair terms in contracts

Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees aims to harmonize those parts of consumer sales contract law that concern legal guarantees (warranties) and to a lesser extent, commercial guarantees. According to the provisions of the said Directive, sellers of consumer goods within the EU are obliged to guarantee the conformity of the goods with a contract, for a period of two years after the delivery of the goods.

In autumn 2014, within the context of the Sweep on Legal and Commercial Guarantees in the Electronic Goods sector, consumer protection authorities checked in total 437 websites selling consumer electronics (e.g. mobile phones, computers, cameras, or TVs) in 26 MS, plus Norway and Iceland. 54% (235) of these websites did not sufficiently inform consumers on their free of charge right to get defective goods repaired or replaced within at least 2 years of purchase. They contacted subsequently the companies which run the non-compliant websites in order to bring them in line with EU consumer law. As a result of national enforcement actions, 157 websites have been corrected and 78 websites are subject to on-going enforcement actions. **In Cyprus, 11 websites were checked and found with confirmed irregularities (such as not sufficiently informing consumers on their free of charge right to get defective goods repaired or replaced within at least 2 years of purchase), but were all compliant as of 29 May 2015.**

http://ec.europa.eu/consumers/enforcement/sweeps/guarantees/docs/2014_sweep_guarantees_results.pdf).

According to the statistical data gathered from the European Consumer Centers Network, in 2016 the Centers investigated 240 cross border cases that involved guarantees not being honored by traders, while according to the statistical data of the Cyprus Consumer Protection Service (CPS), the Service during 2016 investigated around 230 such cases. **It should be noted that most of the complaints submitted every year to the CPS relate to guarantees on mobile phones and on other electronic goods and digital equipment.**

A notable case on the breach of legal and commercial guarantees is the Apple case. Apple was found to have breached a number of provisions of EU consumer law on issues of legal and commercial guarantee and on the fairness of commercial practices and contract terms in various MS. In December 2011, Apple was fined €900,000 by Italy's competition authority for not providing adequate disclosures about the two free years of product warranty assistance required under Italian law, while also pushing customers to purchase AppleCare extended warranties without disclosing that many of the benefits overlap the standard warranty. Apple was fined for "unfair commercial practices that damage the consumer" and the fine was upheld by an Italian court in March 2012 (Decisions n. 4455-4456-4457/2012).

Another important legislation in the area of consumer protection is the one that regulates the inclusion of unfair terms in consumer contracts. Standard contracts define the rights and duties of the parties concerned, however, consumers can sometimes be at a disadvantage. This may be because the contract's terms have been drawn up solely by the trader or because the obligations it contains are more onerous on the purchaser than the seller.

Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts introduces a notion of "*good faith*" to avoid any significant imbalance in mutual rights and obligations of consumers and of sellers and suppliers, while it protects consumers in the EU from unfair terms and conditions, which might be included in a standard contract for the purchase of goods or services. This general requirement is supplemented by a non-exhaustive list of examples of terms that may be regarded as unfair and effectively not binding for consumers. The Directive also requires contract terms to be drafted in plain and intelligible language, while it provides that any ambiguities will always be interpreted in favor of consumers.

According to the Consumer Conditions Scoreboard 2015, at least one in ten consumers have come across unfair contract terms (15%) or had to pay unanticipated extra charges (13%) in the last 12 months. Unfair and other

illicit commercial practices are more likely to be reported in domestic than in cross-border transactions, likely due to the fact that the latter occur less frequently. It should be noted that according to the statistical data of the European Consumer Centers Network, in 2016 the Centers investigated 639 cross border cases that involved unfair contact terms.

Currently, the Directive is part of the ongoing fitness check of the EU consumer and marketing law. Fitness Checks are comprehensive evaluations aimed at assessing whether the regulatory framework for a particular policy sector is 'fit for purpose' and they form part of the Commission's Regulatory Fitness and Performance Program (REFIT). REFIT aims at making sure that EU laws deliver their intended benefits for citizens, businesses and society, while it further aims to make EU laws simpler and easier to understand.

The Commission is currently performing a Fitness Check of EU Consumer and Marketing legislation which is expected to be completed within 2017 and it covers the Unfair Commercial Practices Directive, the Sales and Guarantees Directive, The Unfair Contract Terms Directive, The Price Indication Directive, The Misleading and Comparative Advertising Directive and the Injunctions Directive.

2.4. Unfair commercial practices and comparative and misleading advertising

Directive 200529/EC concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') was adopted in 2005 and fully harmonizes unfair commercial practices law in Europe.

"The development of fair commercial practices within the area without internal frontiers is vital for the promotion of the development of cross border activities"

(Recital 2 of the Preamble). *"Disparities between national laws in the area cause uncertainty as to which national rules apply to commercial practices harming consumers' economic interests and create many barriers affecting business and*

consumers"(Recital 4 of the Preamble). Its principle-based provisions address a wide range of practices and are sufficiently broad to catch fast-evolving products, services and sales methods.

The Unfair Commercial Practices Directive, which is also part of the ongoing fitness check of the EU consumer and marketing law, ensures that consumers are not misled or exposed to aggressive marketing and that they make informed and meaningful choices. It defines the commercial practices which are prohibited in the EU, misleading practices (by action or omission) and aggressive practices. In particular, Article 5 of the Directive prohibits unfair commercial practices before, during and after a commercial transaction in relation to a product. A commercial practice is regarded as unfair if it is contrary to the requirements of professional diligence and if it materially distorts or is likely to distort the consumer's economic behavior. Articles 6 and 7 of the Directive offer more specific prohibitions of misleading actions and misleading omissions, whilst Articles 8 and 9 prohibit aggressive commercial practices.

On 14 March 2013, the Commission adopted a Communication on the application of Directive 2005/29/EC on Unfair Commercial Practices (COM (2013)138), providing a first assessment of the application of the Directive in the MS and outlining the actions that need to be adopted in order to maximize its benefits. The Commission's findings indicate detriment and lost opportunities for consumers, in sectors, such as travel and transport, digital and on-line, financial services and immovable property. The Commission has therefore announced plans to step up enforcement of the rules to increase citizens' trust when shopping in the internal market.

According to the Consumer Conditions Scoreboard of 2015, asked about a range of unfair commercial practices experienced in the past 12 months, four in ten consumers report persistent sales calls or messages pressuring them to buy something (42%), followed by false advertisements about limited-time offers (30%) and receiving products as free even though they involve charges (26%).

Notably, according to the statistical data of the ECC Network, in 2016 the Centers investigated 3265 cross border cases that involved unfair commercial practices, which is considerably a large number of cases. Furthermore, according to the statistical data gathered from the Cyprus Consumer Protection Service, the Service investigated during the last year 139 such cases, while it imposed fines up to the amount of €600,000 to traders that were found in breach of the provisions of the Unfair Commercial Practices Law 103(1) of 2007, which transposed the UCP Directive into national law.

Advertising and marketing is any representation or communication made by a trader for the promotion of goods and services and it may be in the form of a commercial or a press article, website information, an e-mail, or even direct marketing through a telephone call. Advertising may mislead or offend, while marketing practices may deceive or they may be aggressive. The aim of Directive 2006/114/EC on Misleading and Comparative Advertising is to prohibit misleading advertising, but to permit comparative advertising under specific conditions. The said Directive is a horizontal instrument applying to all advertising between businesses and Article 2 (a) defines "advertising" as "the making of a representation in any form in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations.»

According to the provisions of the Directive, 'comparative advertising' means any advertising which explicitly or by implication identifies a competitor or goods or services offered by a competitor. This type of advertising is only permitted when it is not misleading. Therefore, in particular, the comparisons should relate to goods or services intended for the same purpose; relate to products with the same designation of origin; deal objectively with the material, relevant, verifiable and representative features of those goods or services; avoid creating confusion between traders, and should not discredit, imitate or take advantage of the trade mark/names of a competitor.

At the end of 2011, the Commission ran a public consultation, requesting information from MS on misleading advertising marketing practices. According to the feedback gathered, there exists a wide variety of rules that go beyond the minimum EU-wide protection against misleading advertising. http://ec.europa.eu/justice/consumermarketing/files/communication_misleading_practices_protection_en.pdf). The level of protection amongst European businesses remains varied however, as MS have chosen many different models to transpose the Directive. The Directive is also part of the ongoing fitness check of the EU consumer and marketing law.

2.5. Price Indication

The main purpose of Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers ("Price Indication Directive") is to ensure that the selling price and the price per unit of measurement (unit price) are clearly indicated for all products offered by traders to consumers, in order to improve consumer information and to enable price comparisons.

According to the provisions of the directive, all prices must include VAT and other taxes, while the selling price must be unambiguous, easily identifiable and clearly legible. The directive is based on minimum harmonisation and as such MS may adopt provisions which are more favorable for consumers. The Price Indication Directive is also currently part of the ongoing fitness check of the EU consumer and marketing law, as mentioned above.

2.6. Liability for defective products

If a product bought within the EU is defective or doesn't work, EU consumers can ask for compensation. Directive 85/374/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (Directive 1999/34/EC extended the scope of liability to agricultural and fishery products) harmonizes laws concerning liability for

defective products. The said directive is commonly referred to as the «Product Liability Directive» and it establishes the principle that the producer of a product is liable for damages caused by a defect in his product. According to the provisions of the directive, a product is defective if it does not provide the safety that consumers generally are entitled to expect taking account of all of the circumstances, including the product's get up and presentation and its expected use.

Articles 1 to 12 create a scheme of strict product liability for damage arising from defective products in addition to any existing rights that consumers enjoy under domestic law (Article 13). According to the provisions of the directive, damages covered by the PLD are limited to (a) damage caused by death or by personal injuries and (b) damage to, or destruction of, any property other than the defective product itself, with a lower threshold of €500 provided that the property is ordinarily intended for private use or consumption and was used by the injured person mainly for his or her private use or consumption. The directive sets out a time limit of 3 years for the recovery of damages and forbids clauses limiting or excluding the liability of the producer.

According to the statistical data of the ECC Network, in 2016 the Centers investigated 4799 cross border cases that involved defective products, 1599 cases of products that caused damage and 73 cases involving unsafe products. Undoubtedly, there seems to be a large number of defective products within the EU. According to the statistical data of the Cyprus Consumer Protection Service, the Service in 2016 carried out 5674 inspections, investigated 17 complaints, collected 129 samples and issued 215 notifications of sale suspension, product recalls and compliance (23, 146 and 46 respectively). On a national level, it appears that a number of actions are being taken to address the issue of product safety.

Since its adoption, the Directive has not been subject to any evaluation, therefore the EU Commission has decided to conduct an evaluation supported by an external study, including an evidence-based assessment of whether the Directive is 'fit for

purpose', particularly where new technological developments are concerned. The evaluation is expected to be completed in July 2017.

2.7. Consumer credit

Consumer credit is a debt that a person incurs when purchasing a good or service, including purchases obtained with credit cards, lines of credit and some loans. Financial services in general and consumer credit agreements in particular can be very complex for consumers to understand and to compare offers and they may often end up with agreements unsuited to their needs. When purchasing credit, consumers need full information on the cost of the credit facility to better compare different kinds of credit and find the most suitable credit package. Furthermore, transparency ensures effective competition in the market of providing credit to consumers, hence a wider choice for consumers.

The Consumer Credit Directive (*Directive 2008/48/EC on credit agreements for consumers*), adopted on 23 April 2008, was mainly introduced in order to foster the integration of the consumer credit market in the EU and to ensure a high level of consumer protection by focusing on transparency and consumer rights. The 2008 Consumer Credit Directive, which replaced the 1987 Consumer Credit Directive, is based on full (maximum) harmonisation, thus establishing a harmonised set of rules within core areas of the credit market among EU member states.

The CCD applies to most credit agreements with a value between EUR 200 and EUR 75 000, while according to its provisions, consumers are protected by a 'safety net' of rights, such as the right to a comprehensible set of pre-contractual information in a standardized format (the Standard European Consumer Credit Information form) to allow consumers to compare more easily the various offers and to better understand the information provided; the right to withdraw from a credit agreement within 14 days after the conclusion of the contract without giving any reason; and the right to repay early at any time. Furthermore, the CCD sets new requirements on advertising information, which must now include the interest rate and any charges included in the total cost of credit to the consumer, with a clear indication of the annual percentage rate of the loan (APR).

According to the main conclusions of the Commission's Report on the implementation of the Directive adopted on 14 May 2014 (http://ec.europa.eu/consumers/archive/rights/docs/ccd_implementation_report_en.pdf), creditors should ensure that the rights of EU consumers granted by the Directive are being respected. Among the rights demanding follow-up action are those regulating advertisements and pre-contractual information. The findings of the Report indicate that creditors do not always provide information to consumers about their rights, particularly on their 14-day withdrawal right and on their right of early repayment.

In May 2013, the Commission launched a communication and information campaign titled "Knowing your consumer rights with respect to credit agreements". The objective of the campaign was to raise awareness - among the target audience of ages between 18-35 in Malta, Cyprus, Spain and Ireland - of a specific subset of the rights granted by the EU Consumer Credit Directive. The campaign focused on five key rights, namely the right to transparent advertising, the right to receive standardised and comparable information before signing a contract, the right to clear information in the contract, the right to withdraw from an agreement within 14 days without explanation, and the right to repay early. The evidence collected during the evaluation suggested that a campaign to increase consumers' awareness of their rights was required in order to empower consumers.

2.8. Package holidays and timeshare properties

'Package travel' refers to a combination of travel services, including transport, accommodation and other services not associated with transport or accommodation, but which form a significant proportion of the package, such as car rental etc. The rules on package travel date back to 1990 when the internet did not exist, airlines were not liberalised and the travel market mostly offered ready-made package holidays and tours.

However, today's consumers, mainly because of the rapid development of the internet, are increasingly interested in personally putting together their own customised travel arrangements with the assistance of different online or offline operators instead of buying pre-arranged travel packages.

As a result of these developments, the rules under the existing *Directive 90/314/EEC on travel, package holidays and package tours of 13 June 1990 (Package Travel Directive)*, created legal grey areas and uncertainty for both businesses and consumers and it has therefore been overhauled so that it better reflects today's travel market.

On 25 November 2015, the new Package Travel Directive was adopted, bringing EU legislation up to date with the developments in the travel market and also bringing holidaymakers' rights into the digital age. The 1990 Package Travel Directive, which will remain applicable until 30 June 2018, already covers pre-arranged holiday packages which combine at least two of the following: (a) transport; (b) accommodation; (c) other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package.

The new rules will extend protection of the 1990 EU Package Travel Directive beyond traditional package holidays organised by tour operators, giving a clear and enhanced protection to 120 million consumers who book other forms of combined travel, e.g. a combination of a flight plus hotel or car rental put together on a website. Such combinations will be protected as package, in particular where the travel services are advertised as a package, are booked within the same booking process or where they are offered or charged at a total or inclusive price.

In addition to existing rights, travelers will also benefit from reinforced rights regarding clearer information, fairer and more predictable prices, stronger cancellation rights, clear identification of the liable party, clear liability for booking errors, clarification on essential consumer rights and guarantees of money-back and repatriation. Under the new EU rules, almost 120 million travellers buying combined travel arrangements will be protected, while it is expected to reduce damages to consumers by about €430 million a year.

Businesses will also benefit from modernised rules and less administrative burden.

Timeshare is the annual right to use accommodation during one or more weeks in a holiday property or several properties. In Europe, there are approximately 1,500 timeshare resorts. In 2009, Directive 2008/122/EC on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts, replaced former Directive 94/47/EC with clearer and simpler rules and modernized its provisions in order to deal with the emergence of new products in the travel market.

The new Timeshare Directive lays down a number of consumer rights, including strict rules on pre-contractual and contractual information that the trader has to provide to the consumer (price to be paid, a description of the product and the exact period and length of stay that the consumer is entitled to under the contract) the right for the consumer to withdraw from the contract within a "cooling-off" period of 14 calendar days and a ban on advance payments during the withdrawal period.

Protection by the Directive also covers some newer products on the market and contracts which had been developed so as to avoid the application of the previous Timeshare Directive, such as long-term holiday products (e.g. holiday clubs), shorter term contracts, e.g. timeshare in canal boats, cruise-ships and caravans or timeshare contracts for less than three years (previous legislation only covered periods of three years or more) and resale and exchange of timeshare schemes.

According to the statistical data of the ECC Network, in 2016 the Centers investigated in total 1097 cross border cases on package holidays and 868 cross border cases on timeshare, indicating an increase in the number of complaints in this area. According to the statistical data of the Cyprus Consumer Protection Service, the Service in 2016 investigated 16 such cases, which is relatively a small number of complaints compared to the number of cross border complaints.

2.9. Air transport

The EU has developed a set of passenger rights in all modes of transport (air, rail, waterborne, bus and coach) with the aim of ensuring the same level of protection for passengers (compensation and assistance to passengers in the event of accidents, cancellations or delays) no matter which mode of transport they decide to use and regardless of their nationality.

Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights sets minimum standards for air passenger rights to compensation and assistance in the event of overbooking, cancellation or long delay of flights. The Regulation applies to all flights within the EU, all flights departing from the EU to a country outside the Union, regardless of country of registration of the airline, and all flights arriving in an EU country and carried out by a European airline.

In particular, Regulation 261/2004 provides passengers with the right to reimbursement or re-routing, right to information, care and assistance (refreshments, communication and accommodation) and right to compensation for delays over 3 hours, or cancellations as long as they are not caused by an “extraordinary circumstance”, which could not have been avoided, even if all reasonable measures had been taken, such as a strike, bad weather conditions, technical problems etc.

"Extraordinary circumstances" are not defined comprehensively and a body of case law has been developed to restrict air carriers' defense. In *Case C-549/07 Wallentin - Herrmann v Al Italia* [2008] ECR, a question was referred to the ECJ to establish whether a technical defect affecting an aircraft, which results in the cancellation of the flight, is covered by the term “extraordinary circumstances” within the meaning of Article 5(3) of Regulation 261/2004.

According to the Court's ruling, “extraordinary circumstances” may be regarded as covering only circumstances which are not inherent in the normal exercise of the activity of the air carrier concerned and are beyond the actual control of that carrier on account of its nature or origin. However, even a technical problem that occurs unexpectedly and that is not attributable to poor maintenance and that was

also not detected during routine maintenance checks, does not fall within the definition of 'extraordinary circumstances' (*Case C-257/14 Van der Lans v KLM [2015] ECR*). In the said case, the CJEU arguably narrowed what might constitute 'technical defect' from the previous guidance found in *Wallentin- Hermann v Alitalia*.

The ECJ has furthermore handed down judgments regarding the interpretation of Regulation 261/2004, notably in the joined Cases C-581/10 and C-629/10 in relation to the right to compensation in case of long delays, confirming the Sturgeon ruling, according to which passengers are entitled to compensation in case of delays of more than 3 hours at arrival, in Cases C-321/11 and C- 22/11 clarifying the concept of 'denied boarding' and in Case C-294/10 clarifying the concept of 'reasonable measures' to avoid exceptional circumstances.

As a number of judgments of the ECJ have affected the content and scope of the Regulation, since it entered into force in 2005, the EU identified the need to publish the *Interpretative Guidelines on Regulation (EC) No 261/2004 of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and on Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents as amended by Regulation (EC) No 889/2002 of the European Parliament and of the Council* to facilitate air travel for passengers and assist air carriers to improve the application of the Regulation. The Guidelines, published on the 15th of June 2016, seek to assist national authorities with the enforcement of the Regulation and to ensure an equal level playing field for all air carriers.

Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air is part of a general plan to reinforce passenger rights on all forms of transport. Persons placed at a disadvantage by reduced mobility should be allowed to have access to air travel on an equal footing with passengers without mobility limitations. The Regulation aims to standardise the assistance provided to persons of reduced mobility in airports and on board aircraft, the right to compensation for lost or damaged wheelchairs, mobility equipment or assistive devices and the right not to be refused carriage on the grounds of disability or of reduced mobility.

It should be stressed that according to the Anniversary Report 2005-2015 of the European Consumer Centers Network (ECC-Net) (the Network will be analyzed in further detail in Chapter 4), complaints about all forms of journey, together with complaints about package travel, timeshares – and a growing proportion of complaints about car rentals – every year make up between 30-35% of all complaints. In particular, during 2016 the ECC Net investigated in total 8116 cross border cases on passenger transport by air and 1096 cross border cases regarding luggage transport by air.

In Cyprus also, the transport sector is regularly the number one source of cross border complaints accounting for over 30% of all complaints each year, as reported by the European Consumer Centre of Cyprus. Furthermore, the Department of Civil Aviation of the Cyprus Ministry of Transport, Communications and Works, which is the national enforcement body (NEB) of the abovementioned EU Regulations, investigated in 2016 around 320 complaints regarding air passenger rights.

Source	EU – Number of complaints 2016	Cyprus – Number of Complaints 2016
ECC Network – ECC Cyprus	8116 & 1096 luggage transport	Around 60 complaints
Department of Civil Aviation- Ministry of Transport, Communications and Works	Data not available	320 complaints

Chapter 3

Other key EU policy areas related to consumer protection

Consumer protection policy is a transversal policy. Many EU policies directly affect consumers in such areas as product safety, internal market, digital market, financial services, food safety and labelling or energy. The Commission's objective is to safeguard and integrate into its policies the interests of the consumers. As mentioned further above, among the objectives of the European Consumer Agenda, which is the strategy for EU consumer policy in line with the EU's growth strategy, Europe 2020 and the Consumer Program 2014-2020, is the promotion of consumer safety and the integration of consumer interests into key sectoral policies.

3.1. Product safety

Consumer safety has long been high on the EU's agenda and EU consumer policy guarantees a high level of consumer safety in many areas, while stringent safety standards apply to toys, electrical appliances and electronic goods, cosmetics, pharmaceuticals, food, lighters, personal protective equipment, machinery and recreational boats.

Products placed on the market in the EU are subject to general safety requirements, which are included in the General Product Safety Directive 2001/95/EC (GPSD) . The GPSD aims at ensuring that only safe consumer products are sold in the EU and it applies in the absence of other EU legislation, national standards, Commission recommendations or codes of practice relating to safety of products. It also complements sector specific legislation, while it does not

cover pharmaceuticals, medical devices or food, which fall under separate legislation.

Furthermore, the Directive establishes RAPEX (Rapid Exchange of Information System), which enables quick exchange of information between 31 national authorities and the Commission about dangerous non-food products posing a risk to health and safety of consumers. The Commission informs the National Contact Points of all other EU countries and publishes on the internet overviews of dangerous products and the measures taken to eliminate the risks.

RAPEX which has been operational since 2004 has over the years increased the amount of information shared on dangerous products found on national markets, from around 460 notifications in 2004 to around 2044 in 2016, mostly regarding toys, clothing, textiles and fashion items, e.g. loose cords on children's clothing or toxic chemicals in upholstery. The category "motor vehicles" has also grown in importance with 372 notifications, compared to clothing, which was more prominent in the past (http://ec.europa.eu/newsroom/document.cfm?doc_id=43437).

During 2016 Cyprus submitted in the Rapid Alert System, 118 notifications, 19 reactions and 62 notifications followed up by reactions. The three main product categories in notification were toys (56 notifications), clothing, textiles and fashion items (35 notifications) and electrical appliances and equipment (19 notifications).

Following public consultation on the revision of the current GPSD, the Commission proposed a new Product Safety and Market Surveillance Package of legislative and non-legislative measures aimed to improve consumer product safety and to strengthen market surveillance of products in the EU.

3.2. Digital single market

"Digital technologies are going into every aspect of life. All they require is access to high speed internet. We need to be connected, our economy needs it, people need it"

(Jean-Claude Juncker, State of the Union Address European Parliament, 14 September 2016). The Digital Single Market Strategy for Europe, announced in May 2015 is built on three pillars: 1. better access for consumers and businesses to digital goods and services across Europe; 2. creating the right conditions and a level playing field for digital networks and innovative services to flourish and 3. maximizing the growth potential of the digital economy. 16 initiatives are outlined that aim to create a connected digital single market and to encourage e-commerce throughout the EU.

A Digital Single Market requires better access to online goods and services, both for consumers and businesses and ensures free movement of persons, services and capital where consumers and businesses can access and exercise online activities under conditions of fair competition and a high level of personal data protection, irrespective nationality or place of residence.

As analyzed in Chapter 2, the European Commission has presented in 2015 two proposals for Directives on certain aspects concerning contracts for the supply of digital content and on certain aspects concerning contracts for the online and other distance sales of goods. The proposed Directives attempt to simplify and promote access to digital content and online sales across the EU, regulating aspects of the relationship between traders and consumers based on the means of purchase (on line and distance) or on the content of the purchase (digital content). The two proposals aim to tackle the main obstacles to cross-border e-commerce in the EU, namely legal fragmentation in the area of consumer contract law and resulting high costs for businesses and lack of consumer trust when buying online from another EU country.

Today' s big challenge is to benefit from a digital sinlge market. The number of consumers buying online has risen by 50% since 2011. As a result of removing contract laws related obstacles, it is estimated that over 122,000 EU businesses will start selling to consumers in other MS and that the total number of consumers buying online from other EU countries could reach up to 70 million, opening up new markets, especially for small and medium-sized enterprises, increase competition and contribute to economic growth; lower consumer prices are

expected to boost consumption in the EU by €18 billion and EU GDP is expected to increase by €4 billion from its current level (http://europa.eu/rapid/press-release_IP-15-6264_en.htm).

3.3. Financial services

Financial services have a very significant impact on consumers' lives. EU rules protect consumers' interests by ensuring a high degree of transparency in the financial services sector and contribute to an environment that protects consumers, promotes market integrity and supports investment, growth and jobs.

General legislation adopted, relating to consumer protection in financial services, includes Directive 2007/64/EC on payment services in the internal market, Regulation (EC) No 924/2009 on cross-border payments in the Community, Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market, Directive 2008/48/EC on credit agreements for consumers, Regulation (EU) No 1286/2014 on key information documents for packaged retail and insurance-based investment products and Directive 2014/92/EU on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.

It should be highlighted that according to the findings of the Consumer Markets Scoreboard 2016, the financial services show the biggest improvements, though they remain the lowest performing sector. Consumers now have more trust in their banks, private pensions and investment funds. This suggests that EU policy efforts, such as the implementation of the Consumer Credit Directive and the EU awareness raising campaign carried out in 2014, are starting to pay off.

According to the statistical data of the ECC Network, in 2016 the Centers investigated in total 946 cross border cases that involved the provision of financial services, while in Cyprus the Consumer Protection Service investigated in total 18 such complaints, most of them involving extra fees and charges on housing loans.

Another important achievement in the area of financial services is the establishment of FIN-NET. FIN-Net, launched by Commission in 2001, is a financial dispute resolution network that links 57 out-of-court Alternative Dispute Resolution (ADR) schemes in the European Economic Area countries (the EU MS plus Iceland, Liechtenstein and Norway) responsible for handling disputes between consumers and financial services providers, i.e. banks, insurance companies, investment firms, etc. FIN-NET provides consumers with easier access to out-of-court complaint procedures in cross-border cases, thus facilitating the market in cross-border financial services. If a consumer has a dispute with a financial services provider regarding a product purchased cross-border, FIN-NET members will put the consumer in touch with the relevant ADR scheme and provide the necessary information about it.

According to the latest statistical data, in 2015 FIN-NET handled around 4200 crossborder cases (based on data received from 40 FIN-NET members) of which 1300 were in the banking sector, 699 in the insurance sector and 559 in the investment sector. From 2007 to 2015, the number of cross-border disputes handled by FIN-NET members quadrupled — from around 1000 cases handled in 2007 to over 4000 cases in 2015, indicating a rapid increase of disputes in this area (http://ec.europa.eu/finance/fin-net/docs/activity/2015_en.pdf).

3.4. Food safety and labelling

European consumers have the right to know how the food they consume is produced, processed, packaged, labelled and sold. Food law establishes the right of consumers to safe food and the EU labelling rules enable the citizens to get comprehensive information about the content and composition of food products, enabling them to make an informed choice while purchasing their foodstuffs.

The EU's food safety policy covers food from farm to fork and its aim is to ensure (1) safe, nutritious food and animal feed; (2) high standards of animal health and welfare and plant protection and (3) clear information on the origin, content/labelling and use of food.

The new Regulation (EU) No 1169/2011 on the provision of food information to consumers entered into application on 13 December 2014 and it accordingly combines 2 Directives into one legislation, i.e. Directive 2000/13/EC relating to the Labelling, presentation and advertising of foodstuffs (applicable until 12 December 2014) and Directive 90/496/EEC relating to the Nutrition labelling for foodstuffs. The Regulation establishes a legal framework in the EU with regard to information related to foodstuffs provided to consumers by food business operators at all stages of the food chain.

3.5. Energy

An integrated EU energy market could ensure secure, reasonable priced, sustainable and affordable supplies to EU consumers, who should have access to comparable and clear information on the services they receive, reliable information delivered in real-time in order to increase their control over their energy decisions.

Besides the general consumer rights guaranteed in EU legislation, the EU has established, since the opening of the energy supply market, a set of rights that all EU citizens enjoy as energy consumers. These include among others the right to an electricity connection, the right to a choice of supplier, the right to an easy and fast switch of supplier, the right to clear contract information and right of withdrawal, the right to accurate information on consumption, the right to information on how to use energy more efficiently and on the benefits of using energy from renewable sources, the right to receive adequate protection, especially for "vulnerable" consumers, the right to easy resolution of complaints and disputes etc.

The main general legislation adopted in this area is Directive 2009/72/EC concerning common rules for the internal market in electricity, as well as Directive 2009/73/EC concerning common rules for the internal market in natural gas, Directive 2012/27/EU on energy efficiency, Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products and Directive 2010/31/EU on the energy performance of buildings.

In November 2015, the Commission published the Energy Consumer Trends 2010 - 2015 Report (as a contribution to the first State of the Energy Union package) and according to the main findings of the report:

□ 31% of survey respondents reported having had a problem with their electricity company in the past three years. This level ranges from 17% in Germany to 60% in Romania.

□ Only 40% of survey respondents strongly agreed that the electricity bills of their electricity company were easy and clear to understand. More than 6 out of 10 respondents in **Lithuania, Estonia and Cyprus** strongly agreed that their bills were easy and clear to understand, compared to less than 3 out of 10 respondents in Spain, Bulgaria and Italy.

34% of respondents disagreed that advertising from electricity companies does not deceive, mislead or omit relevant information. Similarly, 39% of respondents strongly agreed that electricity companies made their tariffs appear more attractive than

they really are to encourage
customers to switch.

On 30 November 2016, the Commission proposed a package of measures "*Clean Energy for All Europeans – unlocking Europe's growth potential*", including new rules on EU energy market design in order to help energy markets include more renewables, empower consumers and better manage energy flows across the EU.

Chapter 4

Protection of consumers' rights, enforcement and redress

Empowering consumers and effectively protecting their safety and economic interests are essential goals of European policy in the area of consumer protection. Among the objectives of the European Consumer Agenda 2020, is the strengthening of the enforcement of consumer rules and the empowerment.

Submitting a complaint and securing an effective redress can undoubtedly reinforce consumers' confidence in the shopping environment. To this end, a number of EU initiatives were introduced with the aim to assist consumers enforce their rights and ensure effective redress across the EU via the channels of both out-of-court and in-court dispute resolution.

According to the results of the Consumer Conditions Scoreboard, Consumers at home in the Single Market (2015 edition), the resolution of disputes is perceived to be more effective through out-of-court bodies than through courts (46% of consumers agreed that it is easier to settle disputes with retailers and service providers through out-of-court bodies).

However, trust in both redress mechanisms is still rather low and no clear improvement has been seen since 2010. Furthermore, less than three quarters of those who experienced a problem took action to solve the problem. Out of those, the vast majority contacted the retailer or service provider directly (63%), while 14% complained to the manufacturer or, in fewer cases, took the matter to a public authority (6%), an out-of-court dispute resolution body (5%) or to court (2%).

Cyprus has the third lowest score in the EU on the knowledge and trust composite indicator. The length of judicial proceedings is the second highest in Cyprus among EU Member States, while Cyprus has the third lowest percentage of retailers' participation in ADR mechanisms. On the positive

side, the percentage of consumers who report problems in the past 12 months is the lowest in the EU.

4.1. Cross border consumer protection and European Networks

The Single Market refers to the EU as one territory without any internal borders or other regulatory obstacles to the free movement of goods and services. Effective consumer protection has to respond to the development of cross-border trade in the EU and the challenges of the digital era. Towards ensuring compliance with EU consumer law, the Commission has established specific networked administrative structures with national regulatory agencies aiming to harmonize and improve implementation at national level.

Enforcement authorities in the MS play the most important role in ensuring consumers' rights, both at national and cross-border level. The Consumer Protection Cooperation (CPC) Regulation 2006/2004 establishes an EU-wide network of public authorities responsible for enforcing consumer laws in the MS. *The establishment of the CPC network is an attempt to overcome the limits in the effectiveness of the traditional solutions based on the government and the market (i.e., private enforcement)* (Poncibo 2012: 186).

The objective of the CPC Network is mainly to facilitate cooperation between public authorities responsible for enforcing the laws that protect consumer interests in dealing with intra-Community infringements and to enable national authorities to exchange information and cooperate easily and seamlessly with counterparts in other MS, ensuring that each MS effectively enforces EU law in its territory. Furthermore, the Network regularly carries out EU-wide screenings of websites, the so called "EU sweeps", which are coordinated checks performed simultaneously in different Member States to identify breaches of consumer protection law and to subsequently ensure its enforcement.

Since 2007, more than 4,500 e-commerce websites in various economic sectors have been screened for infringements of EU law resulting in an increased level of compliance. So far, the EU Sweep actions have focused on airline tickets , mobile phone services, electronic goods, online ticket sales, consumer credit, digital

contents, travel services, guarantees on electronic goods and consumer rights directive. The main objective of a Sweep is to check whether on-line traders comply with legal requirements of the consumer protection laws, as transposed in the national legislation and in case of suspected irregularities traders are required to take corrective action or face legal action.

Websites checked by MS Authorities and found in compliance with EU Consumer Law

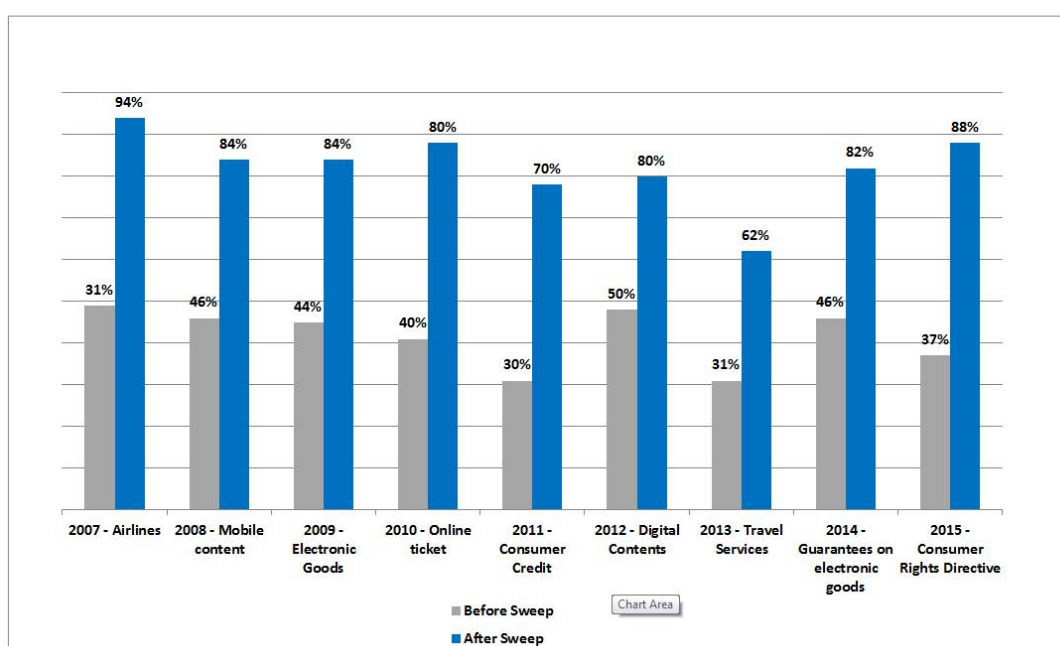


Table 3: Websites checked by MS Authorities and found in compliance with EU Consumer Law

Another recent important initiative taken by the CPC is the coordinated assessment of the problematic practices taking place in leading social media services (Facebook, Twitter and Google+) in an action led by the French Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) in November 2016, with the facilitation of the Commission. On the 16th of March 2017, EU consumer authorities and the Commission met with these social media companies to hear and discuss their proposed solutions. On the occasion, Commissioner Jourová said: *"Social media has become part of our daily lives and a majority of Europeans use it regularly. Given the growing importance of online social networks it is time to make sure that our strong EU rules, that are there to protect consumers from unfair practices, are complied with in this sector..... Nor can we accept that users are deprived of their right to withdraw from an on-line*

purchase. Social media companies also need to take more responsibility in addressing scams and fraud happening on their platforms..... "

On 25 May 2016, the Commission put forward a proposal for the reform of the CPC Regulation in an attempt to better enforce EU consumer law, especially in the fast evolving digital age. The said proposal is expected to modernise the current CPC Regulation, improve the cross-border enforcement of EU consumer laws and equip enforcement authorities with the powers they need to work together faster and more efficiently.

As for the channels put in place specifically to facilitate the resolution of cross-border disputes, the European Consumer Centers (ECC), co-financed by the European Commission and national governments, provide consumers with information on their rights and assist them in solving disputes with traders based in other MS.

The ECCs, which operate in all 28 Member States, as well as in Norway and Iceland, promote the understanding of EU consumers' rights and assist in resolving complaints about purchases made in another country of the network, when travelling or shopping online. The aim of the network is to provide free of charge help and advice to consumers on their cross-border purchases, whether online or on the spot within these 30 countries.

Over the last 10 years, the ECCs received more than 650,000 requests for information about EU consumer rights (up 30% over 2 years 2012-2014) and dealt with nearly 300,000 complaints from consumers needing assistance (up 16% over 2 years 2012-2014). More than two thirds of the complaints received by the ECC-Net were about cross border e-commerce, reflecting the interest of consumers in a well-functioning Digital Single Market. The growth in e-commerce over the last decade has had a big influence on the ECC's work. **In 2005, 29% of complaints were related to e-commerce, while in 2014 those complaints amounted to 68%.**

Complaints relating to travelling represent about one third of all complaints. The most striking increase in complaints is related to car rental; the figure has more than doubled, from 835 complaints in 2010 to 1761 complaints in 2014. Complaints about all forms of journey, together with complaints about package travel, timeshare and car rentals every year make up between 30-35% of all complaints handled by the ECC Net.

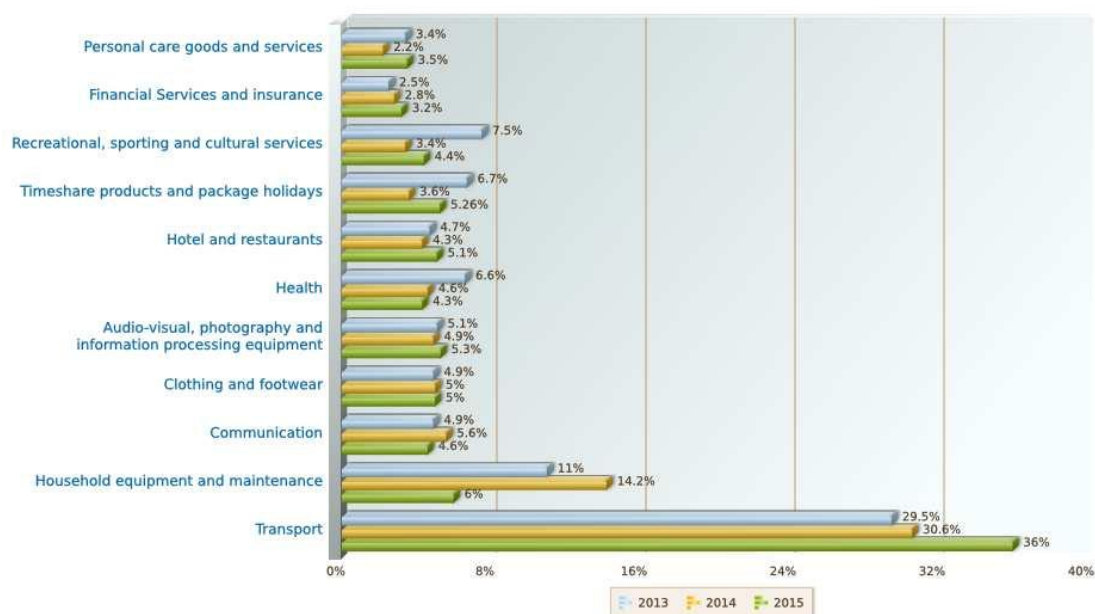


Table 4: Products/Services concerned for years 2013-2015 - Source http://ec.europa.eu/internal_market/scoreboard/performance_by_governance_tool/european_consumer_centre_network/index_en.htm

During 2016, the Network investigated over 44,000 complaints, 77% of those were related to e-commerce, an impressive increase compared to the 29% recorded in 2005. 38.34% of the complaints were linked to transport and 17.34% to recreation and culture.

Furthermore, over the last 10 years, the Network has supported enforcement authorities by providing evidence and it has also provided data and produced studies and reports as an input into EU policies (Digital Single Market, Single Market Strategy, review of small claims procedure, Passenger Rights Regulation

and Timeshare Directive), while early warnings have been provided on emerging market trends (e.g. report on geographical discrimination).

Today, the ECC-Net is in direct contact with over 10,000 consumers every year and handles about 40,000 consumer complaints. Over 3 million consumers find the information they need on the ECCs websites or through their apps, from ECC staff on stands at events, or from media reports highlighting warnings or cases published by the Centers.

In Cyprus, the ECC Cyprus during 2016 responded to 497 information requests, while it investigated 249 cross border complaints. It should be noted that in the three previous years (2013-2015) the Centre investigated 152, 181 and 193 cases respectively indicating a steady increase in the number of complaints received each year. Evidently, the widespread use of internet and the increase of e-commerce across borders plays an important part in the increase of cross border complaints.

4.2. Alternative dispute resolution (ADR) and online dispute resolution (ODR)

Among the tools for stepping up enforcement and securing redress, besides judicial redress, is the new legislation on Alternative Dispute Resolution (ADR) ensuring that consumers can turn to quality ADR entities to settle their contractual disputes with traders, both domestically and cross-border. In addition, an EU-wide online platform has become operational since February 2016 for disputes that arise from online transactions (Online Dispute Resolution (ODR) platform). The ADR Directive mainly deals with the setting up and regulation of ADR entities and the ODR Regulation provides for the setting up of a free, cross-border online dispute resolution platform which aims to facilitate the selection of a suitable ADR entity to resolve disputes between consumers and traders.

Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) ensures that EU consumers have access to ADR for resolving their domestic and cross-border contractual disputes with EU traders. ADR offers a quicker and cheaper alternative to the court system, when disputes cannot be resolved between the consumer and the business directly. The greater availability of ADR is expected to strengthen consumer protection and improve consumer confidence.

The Directive requires MS to ensure that quality ADR entities are available for consumers across the EU, by setting out common minimum quality standards, which guarantee that these entities operate in an effective, fair, independent and transparent way. Furthermore, MS must ensure that their approved ADR entities maintain up-to-date websites and provide transparent information about their services, offer their services at no or nominal cost to the consumer and hear and determine complaints within 90 days of referral.

According to the statistical data of the ECC Network, in 2016 1510 cases were transferred to ADR entities, while in Cyprus only 11 cross border cases were transferred to an ADR entity. It should also be noted that the national law, transposing the ADR directive will be replaced by a new law, which is currently pending for voting at the House of Parliament.

Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR) established the ODR platform. The ODR platform is a web-based, user-friendly, multilingual platform that allows EU consumers and traders to settle their disputes for both domestic and cross-border online purchases (offline transactions are excluded) out-of-court in a simple and fast way.

The platform links all the ADR entities notified by the MS in line with the ADR Directive, while under the new legislation, traders must also provide a link to the

ODR platform on their website. Accordingly, the consumer fills in an online complaint form and submits it, the complaint is then sent to the relevant trader who proposes an ADR entity to the consumer. Once consumer and trader agree on an ADR entity to handle their dispute, the ODR platform transfers automatically the complaint to that entity which handles the case entirely online and reaches an outcome in 90 days.

According to Věra Jourová, Commissioner for Justice, Consumers and Gender Equality: *“Most consumers experiencing problems when buying online don't complain, as they believe the procedure is too long and that it won't be solved. The Online Dispute Resolution platform is an innovative tool saving time and money for consumers and traders. It will improve consumer trust when shopping online and support businesses selling cross border, contributing to Europe's Digital Single Market”.*

ADR - 2016	ODR - up to February 2017
1510 cross border cases transferred to ADR entities in the EU	Over 24,000 consumer complaints lodged
In Cyprus 11 cross border cases trnasfered to an ADR entity	Most complaints were about clothing and footwear, airline tickets and information and communication technology goods
	27 MS have communicated to the Commission that they have fully implemented the Directive on consumer ADR. 24 MS have sent their national list of ADR entities, while 27 MS have designated their national ODR contact points.

4.3. Collective redress

Collective redress is a mechanism that may accomplish the cessation or prevention of unlawful business practices which affect a multitude of claimants or the compensation for the harm caused by such practices. In effect, there are two

main forms of collective redress: by way of injunctive relief, claimants seek to stop the continuation of illegal behaviour; by way of compensatory relief, they seek damages for the harm caused.

Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests, also part of the ongoing Fitness Check of the EU consumer and marketing law, seeks to introduce EU rules to ensure that injunctions are effective enough to terminate infringements which are harmful to the collective interests of consumers. It provides that all MS have in place injunction procedures for stopping infringements of EU consumer rights, while it harmonizes some aspects of the injunctions procedure across the EU.

It also allows qualified entities from a MS, such as a consumer representative body and/or independent public body to seek an injunction in another MS where the infringement originated and which harm collective consumer interests. Currently, collective redress schemes exist in most, but not all, MS. There are eight countries that currently do not have a collective redress scheme: Belgium, **Cyprus**, Czech Republic, Estonia, Latvia, Luxembourg, Slovakia and Slovenia, with only a few EU countries providing a workable and consumer friendly form of judicial collective action.

Due to the very limited degree of EU-level coordination in respect of collective actions, the Commission adopted in 2013 Recommendation 2013/396/EU on common principles for injunctive and compensatory collective redress mechanisms. The Recommendation puts forward a set of common non-binding principles for national collective redress mechanisms across the Union and is designed to ensure a coherent approach to collective redress in the EU. By 26 July 2017, the Commission will assess the practical impact of the Recommendation and will determine whether further measures should be proposed. This evaluation process is considered as an appropriate and timely opportunity to reflect on how MS systems have been developing and on what the future of collective redress in the EU should be.

Chapter 5

EU consumer protection policy - Achievements, shortcomings and future challenges

EU consumer policy, which represents one of the most significant achievements of the single market, provides a set of harmonised rules that applies to all sales of consumer products and services purchased online and offline across the EU, access to efficient, cost-effective and speedy dispute resolution mechanisms, product safety, information, advice and support on consumer issues and protection of vulnerable consumers such as children.

EU consumer protection legislation is among the tools for the protection of the safety, health, economic and legal interests of consumers. As analysed in the Introduction, the Council adopted its first programme for consumer protection and information policy in 1975, establishing the five fundamental consumer rights. The said programme and the subsequent programmes were the basis for an ever growing number of EU legislative initiatives in the area of consumer protection.

According to Article 4 of the TFEU, consumer protection issues are a shared competence of the EU and MS. The particular legal instrument primarily used by the EU in the field of consumer protection has been the directive. At present, over 90 EU directives cover consumer protection issues resulting in a complex and sometimes inconsistent consumer acquis, as the same directive can be transposed into national law differently. The greater part of EU consumer law remains of a minimum harmonisation level, therefore most of these EU directives introduce a set of minimum common rules which must be implemented in all MS, allowing them to adopt or maintain more consumer-friendly measures, provided these are compatible with the Treaties.

Among the tools of assessing, monitoring and improving the protection of consumers are the market monitoring tools (such as the two different editions of consumer scoreboards, published by the European Commission), the tools for awareness-raising (providing information to consumers about their rights such as the ECC-Net, the various awareness campaigns carried out at a national or European level ie. on passenger rights, online rights, consumer credit etc) and the tools for ensuring enforcement and redress (such as the CPC and its sweeps, the ADR and ODR, collective redress etc).

Evidently, there have been a lot of achievements in EU consumer policy in the past years, while the EU has progressively developed harmonised measures with the aim to safeguard the interests of consumers at the same high level of protection across all the EU. Since the first measures adopted in 1975, the EU has managed to secure a high level of protection for the **health and safety of EU consumers**, with the enactment of product, food and cosmetics safety legislation and with the introduction of new stringent safety requirements. The establishment of RAPEX, which has been operational since 2004, has also contributed to a higher degree of product safety in the EU.

The EU legislation has also managed over the years to ensure a high level of protection of the **economic interests of consumers**, in all the specific areas analysed in Chapter 2. Additionally, the EU legislation adequately protects consumers' **financial interests**, by ensuring a high degree of transparency in the financial services sector. Consumers are able since September 2016 to open a bank account in a different MS, while EU rules on consumer credit and mortgage credit ensure that consumers have a set of rights, including clear and timely pre-contractual information.

Market surveillance and effective enforcement of the relevant consumer rules is an important part of EU consumer policy. Enforcement is one of the major consumer policy priorities in the EU. In this respect, revision of the CPC Regulation, currently under way, is of crucial importance. Furthermore, the newly established ADR mechanisms and ODR platform will certainly improve the functioning of the retail internal market and more particularly will lead

consumers to have more confidence when buying from merchants outside their home country. The European Small Claims Procedure (“ESCP”) is also another tool of enforcement and redress, that simplifies and speeds up litigation across borders within the EU of claims of low value, thus reducing the costs of such litigation for claimants involved in cross-border disputes.

Assistance and provision of advice and information to consumers plays also an essential role in EU consumer policy. Several tools have been developed over the years in an attempt to build consumer confidence and to provide consumers with clear, simple and transparent information so that they are able to make better choices. The ECC Network, the online tools Your Europe, which provides practical help and advice to consumers and businesses and the Consumer Classroom website for teachers to exchange best practices and materials on consumer education, as well as Your Europe Advice, which caters for citizens and businesses looking for legal advice on their EU rights, are among the advice resources and awareness- raising tools developed by the EU.

Monitoring and evaluation to measure consumer perceptions and experiences in national markets is also essential to ensure that consumer concerns are integrated into EU and national policies. Data collection and analysis provides baseline assessment and facilitates benchmarking, while findings from the Consumer Scoreboards, market studies and behavioural research influence EU policy in various areas of interest for consumers.

Chapter 6

Conclusions

1. EU consumer protection policy faces a number of challenges with the emergence of new digital products and services, the widespread use of internet as information tool for purchasing decisions, which are influenced by environmental, social, ethical and other aspects, the increased use of electronic payments and emergence of new forms of payment. The current challenges for consumer protection **entail fully opening up the potential of the internal market, including the online market, to all citizens by bringing down barriers and improving the confidence of consumers in cross-border shopping.**

2. Another challenge of EU consumer protection policy would also be the fact that most of the EU directives on consumer protection are based on minimum harmonisation, allowing MS to adopt more protective rules in their national legislation. That has produced a patchwork of different standards across the EU creating uncertainty to both consumers and traders. **Even though full harmonisation does not necessarily boost consumer confidence in the internal market, it may however play an important role in tackling legal fragmentation bringing a uniform high level of consumer protection across EU.**

3. **Better enforcement of consumer law and the introduction of more effective, proportionate and dissuasive sanctions would be another future challenge for effective consumer protection.** Consumer law cannot be effective if there are no effective remedies available. Even where remedies are available, consumers avoid going to court individually as it is expensive, complicated and time-consuming. On the other hand, the availability of ADR and ODR mechanisms only helps if traders are committed to such proceedings and only when consumers trust these mechanisms. According to Mania K., in countries with highly developed economies, a larger number percentage of people have access to the internet.

Meanwhile, it would be easier to implement ODR solutions in countries with a higher level of ADR use. Nations that do not have a confidence towards alternative forms of dispute resolution, with a belief in the primacy of the common judiciary over out-of-court forms, have more difficulty adopting new methods (Mania 2015: 85). Arguably, Cyprus could be one of those nations, lacking confidence towards these mechanisms. National measures should be taken to encourage businesses and consumers to solve consumer disputes in amicable way, explain benefits of consumer ADR, provide necessary assistance and encourage business organizations to participate in ADR schemes (Juskys and Ulbaite 2012: 33).

Furthermore, an effective consumer redress system that meets the policy aims of the legislation (ie improving competition and invigorating the Internal Market) will only be met if incentives are incorporated into the ODR platform to encourage the participation of respondents; to settle complaints as early as possible; and to ensure out-of-court enforcement of final outcomes (Cortes 2015: 141).

4. Furthermore, **the establishment and harmonisation of collective redress mechanisms would also contribute to the effective protection of consumers and enhance consumers' confidence in the internal market**, while it would also be a stimulus for sound traders' performance. **Clarification and enhancement of the powers of enforcement authorities**, on a national as well as on a European level, would also play an important role in identifying and addressing infringements faster and more efficiently.

5. **The role of EU consumer policy in enhancing consumer knowledge, empowerment and skills is also of utmost importance.** Consumers need clear and simple information at the right time and place to have effective choice and make optimal purchasing decisions. In the new digital environment, consumers are more in need of gaining protection against abusive marketing practices and unfair contract terms, of getting access to information, advice and redress and of having the knowledge and awareness to exercise their rights in order to benefit fully and safely from the emergence of the new digital products and services.

The low level of consumer rights' awareness in a more complex, information-intensive marketplace, the lack of effective protection of vulnerable consumers, the complexity of the rapidly changing and highly sophisticated marketplace, such as the financial services market and the sophisticated marketing make consumer choices more difficult.

Over the past 50 years, the EU introduced a number of policies and rules to ensure a high level of protection for EU consumers and to enable them to benefit from the social and economic progress of the single market. This progress resulted through a range of legislative and non-legislative actions. Even though a large number of achievements have been made throughout the years and despite the high level of consumer protection already achieved, the EU still needs to respond to the current challenges, adapt consumer law to the digital age, promote sustainable growth, support consumer interests in key sectors and restore confidence in the European economy by enhancing consumer empowerment and policy synergies. The new developments in technology, the digital evolution, the unsustainable patterns of consumption, the social exclusion of vulnerable consumers, consumer information and education, the lack of effective redress of consumers' rights, especially on a cross border level create not only new challenges, but also new opportunities in the area of EU consumer protection.

Bibliography

BOOKS

Micklitz, W. H., Reich N., Rott, P., Tonner, K., (2014), European Consumer Law, 2nd edition, Cambridge, Antwerp, Portland, Intersentia.

Twigg – Flesner C., (2012) A cross-border - only regulation for consumer transactions in the EU: a fresh approach to EU consumer law, New York, NY: Springer.

Weatherill, S., (2013) EU Consumer Law and Policy, 2nd edition, Edward Elgar Publishing Limited.

ARTICLES /JOURNALS

Abdullah, N. C., (2015) Public Interest Litigation in Alternative Dispute Resolution: A proposed mechanism in tribunal for Consumer Claims, Procedia – Social and Behavioural Sciences 168, 204-210.

Buck., H., (2012) Current Status of Consumer Law Within European Union, Journal of Economics and Management, Volume 9, 69-85.

Cohen, D., (1975) Remedies for Consumer Protection: Prevention, Restitution or Punishment, Journal of Marketing, Volume 39, No.4 , 24-31.

Collins, H., (2010) Harmonization by Example: European Laws against Unfair Commercial Practices, the Modern Law Review, Vol. 73, No. 1, 89-118.

Cortes, P., (2015) A new regulatory framework for extra-judicial consumer redress: where we are and how to move forward, Legal Studies, Vol. 35, No.1, 114-141.

Crampton, S., (2002) Consumer protection in a brave new world, Consumer Policy Review, Volume 12 , Number 1 , 9-17.

Cunningham, H. W. & Cunningham C. I. (1976) Consumer Protection: More Information or More Regulation? , Journal of Marketing, Vol.40 , No.2 63-68.

Dauses, A.M., (1998) Consumer Information in the case law of the European Court of Justice: a German view, British Food Journal 100/5 (1998) 244-253.

Ene, C., (2012) Dimensions and Perspectives of Consumer Protection Policy in the European Union, *The USV Annals of Economics and Public Administrations*, Volume 12, Issue 1 (15), 39-45.

Helberger, N., (2011) Standardising Consumers' expectations in digital content, *info*, Vol.13 Iss 6 , pp 69-79.

Herlo, D., (2015) "Consumer Classroom" European Website, an Interactive Tool for Consumer Education, *Procedia –Social and Behavioural Sciences* 180 (2015) 1489-1497.

Hill, T.S.M.E., (2003) Consumer privacy and the Internet in Europe: a view from Germany, *Journal of Consumer Marketing*, Vol. 20 Iss 7, pp 634-651.

Howells, G. G., (2006) The Rise of European Consumer Law – Whither National Consumer Law, *Sydney Law Review*, Vol. 28:63, pp 63-88

Juskys, A. & Ulbaite, N., (2012) Alternative Dispute Resolution for Consumer Disputes in the European Union: Current Issues and Future Opportunities, *Issues of Business and Law*, Volume 4, 25-34.

Kaye, S., (2005) No place to hide: EU cross border enforcement, *Consumer Policy Review*, Volume 15/Number 5, 164-168.

Kutin, B., (2005) Consumer Protection in an enlarged Europe, *Consumer Policy Review*, Volume 15/Number 5, 198-202.

Mania, K., (2015) Online dispute resolution: The future of Justice, *International Comparative Jurisprudence*, *International Comparative Jurisprudence* 1, 75 -86.

Marinova, S.P.S. (2007) The Marketing Challenges within the enlarged Single European Market, *European Journal of Marketing*, Vol.41 Iss 3/4, 233-244.

McDonald, F., (2000) Consumer Protection Policy in the European Union, *European Business Journal*, 39-46.

Micklitz, H-W., Reich, N. , & Weatherill, S., (2004) EU Treaty Revision and Consumer Protection, *Journal of Consumer Policy* 27, 367 -399.

Minor, J., (2012) Consumer Protection in the EU: Searching for the Real Consumer, *European Business Organisation Law Review* 13, 163-168.

Poncibo, C., (2011) Networks to Enforce European Law: The Case of the Consumer Protection Cooperation Network, *Springer Science + Business Media LLC*, 175 - 195.

Reich, R., (2012) EU Strategies in Finding the Optimal Consumer Law Instrument, *European Review of Contract Law* 1-30.

Schulte-Nolke, H., (2015) The Brave New World of EU Consumer Law- Without consumers or Even Without Law, Issue 4/2015 EU CML 135-139.

Schwartz, D.J., (2000) Loose Teeth in European Union Consumer Protection Policy: The Injunction Directive and the Mass Default Scenario, GA. J. INT'L & COMP. L., Volume 25, 527-554.

Spierings, B., (2008) Shopping Borders and Unfamiliarity: Consumer Mobility in Europe, Journal of Economic and Social Geography, Volume 99, Issue 4, 497-505.

Stern, L.L., (1967) Consumer Protection Via Increased Information, Journal of Marketing, Vol.31, No. 2, 48-52.

Svetiev, Y., (2013) How Consumer Law Travels, Springer Science + Business Media LLC, 209-230.

Twigg - Flesner, C., (2005) Innovation and EU Consumer Law, Journal of Consumer Policy (2005) 28: 409-432.

Weatherill, S., (2012) Consumer protection under EU law is not absolute: yes, but be careful ERCL 2/2012, 221-233.

Winn, J. & Jondet, N., (2008) A " New Approach" to Standards and Consumer Protection, Springer Science + Business Media LLC, 459-472.