



# Report on the Implementation of the OECD Recommendation on Consumer Protection in E-commerce 2022



*This report was approved by the OECD Committee on Consumer Policy on 28 February 2022 and prepared for publication by the OECD Secretariat.*

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## 1. Background

### Introduction

#### *Background and process*

1. Protecting and empowering consumers in e-commerce has been a key issue explored by the Committee on Consumer Policy (CCP) over the past two decades. The work was launched following the adoption of the Ottawa Ministerial Declaration on Consumer Protection in the Context of Electronic Commerce [[OECD/LEGAL/0299](#)] in which OECD Members and the European Union affirmed their determination to “develop effective guidelines whose purpose is to enhance consumer confidence in electronic commerce transactions while encouraging the development of the global marketplace”.<sup>1</sup> The following year, the OECD Council adopted the first ever international legal instrument in the area of consumer protection in the context of electronic commerce, the Recommendation concerning Guidelines for Consumer Protection in the Context of Electronic Commerce [[OECD/LEGAL/0303](#)] (the “1999 Recommendation”). The 1999 Recommendation influenced other international standards, such as the United Nations Guidelines on Consumer Protection, which in the revised 2015 version include a new chapter on e-commerce that expressly refers to the 1999 Recommendation (UNCTAD, 2015<sup>[1]</sup>).

2. In 2008, following the OECD’s Seoul Ministerial Meeting on *The Future of the Internet Economy*, the CCP initiated a review of the 1999 Recommendation<sup>2</sup>. A background report (OECD, 2009<sup>[2]</sup>) examining the development of consumer markets and related consumer challenges, was prepared for discussion at an OECD conference on *Empowering E-Consumers: Strengthening Consumer Protection in the Internet Economy*, hosted by the United States Federal Trade Commission on 8-10 December 2009, in Washington, D.C. Following the event, the Committee agreed to review the 1999 Recommendation by exploring developments and selected consumer issues arising in the context of mobile and online payments (OECD, 2014<sup>[3]</sup>), the purchase of intangible digital content products (OECD, 2014<sup>[4]</sup>), and participative e-commerce business models. Based on this work, in 2014, the Committee started revising the 1999 Recommendation with a view to address challenges in these and other emerging areas and to further ensure effective consumer protection and trust in e-commerce.

3. The work resulted in the adoption by the OECD Council [[C\(2016\)13](#)] on 24 March 2016 of the Recommendation on Consumer Protection in E-commerce [[OECD/LEGAL/0422](#)] (hereafter “the Recommendation”), which replaces the 1999 Recommendation. The Recommendation is open to non-Member adherence. To date, the Recommendation has 40 Adherents: all OECD Members, as well as Brazil and Peru since August 2018.

#### *Scope*

4. The Recommendation reaffirms the core characteristics of consumer protection in e-commerce that should be in place in Adherents’ consumer policy frameworks. It applies to business-to-consumer e-commerce, including commercial practices through which businesses enable and facilitate consumer-to-consumer transactions (hereafter “e-commerce”). It also covers commercial practices related to both monetary and non-monetary transactions for goods and services, which include digital content products (hereafter “goods and services”). The Recommendation recognises the importance of informing e-commerce policies by evidence and insights from information and behavioural economics. It calls on Adherents to work with businesses, consumer representatives and other civil society organisations (hereafter “stakeholders”) in a transparent and inclusive manner to implement the principles embedded in the Recommendation in their policy frameworks for the protection of consumers in e-commerce. Such principles include:

- i. General principles (PART ONE), on:
    - A. Transparent and Effective Protection;
    - B. Fair Business, Advertising and Marketing Practices;
    - C. Online Disclosures;
    - D. Confirmation Process;
    - E. Payment;
    - F. Dispute Resolution and Redress;
    - G. Privacy and Security; and
    - H. Education, Awareness and Digital Competence.
  - ii. Implementation principles (PART TWO), on improving the evidence base for e-commerce policy making and development of effective self-regulatory mechanisms.
  - iii. Global co-operation Principles (PART THREE), on cross-border enforcement co-operation initiatives, such as information sharing or joint investigation and improving the ability of consumer protection enforcement authorities.
5. The Recommendation also encourages stakeholders (i.e. businesses, consumer representatives and other civil society organisations) to disseminate and follow the Recommendation in their approach to e-commerce.

## Overview of recent developments

6. The e-commerce marketplace has changed dramatically over the past two decades and since the adoption of the Recommendation, spurred by fast-moving digital innovation and new business models, increased Internet access and mobile connectivity, as well as the rise of online marketplaces as major channels for business-to-consumer and consumer-to-consumer online transactions. Such developments have provided consumers in both developed and emerging markets with access to anything from anywhere (including across borders) and at any time. Consumers have become active market participants driving innovation, competition and economic and social growth. Their data has become an important and strategic economic asset, powering a range of new technologies, business models, as well as a wider range of innovative goods and services offered at competitive prices. Millions of consumers rate and review products and businesses online, and rely on the ratings and reviews of other consumers to inform their purchasing decisions.

7. Yet, ongoing and new consumer risks and challenges have emerged, including issues associated with information asymmetries and disclosure, misleading, fraudulent and unfair commercial practices, dark commercial patterns, the availability of unsafe products for sale online, as well as inadequate dispute resolution and redress mechanisms. And as the scale of most online marketplaces is proportional to the volume of the data they collect about their users, concerns have also arisen over the protection of consumer data.

8. The COVID-19 crisis has exacerbated many of these issues, including consumer behavioural biases. A greater number of consumers have experienced higher levels of distress caused by direct experience or fear of the health, economic, and social impacts of the crisis, which have resulted in deeper or new forms of consumer vulnerability online. There have been increasing reports of unfair, misleading and fraudulent commercial practices online, including financial scams, false claims of coronavirus treatment or prevention, price gouging of essential goods and the promotion of unsafe products (OECD, 2020<sup>[5]</sup>).

9. In this environment, ensuring effective implementation and promotion of the key consumer protections set out in the Recommendation is more essential than ever to strengthen consumer trust in e-commerce, at domestic and global levels.

## **Purpose of the Report**

10. The Recommendation instructs the CCP to “monitor the implementation of this Recommendation and report to the Council within five years of its adoption and thereafter as appropriate” (Section VI ii).

11. This Report aims to provide an assessment of key activities undertaken to disseminate and implement the Recommendation, as well as its continued relevance. It also proposes appropriate actions moving forward, including conclusions identifying areas for further work to improve implementation and dissemination.

## **2. Methodology**

12. At the 98<sup>th</sup> Session of the CCP in October 2019, the Secretariat noted that a Report on the implementation of the Recommendation would need to be prepared [[DSTI/CP/M\(2019\)2/REV1](#) Item 14.b] for approval by the CCP. A questionnaire, which was prepared to gather information on the implementation, dissemination and continued relevance of the Recommendation, was finalised under written procedure following the 99<sup>th</sup> Session of the CCP (Part 1) in March 2020 [[DSTI/CP\(2020\)2/FINAL](#)], and sent to Adherents on 30 October 2020 via LimeSurvey,<sup>3</sup> an online survey platform.

13. This Report was prepared on the basis of responses received by 10 August 2021 from the following 30 Adherents (referred together as “the Respondents”): Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Mexico, Norway, Peru, Portugal, Sweden, Switzerland, Turkey, the United Kingdom, and the United States,

14. The Report also reflects delegates’ input provided during discussions on the implementation of the Recommendation at CCP meetings held in April 2016 [[DSTI/CP/M\(2016\)1](#)] and November 2016 [[DSTI/CP/M\(2016\)2](#)], and through CCP’s specific projects on cross-border enforcement co-operation, measuring consumer detriment in e-commerce, and behavioural insights.

## **3. Process**

15. At a joint session of the CCP and the Working Party on Consumer Product Safety (WPCPS) in November 2021 ([[DSTI/CP/A\(2021\)2/REV1](#)] and [[DSTI/CP/M\(2021\)2](#)]), delegates discussed a preliminary report summarising the survey responses and highlighting implementation and dissemination initiatives, as well as key related challenges. The discussion also focused on proposed conclusions of the review, and possible next steps.

16. Delegates were invited to provide further comments on the Report by written procedure within three weeks after the meeting (by 10 December 2021). Based on the input received from the CCP, a revised report was circulated to the Committee on 17 January 2022 for approval by 7 February [[DSTI/CP\(2021\)5/REV1](#)]. However, as further comments were received from a few Adherents to the Recommendation after the deadline (between 7 and 17 February 2022), a further revised report was prepared [[DSTI/CP\(2021\)5/REV2](#)] which was approved by the CCP on 28 February 2022. The text of the Report was adjusted to incorporate minor changes requested by two

OECD Members to the description of their domestic situation. The CCP was informed of these adjustments, which are reflected in [[DSTI/CP\(2021\)5/FINAL](#)].

17. After the approval by the CCP, the Report was transmitted to the OECD Council for Council to note and declassify the Report at its April 2022 meeting.

18. After declassification by the OECD Council, a link to the approved Report will be included in the public webpage of the Recommendation on the [online Compendium of OECD Legal Instruments](#). In order to support and facilitate the implementation and dissemination of the Recommendation, the Report will also be prepared as an OECD publication.

#### **4. Dissemination**

19. In the Recommendation, the Council invited the Secretary-General and Adherents to disseminate it.

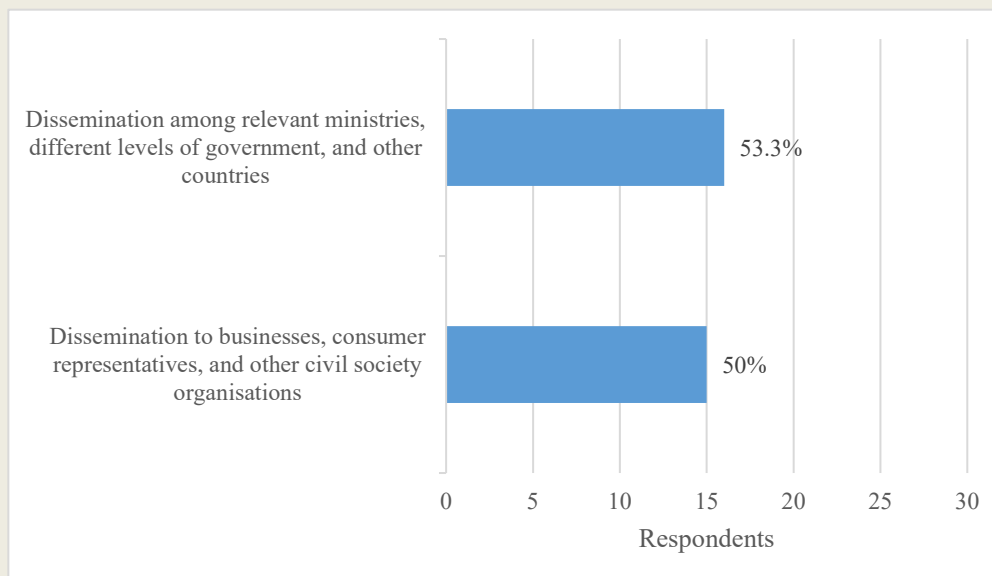
##### **Dissemination by Adherents**

20. Adherents have played a key role in the dissemination of the Recommendation within and across borders, highlighting its value to both national stakeholders and the international community.

21. In line with paragraphs III and IV of the Recommendation, just over half of the Respondents indicated that the Recommendation has been promoted among relevant ministries, different levels of government (at local and national levels), and with other non-Adherents (see Box 1). Seven Respondents translated<sup>4</sup> and published the Recommendation on their government's website in their own language, and 11 presented it at relevant meetings/seminars. At the international level, the Recommendation has been shared and discussed with non-Members through international conferences and seminars. For example, the United States Federal Trade Commission (US FTC) noted that they routinely collaborate with their foreign counterparts to implement broad-based international programs that are in line with the Recommendation and combine cross-border law enforcement, policy, and technical assistance work. The US FTC is also an active member of various bilateral and multilateral consumer protection-related groups, such as the ICPEN and the GPEN (Global Privacy Enforcement Network). In addition, the Superintendence of Industry and Commerce of Colombia (SIC) and the Consumer Directorate-General of Portugal promoted the Recommendation through the FIAGC.<sup>5</sup> Moreover, the SIC announced the launch of the revised Recommendation through a press release and a campaign, using various channels such as social networks, workshops, and seminars.

22. Furthermore, the responses to the questionnaire have shown that 50% of the Respondents have disseminated or promoted the Recommendation with the businesses community and civil society (see Box 1). For example, the United Kingdom's Competition and Markets Authority (UK CMA) shared the Recommendation with businesses and other groups as part of discussions on improving regulatory design and enforcement approaches. In addition, the Consumer Protection Office of Costa Rica focused on the Recommendation in a training video<sup>6</sup> in order to promote the Recommendation.

### Box 1. Dissemination initiatives



23. Overall, dissemination has been effective by increasing stakeholders' awareness of core consumer protection principles in e-commerce and of the importance of government-wide implementation and stakeholder engagement in the process. However, more dissemination efforts by more jurisdictions are needed to, for example, help enhance cross-border enforcement co-operation and addressing cross-cutting issues in the digital transformation.

### Dissemination by the CCP

24. In order to support Adherents in implementing and disseminating the Recommendation the CCP has been instructed to serve as a forum to share information on progress and experiences with respect to the implementation of this Recommendation (section VI. i). Consistently, the CCP has undertaken a number of initiatives to promote the Recommendation and its implementation within and outside the OECD.

#### *Dissemination within the OECD*

25. The CCP promoted the Recommendation through dedicated discussions on the implementation of the Recommendation at its 91<sup>st</sup> Session in April 2016 [[DSTI/CP/M\(2016\)1](#)]. Delegates at that session provided information about their own initiatives to publicise the Recommendation. In addition, the Committee held a delegate-led roundtable discussion of several issues raised by the Recommendation, including on: 1) unfair contract terms, 2) alternative dispute resolution, 3) international co-operation, and 4) information disclosures and drip pricing [[DSTI/CP/M\(2016\)1](#)].

26. At its 92<sup>nd</sup> Session in November 2016, the CCP held a second roundtable on the implementation of the Recommendation, focusing on the following three main topics: 1) enhancing dispute resolution and redress across borders; 2) addressing limitations to information sharing among consumer protection and other enforcement agencies; and 3) exploring the role of consumer



enforcement agencies in addressing detriment arising out of non-monetary transactions [[DSTI/CP/M\(2016\)2](#)].

27. In addition, several discussions at CCP Sessions focusing on behavioural insights, cross-border enforcement co-operation, or measurement of consumer detriment, also contributed to the dissemination of the Recommendation (see Section 5 for more details). Other events to promote the Recommendation include:

- two dialogues between the CCP Chair and the OECD Council held respectively on the day of the Recommendation's adoption on 24 March 2016, and 12 July 2021;
- the OECD Recommendation on Consumer Product Safety [[OECD/LEGAL/0459](#)], which addresses online product safety issues consistent with provisions in this area in the Recommendation;
- the linkages with other recently adopted or revised OECD legal instruments, such as the 2019 OECD Recommendation on Artificial Intelligence [[OECD/LEGAL/0449](#)], which provides internationally-agreed principles to foster adoption of trustworthy AI in society and the 2021 OECD Recommendation on Children in the Digital Environment [[OECD/LEGAL/0389](#)], which includes provisions on children as consumers, consistent with those in the Recommendation;
- the OECD's 2016 Ministerial on the Digital Economy, where the CCP organised a panel on trust in peer platform markets, followed in 2017 by a CCP online survey in this area;<sup>7</sup>
- the OECD's *Going Digital* project:
  - In addition to its Going Digital Toolkit Policy Note on the Role of Online Marketplaces in Enhancing Consumer Protection (Burdon, 2021<sup>[6]</sup>), the CCP has actively contributed to all phases of the project, including Phase I's synthesis report (OECD, 2019<sup>[7]</sup>); and country review reports (Going Digital in Brazil (OECD, 2020<sup>[8]</sup>) and Going Digital in Latvia (OECD, 2021<sup>[9]</sup>)).
  - The CCP will further contribute to Phase III of the horizontal project on Data Governance for Growth and Well-being. Such contribution will take the form of a roundtable discussion on whether and how consumers use their data to make more informed purchasing decisions, which will be held in April 2022 and will inform Module 1 of the project on data stewardship, access, sharing and control.
- joint workshops with the CCP and Competition Committee in 2018 on consumer data related issues, including personalised pricing (OECD, 2018<sup>[10]</sup>) and zero-price markets (OECD, 2018<sup>[11]</sup>). A new workshop focusing on the use of behavioural insights to address dark commercial patterns and improve online disclosures is scheduled for autumn 2022; and
- a webinar with the Task Force on Financial Consumer Protection of the OECD Committee on Financial Markets, to inform the revision of the Recommendation on High-level Principles on Financial Consumer Protection [[OECD/LEGAL/0394](#)], planned for 2022.

### ***Dissemination outside the OECD***

28. In addition, the CCP and the WPCPS have collaborated with a number of non-Members and promoted the Recommendation at the international level and with other regional and international fora, including for example through:

- the OECD’s international conference on *The Consumer Marketplace of the Future*, which was held virtually on 15-17 June 2021<sup>8</sup> and included panel discussions on a number of topics, such as the mobile and hyper-connected consumer, the role of online marketplaces in enhancing consumer protection, consumers in the green economy, the changing consumer product safety landscape in the digital transformation, international co-operation, and improving the evidence for consumer policy decision making. Several keynote speeches were provided at the event by heads of other fora, such as the Deputy Secretary-General of the Association of Southeast Asian Nations (ASEAN), the Acting Secretary-General of the United Nations Conference on Trade and Development (UNCTAD) and the president of the International Consumer Protection and Enforcement Network (ICPEN). The conference was a successful event with close to 1000 participants from over 100 countries, with an impressive number of high-level representatives from governments, consumer authorities, academia, the business community, civil society and other fora joining together to discuss current trends and emerging issues that should be addressed to make sure that consumers continue to be empowered when engaging in the global and digital marketplace;
- collaboration with the G20: During the first ever G20 Consumer Summit held on 15 March 2017 in Berlin under the German Presidency, the OECD produced a Toolkit for Protecting Digital Consumers (OECD, 2018<sup>[12]</sup>). The Toolkit was launched at a G20 Consumer Summit held on 16 May 2018 under the Argentinian Presidency of the G20 (G20, 2018<sup>[13]</sup>). In addition, under the G20 Japanese presidency, the Consumer Affairs Agency, Government of Japan organised an International Conference on Consumer Policy, in Tokushima on 5-6 September 2019, where discussion was supported by an OECD background report on Challenges to Consumer Policy in the Digital Age (OECD, 2019<sup>[14]</sup>). The CCP further organised a session on online disclosures in May 2021 at a G20 Multi-stakeholder Forum on “Consumers’ Awareness, Protection and Blockchain for Traceability in the Digital Economy”, held under the umbrella of the Digital Economy Task Force, and where several CCP and WPCPS delegates participated as panellists and highlighted the role of the Recommendation;
- collaboration with the ASEAN: two joint OECD/ASEAN meetings on e-commerce and consumer product safety were organised in May 2016 (Cambodia), and May 2019 (Thailand). In addition, on 8 February 2022, a joint OECD/ASEAN webinar on *Nudging Consumers towards Greener Choices*<sup>9</sup> (including via e-commerce and the use of AI and the IoT) was organised in the margins of the OECD-Southeast Asia Ministerial Forum held in Seoul, Korea on 9-10 February 2022 on the theme ‘*Human-centred future: Partnership for a smarter, greener and more inclusive ASEAN*’. Further, in November 2021, both the CCP and ASEAN’s Committee for Consumer Protection agreed to hold a third joint event in 2023 to notably coordinate input in relation to new e-commerce guidelines being developed by the ASEAN and share experiences on initiatives and consumer issues associated with the green and digital transitions;
- collaboration with ICPEN: In June 2020 the OECD and ICPEN held a joint webinar to discuss the Implementation Toolkit on Legislative Actions for Consumer Protection Enforcement Co-operation (OECD, 2021<sup>[15]</sup>), which was released in June 2021 at the OECD’s international consumer conference;
- contributions to European Union events: In March 2021, the CCP Chair provided a presentation at European Consumer Summit on CCP’s work on ecommerce<sup>10</sup>. In

addition, a joint OECD/EC conference on IoT, AI and product safety took place in November 2018<sup>11</sup>; and

- co-operation with other international fora, through participation in meetings from the UNCTAD, the Ibero-American Forum of Consumer Protection Agencies (FIAGC), the African Dialogue, and the World Customs Organisation (WCO); and a joint CCP/Consumers International webinar on dark commercial patterns held on 6 December 2021.

## 5. Implementation

### Implementation initiatives

29. The scope of the Recommendation, which covers business to consumer transactions, has been expanded to include commercial practices through which businesses enable and facilitate consumer-to-consumer transactions and those related to both monetary and non-monetary transactions for goods and services, which include digital content products (see paragraph I. “Agrees”).

30. This section presents an analysis of responses to the questionnaire, as well as good practices to illustrate how Adherents have implemented the Recommendation and initiatives of the CCP to support Adherents in their efforts to implement the Recommendation. It follows the structure of the Recommendation focusing on: paragraph II. “Recommends”; General Principles (PART ONE); Implementation Principles (PART TWO), and Global Co-operation Principles (PART THREE). Each section includes the relevant extracts of the Recommendation in boxes – the full text is available on the [online Compendium of OECD Legal Instruments](#). Finally, this section discusses some implementation challenges, and provides views on the continued relevance and need for any updates of the Recommendation.

31. As described in more detail below, aggregate survey responses suggest that while some Respondents have identified challenges with respect to certain aspects of the implementation, Adherents have made significant and ongoing efforts to implement the Recommendation.

## II. RECOMMENDS

**II. RECOMMENDS** that Members and non-Members adhering to this Recommendation (hereafter “Adherents”) work with businesses, consumer representatives and other civil society organisations (hereafter “stakeholders”) in a transparent and inclusive manner to implement the following principles in their policy frameworks for the protection of consumers in e-commerce:

32. Some Respondents have reported on recent public-private sector initiatives to enhance consumer protection in e-commerce. The Consumer Affairs Agency of **Japan** has, for example, worked towards enhanced co-operation with business associations, consumer organisations, academia, and relevant government ministries/agencies through the establishment of a public-private council in 2022, where various emerging issues associated with consumer protection on digital platforms will be discussed. This initiative is consistent with Japan’s Act for the Protection of Consumers who use Digital Platforms, which was adopted in May 2021, the scope of which covers all digital platforms, regardless of business size, products and services.

33. Similarly, in **Lithuania**, since 2020, the Ministry of Justice has funded and supported an initiative enabling a consumer organisation to monitor e-commerce websites (e-shops) with the

aim to promote business voluntary compliance with online disclosures. In the case where irregularities or non-compliance are identified, the consumer organisation can notify the administrator of a website; in most cases to date, compliance with information requirements has been achieved without the need for enforcement measures.

34. In **Germany**, the Federal Ministry of Justice and Consumer Protection has likewise supported a European Good Practice Initiative bringing together various European stakeholders (including businesses, data and consumer protection organisations, authorities, and academia) with a view to developing and disseminating good practices to businesses on ways to use friendly cookie banners.

## **PART ONE: GENERAL PRINCIPLES**

35. Part One of the Recommendation describes general principles for consumer protection in e-commerce. It includes the following sections: A. Transparent and Effective Protection, B. Fair Business, Advertising and Marketing Practices, C. Online Disclosures, D. Confirmation Process, E. Payment, F. Dispute Resolution and Redress, G. Privacy and Security, and H. Education, Awareness and Digital Competence.

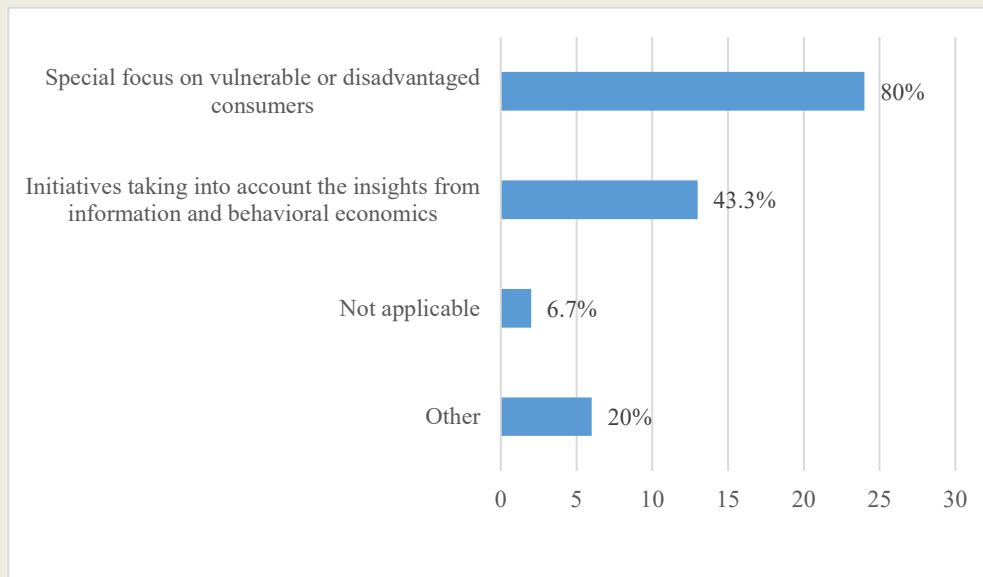
### ***Transparent and Effective Protection (Section A)***

#### **A. Transparent and Effective Protection**

1. Consumers who participate in e-commerce should be afforded transparent and effective consumer protection that is not less than the level of protection afforded in other forms of commerce.
2. Governments and stakeholders should work together to achieve such protection and determine what changes may be necessary to address the special circumstances of e-commerce, including for children and vulnerable or disadvantaged consumers. In so doing, they should take into account the insights from information and behavioural economics.

36. As highlighted in Box 2, a number of Respondents have adopted measures to ensure transparent and effective protection. 80% of the Respondents have put special focus on vulnerable or disadvantaged consumers and just over 40% have taken into account the insights from information and behavioural economics when introducing new initiatives.

## Box 2. Measures adopted to enhance transparent and effective protection



37. More specifically:

- In **Costa Rica**, according to Article 262 of executive decree No.40703 of 3 October 2017, merchants are to take special care that advertising targeted minors, vulnerable or disadvantaged consumers, and others who may not have the power to understand the information does not threaten their dignity and well-being. In addition, merchants are required to adopt measures to, e.g., identify content aimed at only at adults; prevent minors from having access to goods and services that are not suitable for them; or refrain from advertising that encourages minors to carry out improper, illegal behaviour.
- In **Germany**, under the second amendment of the Youth Protection Act, which was enacted in April 2021,<sup>12</sup> online marketplaces offering services to minors are to provide appropriate and effective protection measures, for example, reliable and uniform age ratings for games and films to be guaranteed online or default settings to protect minors from mobbing, hate speech or cost traps.
- In **Israel**, under the Consumer Protection Law, consumers may cancel a distance selling transaction within fourteen days from the date of the transaction, the date of receiving the asset or the date of receiving the document containing the information specified in the law whichever is later. The law was amended in 2016 to extend the cancellation period for vulnerable consumers so that the elderly, consumers with disabilities or new immigrants can cancel such transactions within a period of four months.
- In **Japan**, in 2016 and 2018, the Consumer Contracts Act was revised to establish a rescission right, focussing on vulnerable or disadvantaged consumers, such as elderly people with dementia unable to make reasonable decisions. Since February 2019, the Consumer Affairs Agency convened a "Study Group on the Technical aspects of the Revision of the Consumer Contract Act", which examined the issue

from a legislative and technical perspective in a report released in September 2019. Moreover, a "Study Group on Consumer Contracts" was organised in December 2019 to continue examining the issue from a practical perspective.

- In **Korea**, a legal framework (so-called “Digital Inclusion Law”) is being developed to alleviate digital polarization and empower vulnerable groups.
- In **Latvia**, several empirical research initiatives have been conducted drawing on the insights from behavioural economics. In 2018, the Consumer Rights Protection Centre (CRPC) conducted a study on advertising, with a focus on ways of conducting advertising on social networks<sup>13</sup>. In addition, the CRPC conducted a study on influencer marketing in social networks in 2019,<sup>14</sup> which revealed issues such as the prevalence of misleading advertising, e.g. with regard to “miracle” properties of products, and led to the release of recommendations setting out the main principles to be followed by social media influencers.<sup>15</sup> The study also highlighted that consumers themselves can participate in the improvement of the influencer marketing environment by reporting violations to the social networking platforms or to the authorities.
- In **Turkey**, under Article 5-8 and 9-15 of the country’s Implementing Regulation on Commercial Advertising and Unfair Commercial Practices<sup>16</sup>, no advertising shall include statements and images abusing sick people, children, the elderly and people with disabilities. There is also a comprehensive set of principles that should be followed in advertising directed at children or advertising.
- In the **United Kingdom**, the CMA has been promoting an initiative on Vulnerable Consumer Challenges,<sup>17</sup> which explores the different dimensions of consumer vulnerability and considers what the authority can do to help. In addition, the Office for Product Safety and Standards (OPSS) conducted an online survey to understand consumer attitudes and behaviours toward products related to Covid-19, such as hand sanitiser and face masks or coverings.<sup>18</sup>
- In the **United States**, the US FTC’s Bureau of Economics regularly conducts research to further the US FTC’s consumer protection mission, which includes research on consumer behaviour. Additionally, the US FTC’s Office of Technology Research and Investigation, which focuses on consumer protection issues involving new technologies, conducts research, evaluates new marketing practices, and assists the US FTC’s consumer protection investigators. Both Bureaus also sponsor conferences and roundtables that often include discussion of issues around consumer behaviour. Additionally, the US FTC has undertaken a number of enforcement actions and initiatives to ensure transparent and effective consumer protection for particular groups of consumers. These include its active enforcement of the Children’s Online Privacy Protection Act,<sup>19</sup> which imposes certain requirements on operators of websites and online services directed at children under 13, its consumer outreach to older Americans, including the “Pass It On” campaign,<sup>20</sup> and its launch of the “Community Advocate Center,”<sup>21</sup> which gives the community legal aid organizations that typically serve lower-income communities, communities of colour, and speakers of languages other than English, ways to report fraud and bad business practices to the US FTC.

## ***Fair Business, Advertising and Marketing Practices (Section B)***

### **B. Fair Business, Advertising and Marketing Practices**

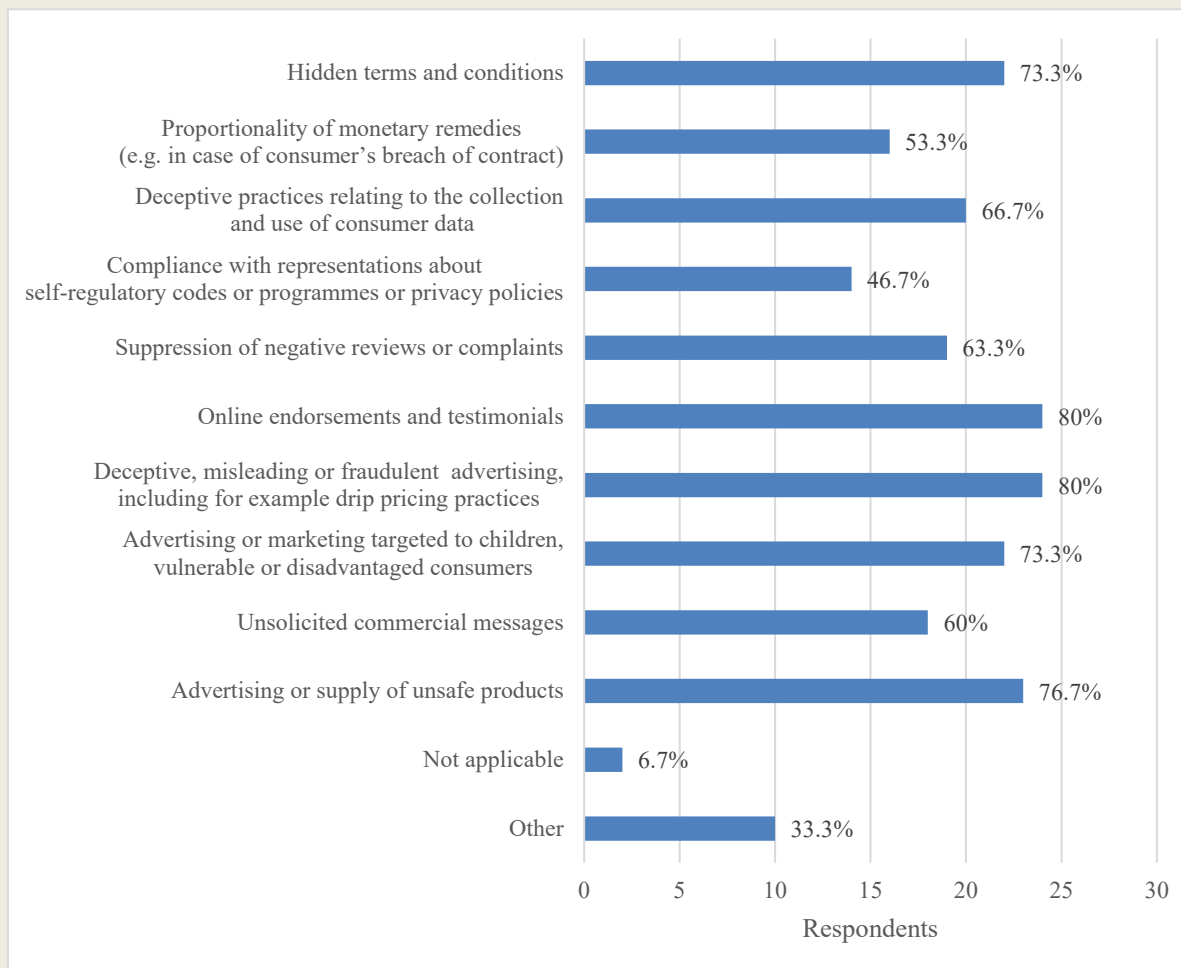
3. Businesses engaged in e-commerce should pay due regard to the interests of consumers and act in accordance with fair business, advertising and marketing practices as well as the general principle of good faith.
4. Businesses should not make any representation, or omission, or engage in any practice that is likely to be deceptive, misleading, fraudulent or unfair. This includes the general impression likely conveyed to consumers by the representation or practice as well as implied factual misrepresentations conveyed through features such as the good or the service's name, words, pictures, audio and/or video and the use of disclaimers that are hidden, hard to notice or to understand.
5. Businesses should not misrepresent or hide terms and conditions that are likely to affect a consumer's decision regarding a transaction.
6. Businesses should not use unfair contract terms.
7. If contract terms stipulate monetary remedies in the case of a consumer's breach of contract, such remedies should be proportionate to the damage likely to be caused.
8. Businesses should not engage in deceptive practices related to the collection and use of consumers' personal data.
9. Businesses should not permit others acting on their behalf to engage in deceptive, misleading, fraudulent or unfair practices and should take steps to prevent such conduct.
10. Businesses should be able to substantiate any express or implied representations for as long as the representations are maintained, and for a reasonable time thereafter.
11. Businesses should comply with any express or implied representations they make about their adherence to industry self-regulatory codes or programmes, privacy notices or any other policies or practices relating to their transactions with consumers.
12. Businesses should not attempt to restrict a consumer's ability to make negative reviews, dispute charges, or consult or file complaints with government agencies and other complaint bodies.
13. Advertising and marketing should be clearly identifiable as such.
14. Advertising and marketing should identify the business on whose behalf the marketing or advertising is being conducted where failure to do so would be deceptive.
15. Businesses should ensure that any advertising or marketing for goods or services are consistent with their actual characteristics, access and usage conditions.
16. Businesses should ensure that advertised prices do not misrepresent or hide the total cost of a good or a service.
17. Endorsements used in advertising and marketing should be truthful, substantiated and reflect the opinions and actual experience of the endorsers. Any material connection between businesses and online endorsers, which might affect the weight or credibility that consumers give to an endorsement, should be clearly and conspicuously disclosed.
18. Businesses should take special care in advertising or marketing that is targeted to children, vulnerable or disadvantaged consumers, and others who may not have the capacity to fully understand the information with which they are presented.

19. Even where not obligated to do so, businesses should consider offering consumers the possibility to withdraw from a confirmed transaction in appropriate circumstances.
20. Businesses should take into account the global nature of e-commerce and consider the various regulatory characteristics of the markets they target.
21. Businesses should not exploit the special characteristics of e-commerce to hide their true identity or location, or to avoid compliance with consumer protection standards and/or enforcement mechanisms.
22. Businesses should develop and implement effective and easy-to-use procedures that allow consumers to choose whether or not they wish to receive unsolicited commercial messages, whether by e-mail or other electronic means. When consumers have indicated, at any time, that they do not want to receive such messages, their choice should be respected.
23. Businesses should not offer, advertise or market, goods or services that pose an unreasonable risk to the health or safety of consumers. Businesses should co-operate with the competent authorities when a good or a service on offer is identified as presenting such a risk.
24. Businesses should consider the needs of persons with disabilities when designing e-commerce platforms and online payment systems.

38. 80% of the Respondents have introduced measures relating to online endorsements and testimonials, as well as regulations for deceptive, misleading or fraudulent advertising, such as drip pricing practices. In addition, close to 80% of the Respondents have adopted policies addressing issues associated with the advertising or supply of unsafe products, and around 73% of them have adopted policies concerning hidden terms and conditions (see Box 3).



### Box 3. Measures adopted in relation to fair business, advertising and marketing practices



- In **Australia**, in regards to measures for the advertising or supply of unsafe products, a Product Safety Pledge<sup>22</sup> was established in November 2020 between the Australian Competition and Consumer Commission (ACCC) and four large online marketplaces with the aim to enhance product safety compliance in the online market. This includes a requirement for online marketplaces to report on Key Performance Indicators annually.
- In **Chile**, under Article 3 of the country's consumer protection Law (LPDC), consumers have a right to obtain "truthful and timely information about the goods and services offered, their price, contracting conditions and other relevant characteristics". Such principle has been widely monitored through SERNAC's enforcement mechanisms, including through public lawsuits at the Small Claims Courts, market information guidelines such as the Good Practices in E-Commerce, and information campaigns for consumers and media. In addition, SERNAC regularly investigates markets to promote fair business and detect and deter inadequate information to consumers. In addition, SERNAC has established several co-operation agreements with other ministries in order to prevent and act against

illegal advertising. Moreover, in 2019, SERNAC updated the "No molestar (Do not disturb)" platform, which allows consumers to express their preference for being dropped from businesses' contact lists. Businesses that do not comply within 24 hours (previously 2 months) can be fined.<sup>23</sup>

- In **Colombia**, the SIC also signed an agreement with one of the largest online marketplaces, Mercado Libre, to inform consumers and sellers about the risks posed by some products and the liability that may arise from the marketing of unsafe products. Moreover, in 2020, the SIC published a Best Practices Guide in Advertising regarding Influencers.
- In **France**, websites publishing online reviews from consumers shall inform consumers about key reasons for rejecting their publication (Article D. 111-18 of the French Consumer Code).
- In **Hungary**, in 2017 the competition and consumer protection authority published guidance on online endorsements and intervened in cases where influencers had not disclosed information about linkages between businesses and advertising companies.<sup>24</sup> In addition, the authority intervened to address inappropriate online advertising targeting children.

39. The CCP addressed some of the provisions in the Recommendation that were not included in the 1999 Recommendation in a number of ways. It organised a panel on trust in peer platform markets at the OECD's Ministerial on the Digital Economy in June 2016, which was followed in 2017 by the organisation of an online survey showing that even though some consumers who had experienced a problem with a peer platform would exercise more caution in the future, very few (6%) would stop using that platform, or peer platforms more generally (3%) (OECD, 2017<sub>[16]</sub>).

40. In 2019, the CCP released a series of guides aimed to inform both authorities and businesses of their role in protecting consumer data (OECD, 2019<sub>[17]</sub>), enhancing the effectiveness of online disclosures (OECD, 2019<sub>[18]</sub>), and ensuring that consumer endorsements and testimonials are truthful and substantiated (OECD, 2019<sub>[19]</sub>).

41. In addition, the CCP released, a policy note in January 2021, jointly developed with the WPCPS, on the role of online marketplaces in enhancing consumer protection (Burdon, 2021<sub>[6]</sub>). The note highlights that whilst online marketplaces offer consumers a range of important benefits, including wide product and seller choice and convenient shipping, they also present a number of common risks to consumers including, false ratings and reviews, scams and fraud, unsafe and counterfeit products and misleading claims. The note outlines a number of examples of how marketplaces and consumer protection policy makers and regulators around the world are addressing these issues, often in co-operation. Further, a draft report outlining findings from CCP/WPCPS questionnaires circulated to countries and selected online marketplace businesses on the role of online marketplaces in enhancing consumer protection, was discussed by CCP and WPCPS delegates at a joint session in November 2021 [[DSTI/CP\(2021\)6](#)].

42. Moreover, the CCP is currently conducting work on dark commercial patterns online (DCPs) and consumer vulnerability. At its 99<sup>th</sup> Session (Part 2) in November 2020, the CCP organised a roundtable aimed to identify the various types of existing and emerging DCPs, how these may harm consumers, any challenges to the enforcement of consumer protection laws, and whether there may be regulatory gaps that require a policy response [[DSTI/CP\(2020\)23/FINAL](#)]. Based on the discussion, at its 100<sup>th</sup> Session, the CCP developed the draft outline of a policy report, also exploring empirical work on DCPs [[DSTI/CP/M\(2021\)1](#)]. Moreover, at its 101<sup>st</sup> Session, the CCP discussed the first draft of the report [[DSTI/CP\(2021\)12](#)].

43. Additional work underway within the CCP includes exploring ways to better understand and characterise changing consumer vulnerability in the digital age. To kick off the work, the CCP

organised a roundtable in this area at its 100<sup>th</sup> session in April 2021 [[DSTI/CP/M\(2021\)1](#)], where stakeholders discussed: i) ongoing and emerging consumer issues associated with the changing nature and extent of consumer vulnerability in the digital age; and ii) related emerging responses and initiatives in jurisdictions. A draft outline of a policy report in this area [[DSTI/CP\(2021\)7](#)] was first discussed at the 101<sup>st</sup> session of the CCP in November 2021.

### ***Online Disclosures (Section C)***

#### **C. Online Disclosures General Principles**

25. Online disclosures should be clear, accurate, easily accessible and conspicuous so that consumers have information sufficient to make an informed decision regarding a transaction. Such disclosures should be made in plain and easy-to understand language, at a relevant time, and in a manner that enables consumers to retain a complete, accurate and durable record of such information.

26. When more than one language is available to conduct a transaction, businesses should make available in those same languages, all information necessary for consumers to make an informed decision regarding a transaction. All information that refers to costs should indicate the applicable currency, unless it is apparent from the context.

27. Businesses should take into account the technological limitations or special characteristics of a device or platform, while providing all necessary information.  
Information about the Business

28. Businesses engaged in e-commerce with consumers should make readily available information about themselves that is sufficient to allow, at a minimum: i) identification of the business; ii) prompt, easy and effective consumer communication with the business; iii) appropriate and effective resolution of any disputes that may arise; iv) service of legal process in domestic and cross-border disputes; and v) location of the business.

29. This information should include the legal name of the business and name under which it trades; its principal geographic address; an e-mail address, telephone number or other electronic means of contact; appropriate domain name registration information for web sites that are promoting or engaging in commercial transactions with consumers; and any relevant government registration or license information.

30. When a business publicises its membership in any relevant self-regulatory programme, business association, dispute resolution organisation or other body, the business should provide sufficient information to enable consumers to easily contact such body. Businesses should provide consumers with easy methods to verify that membership, access the relevant codes and practices of the organisation, and take advantage of any dispute resolution mechanisms offered by the organisation.  
Information about the Goods or Services

31. Businesses engaged in e-commerce with consumers should provide information describing the goods or services offered that is sufficient to enable consumers to make informed decisions regarding a transaction.

32. Depending on relevant factors, including the type of good or service, this should include information such as: i) Key functionality and interoperability features; ii) Key technical or contractual requirements, limitations or conditions that might affect a

consumer's ability to acquire, access or use the good or service; iii) Safety and health care information; and iv) Any age restrictions. Information about the Transaction

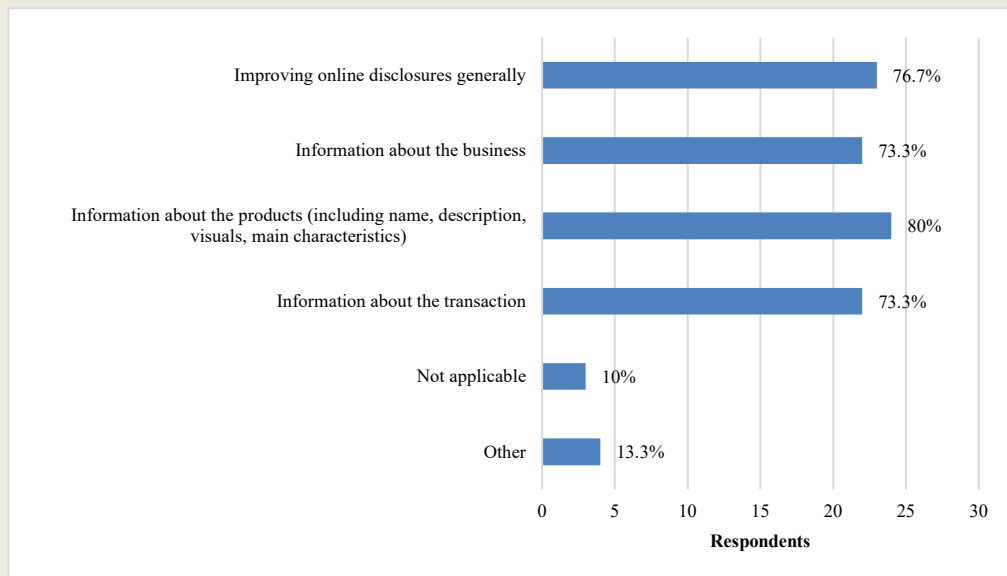
33. Businesses engaged in e-commerce should provide information about the terms, conditions and costs associated with a transaction that is sufficient to enable consumers to make an informed decision regarding a transaction. Consumers should be able to easily access this information at any stage of the transaction.

34. Businesses should provide consumers with a clear and full statement of the relevant terms and conditions of the transaction.

35. Where applicable and appropriate given the transaction, such information should include the following: i) Initial price, including all fixed compulsory charges collected and/or imposed by the business; ii) Information on the existence of variable compulsory and optional charges collected and/or imposed by the business when they become known by the business and before consumers confirm the transaction; iii) Notice of the existence of other routinely applicable costs to the consumer that are collected and/or imposed by third parties; iv) Terms, conditions, and methods of payment, including contract duration, recurring charges, such as automatic repeat purchases and subscription renewals, and ways to opt out from such automatic arrangements; v) Terms of delivery or performance; vi) Details of and conditions related to withdrawal, termination or cancellation, after-sales service, return, exchange, refunds, warranties and guarantees; vii) Privacy policy; and viii) Information on available dispute resolution and redress options.

44. A number of Respondents have introduced measures to implement this provision. 80% have adopted measures requiring businesses to disclose information about the products on offer and around 73% adopted measures requiring businesses to disclose information about themselves, as well as the transaction (see Box 4).

#### Box 4. Measures adopted to improve online disclosures



- In **Estonia**, in 2019, the authority reviewed the websites of the 500 largest e-traders in Estonia, examining their alignment with relevant legislation/requirements and initiating infringement proceedings where necessary<sup>25</sup>. The authority found out that 31% of the e-traders did not publish appropriate information on their websites regarding the right to submit a complaint and 25.0% of them had no information regarding the right of withdrawal (even 5.4% of them violated the law).
- In **Iceland**, since 2016, the Iceland Consumer Agency (ICA) has looked into the practices of several businesses on the Icelandic market, examining compliance of their disclosures regarding products, prices, discounts, and means of redress with relevant requirements covered in Acts no. 57/2005, 30/2002 and 16/2016. In addition, the ICA published several decisions as to whether the provided information about a business was considered either satisfactory or unsatisfactory. In some cases, businesses have improved their disclosures to be in line with Act. n°. 30/2002, on E-commerce and other electronic services, specifically Art. 6.
- In **Korea**, Article 13(1) and 13(2) of the Act on the consumer protection in e-commerce contain measures on online disclosures, specifying that online disclosures regarding businesses, products, and the transaction should be clear, accurate, and easily accessible.
- In **Peru**, new consumer protection regulations have been adopted since 2016, requiring businesses to provide timely, sufficient, truthful and easily accessible information to the consumer, regardless of the type of business or market. In addition, Indecopi has issued a normative proposal aimed at regulating e-commerce and specific information to be provided in the market in 2021<sup>26</sup>.

45. The CCP has engaged further in looking into the policy implications of behavioural insights for consumer policy, including in relation to online disclosures. The CCP organised a Roundtable on Behavioural Insights and Online Disclosures at its meeting in November 2017 to discuss whether and how to use findings from behavioural insights to improve the design of information disclosures [[DSTI/CP/M\(2017\)2](#)]. Drawing on lessons from the discussion and behavioural insights literature, the CCP published a report *Improving online disclosures with behavioural insights*, which discusses how best consumers can benefit from information disclosures when shopping online, especially how such disclosures should be communicated to consumers (OECD, 2018<sub>[20]</sub>).

46. Moreover, the CCP conducted laboratory experiments aimed at understanding consumer behaviour in the context of online disclosures on personalised pricing. The experiment was carried out by the Behavioural Research Unit of the Economic and Social Research Institute (ESRI) in Ireland in October 2019 and in Chile in March 2020. Overall, the study failed to find evidence that displaying a disclosure about online personalised pricing has a significant impact on consumer decision-making and many participants did not recall seeing even the stronger of two tested disclosure variants. The results confirm earlier literature findings highlighting the possible limited effectiveness of online disclosures. At the 99th Session (Part 2) of the CCP in November 2020 [[DSTI/CP/M\(2020\)2](#)], delegates recognised their potential limitations of the results from the experiment noting they are specific to personalised pricing disclosures and may not provide robust guidance for other types of disclosures. The Committee thus agreed to examine strategies and ways to enhance the effectiveness of other types of online disclosures, including class action notices, data breach notifications and product recall notices. The outline for this work [[DSTI/CP\(2021\)2](#)] was discussed and agreed upon at the 100th Session of the CCP in April 2021 and a first draft of the report was discussed at the 101st Session of the CCP in November 2021 [[DSTI/CP\(2021\)8](#)].

## *Confirmation Process (Section D)*

### **D. Confirmation Process**

36. Businesses should ensure that the point at which consumers are asked to confirm a transaction, after which time payment is due or they are otherwise contractually bound, is clear and unambiguous, as should the steps needed to complete the transaction, especially for new payment mechanisms.

37. Businesses should provide consumers with an opportunity to review summary information about the good or service, as well as any delivery and pricing information before consumers are asked to confirm a transaction. They should enable consumers to identify and correct errors or to modify or stop the transaction, as appropriate.

38. Businesses should not process a transaction unless the consumer has provided express, informed consent to it.

39. Businesses should enable consumers to retain a complete, accurate and durable record of the transaction, in a format compatible with the device or platform that the consumers used to complete the transaction.

47. 70% of the Respondents have implemented measures requiring businesses to provide clear information about key contractually binding steps (e.g. when a transaction becomes binding, the payment due date) and the opportunity to review key summary information (e.g. about the product, delivery, and price). In addition, 60% of the Respondents confirmed having put in place measures enabling consumers to provide express and informed consent and requiring businesses to provide complete, accurate and durable transaction records of the transaction.

- In **Ireland**, the Competition and Consumer Protection Commission (CCPC) ensures compliance with the confirmation process set out in Irish legislation, through its ongoing market monitoring and compliance work. As part of its enforcement activities, the agency takes enforcement measures against traders who do not provide clear information about the consumer's contractual payment obligations (including VAT, delivery costs and any additional costs prior to purchase). Traders are also required to make the consumer aware in a clear and prominent manner, and directly before the consumer places his/her order, that the transaction will result in a payment. Voluntary compliance has also been achieved in this area via engagement with traders to ensure that key payment information is available to consumers, such as a "pay" button or clear information that signing to a subscription will result in a recurring payment.<sup>27</sup>
- In **Sweden**, e-commerce is addressed under the Swedish Act on Distance Contracts, originally adopted in 2005 and last modified in 2020. Article 9 contains requirements for orders made on a website. For contracts concluded via a website, a consumer is bound by an order that entails payment only if the obligation has been clarified before the order and the consumer has expressed consent for the obligation. In addition, under Articles 8 and 9 of the Act, the business is to provide information about itself for traceability purposes. Such information is to be made available in a clear, easily accessible and permanent manner.
- In **Switzerland**, the competition regulation (adopted originally in 1986 and updated occasionally since 2016) states that warning letters, criminal complaints and civil actions are to be issued if there is an unclear and non-transparent purchasing process for consumers (Article 3 para. 1 lit. s Loi fédérale contre la concurrence déloyale



(LCD)). Likewise, warnings may be sent and civil or criminal actions launched when a business fails to provide consumers with the opportunity to review information summarising a transaction, and to provide informed consent, or to provide durable transaction records to consumers (Article 3 para. 1 lit. s ch. 2-3 LCD), (Article 3 para. 1 lit. s ch. 4 LCD)).

### ***Payment (Section E)***

#### **E. Payment**

40. Businesses should provide consumers with easy-to-use payment mechanisms and implement security measures that are commensurate with payment-related risks, including those resulting from unauthorised access or use of personal data, fraud and identity theft.

41. Governments and stakeholders should work together to develop minimum levels of consumer protection for e-commerce payments, regardless of the payment mechanism used. Such protection should include regulatory or industry-led limitations on consumer liability for unauthorised or fraudulent charges, as well as chargeback mechanisms, when appropriate. The development of other payment arrangements that may enhance consumer confidence in e-commerce, such as escrow services, should also be encouraged.

42. Governments and stakeholders should explore other areas where greater harmonisation of payment protection rules among jurisdictions would be beneficial and seek to clarify how issues involving cross-border transactions could be best addressed when payment protection levels differ.

48. Just over 50% of the Respondents have introduced initiatives aimed to ensure a minimum level of payment protections (e.g. limitations on consumer liability for unauthorised or fraudulent charges, chargeback and escrow mechanisms). In addition, close to 47% have adopted security measures (e.g. on unauthorised access or use of personal data, fraud and identity theft). On the other hand, 40% of the Respondents have not established any new measures since 2016 in this area.

- In **Canada**, federally regulated financial entities who provide financial services, either directly or through a third party, in the retail e-commerce space, are subject to federal financial consumer protection legislation,<sup>28</sup> which includes provisions on limiting consumer liability for unauthorized use (of credit cards). In 2017, the federal Office of the Privacy Commissioner (OPC) conducted research and submitted a response<sup>29</sup> to the federal Department of Finance's consultation on a new retail payments oversight framework. Additionally, the OPC's 2019 submission on Open Banking<sup>30</sup> to Finance Canada covered payment-related security.
- In **Colombia**, chargeback rules and a right of withdrawal are covered by the country's Consumer Protection Statute (Law 1480/2011). During 2020 and 2021, there have been several cases of businesses and suppliers failing to comply with the Law and violating national consumer protection regulations. The Colombian Government and the SIC took measures and imposed relevant sanctions in relation to those cases.
- In **Denmark**, in 2016 the Danish Consumer Ombudsman launched legal proceedings against a company who had charged a monthly subscription fee to consumers following the purchase of a product online. In addition, the Strong

Customer Authentication (SCA) requirement for electronic payments stemming from the EU revised payments service directive (PSD2) has been transposed into Danish law in 2016. Denmark has in particular implemented the SCA for card payments in e-commerce, in line with the process established by the European Banking Authority.

- Similarly, in **France**, regulatory technical standards have been introduced in follow up to the entry into force of the PSD2 in January 2018. Such standards aim to provide consumers with safer and more innovative electronic payments. As of 15 May 2021, a system of "strong customer authentication" was introduced that will be progressively implemented by French banks, under the supervision of the Bank of France.
- In **Ireland**, the CCPC monitors compliance with this requirement, set out in Irish legislation, through its ongoing market monitoring and compliance work. Guidance regarding disputed card transactions has also been published in 2020<sup>31</sup>. Moreover, the CCPC proactively monitors compliance with the Single European Payments Area (SEPA) Regulation and engages with traders to ensure compliance with their obligations under SEPA. The CCPC is the competent authority in Ireland where the payee is a consumer and the payer is a trader, and where the payer is a consumer and the payee is a trader. This ensures that consumers benefit from being able to make euro-denominated payments to, and receive such payments from, accounts anywhere else in SEPA<sup>32</sup>.

### ***Dispute Resolution and Redress (Section F)***

#### **F. Dispute Resolution and Redress**

43. Consumers should be provided with meaningful access to fair, easy-to-use, transparent and effective mechanisms to resolve domestic and cross-border e-commerce disputes in a timely manner and obtain redress, as appropriate, without incurring unnecessary cost or burden. These should include out-of-court mechanisms, such as internal complaints handling and alternative dispute resolution (hereafter, "ADR"). Subject to applicable law, the use of such out-of-court mechanisms should not prevent consumers from pursuing other forms of dispute resolution and redress.

##### *Internal complaints handling*

44. The development by businesses of internal complaints handling mechanisms, which enable consumers to informally resolve their complaints directly with businesses, at the earliest possible stage, without charge, should be encouraged.

##### *Alternative dispute resolution*

45. Consumers should have access to ADR mechanisms, including online dispute resolution systems, to facilitate the resolution of claims over e-commerce transactions, with special attention to low value or cross-border transactions. Although such mechanisms may be financially supported in a variety of ways, they should be designed to provide dispute resolution on an objective, impartial, and consistent basis, with individual outcomes independent of influence by those providing financial or other support.

##### *Redress*

46. Businesses should provide redress to consumers for the harm that they suffer as a consequence of goods or services which, for example, are defective, damage their



devices, do not meet advertised quality criteria or where there have been delivery problems. Governments and stakeholders should consider how to provide redress to consumers in appropriate circumstances involving non-monetary transactions.

47. Governments and stakeholders should work towards ensuring that consumer protection enforcement authorities and other relevant bodies, such as consumer organisations, and self-regulatory organisations that handle consumer complaints, have the ability to take action and obtain or facilitate redress for consumers, including monetary redress.

49. Around 73% of the Respondents have introduced alternative dispute resolution mechanisms (hereafter, “ADR”) and 50% have adopted initiatives to foster internal complaints handling, as well as redress, including for non-monetary transactions.

- In **Colombia**, the SIC adopted a Consumer Protection Procedure System allowing the Deputy Superintendence for Consumer Protection to classify and analyse complaints in a more efficient way. In addition, since 2015, the SIC has maintained a virtual platform ("SIC Facilita") enabling consumers and businesses to seek rapid solutions to their problems through an online, free system, hosted by the SIC. In case consumers and business reach an agreement, a transaction agreement may be concluded to end the dispute. The platform has been to date widely used.
- In **France**, in February 2020, the Directorate-General for Competition, Consumer Affairs and Fraud Control (DGCCRF) launched a website<sup>33</sup> providing consumers with the possibility to notify businesses of problems encountered with a product. The reports are recorded in the DGCCRF's database. In addition, consumers have access to several ADR mechanisms, including: consumer ombudsmen, consumer associations, arbitration, and the European consumer centre for cross-border transactions.
- In **Mexico**, under existing law, all mechanisms for consumers to file questions, complaints or clarification should be cost-free. In addition, e-commerce platforms are required to provide physical addresses, phone numbers, e-mail addresses or other ways so that consumers can file complaints. Moreover, it is necessary for alternative dispute resolution systems to be developed by any platform. ADR systems are also to be safe, easy to use, authentic, confidential, and to contain information safeguards.
- In **Portugal**, Decree-Law No. 74/2017 of June 21<sup>34</sup> reinforces the procedures for protecting consumer rights in the supply of goods and services. This decree-law requires the development and availability of submission process for complaints in electronic format<sup>3536</sup> (in addition to the already existing mandatory physical format).
- In **Switzerland**, for complaints involving foreign companies/individual business, consumers are invited to file a complaint on [www.consumersentinel.gov](http://www.consumersentinel.gov) or on the Consumer Protection Cooperation (CPC) network of the European Commission. Complainants are referred to the e-commerce Ombudsman (private dispute resolution body) to resolve their disputes.

50. The CCP held a roundtable on remedies to address issues associated with non-monetary transactions in 2018 (OECD, 2018<sub>[11]</sub>).

## *Privacy and Security (Section G)*

### **G. Privacy and Security**

48. Businesses should protect consumer privacy by ensuring that their practices relating to the collection and use of consumer data are lawful, transparent and fair, enable consumer participation and choice, and provide reasonable security safeguards.

49. Businesses should manage digital security risk and implement security measures for reducing or mitigating adverse effects relating to consumer participation in e-commerce.

51. While close to 47% of the Respondents have adopted measures to protect consumer privacy, including the provision of reasonable security safeguards, and around 43% have implemented security measures to reduce digital security risk, 40% have not developed any recent initiatives in those areas.

- In **Brazil**, the General Law for the Protection of Personal Data (LGPD), adopted in 2018,<sup>37</sup> includes rules for the processing of personal data (including via digital media) in order to protect the fundamental rights of freedom and privacy of consumers. The law, for example, contains requirements on the handling personal data, handling sensitive personal data, and the treatment of children and teenagers' personal data.
- In **Colombia**, the Recommendation has served as a useful basis for the elaboration of a Guide for Consumer and Personal Data Protection on Electronic Commerce, which was requested by the National Council for Economic and Social Policy (CONPES) in document CONPES 4012 of 2020 for National Policy on Electronic Commerce.
- In **Costa Rica**, according to the consumer protection law, merchants must adopt effective, reliable and certified security systems, in order to guarantee the security, integrity and confidentiality of transactions and payments made by consumers. The trader must provide information in a timely manner on his website about: a) the level of protection applied to the data provided by consumers and the possible limitations of the security systems used, b) the security of payment means and the technology that is being used to protect the transmission, processing and storage of financial data, and c) the name of the certifying entity of the security systems.
- In **Germany**, the second national Law on Cyber Security Germany adopted in May 2021 introduced a voluntary cyber security label for IT products. The label consists of two elements: (i) a declaration of the producer that applicable cyber security standards are met by the product for a determined time; (ii) information about cyber security aspects of the product, which are provided by the German Federal Office for Information Security (BSI). The label may only be used after examination and approval by the BSI. The label may be applied to the IT-product or can be published in electronic form. Then, the label redirects the consumer to a website of the BSI on which the producer's declaration and the relevant cyber security information are accessible.
- In **Mexico**, in addition to being compliant with the legal requirements relating to personal data, e-commerce platforms should: enable consumers to decide if their data may be stored; select options that offer more privacy guarantees, when possible; implement security measures that are equivalent to the country's Payment Card Industry Data Security Standard; delete financial data after the transaction, if

possible and comply with the applicable regulations; anonymize personal data, if possible; provide communication channels to consumers for questions relating to the use of their personal data; offer consumers ways to administer directly their personal data, when possible; inform consumers about data obtained through social media; request consent from parents or guardians when dealing with data from minors; and be certified in personal data by INAI, or internal or external audits to verify compliance with personal data protection regulation, if possible (8.1., NMX-COE-001-SCFI-2018).

- In **Norway**, the EU General Data Protection Regulation (GDPR) was transposed into national law<sup>38</sup> in 2018. Regarding empirical work in this area, the Norwegian Consumer Council carried out a study in 2016 on terms and conditions for goods and services incorporating ‘Internet of Things’ technology.<sup>39</sup> Two products groups were selected (fitness bracelets and children toys) and the findings led to a number of corrective measures in many countries.
- In the **United Kingdom**, the government is working on a “secure by design” project<sup>40</sup> aimed to introduce strong security measures to be built into internet-connected products from the start.

52. The WPCPS organised a joint workshop with the CDEP’s Working Party on Security in the Digital Economy in October 2021 to explore issues associated with the convergence of product safety and digital security in the IoT.

### *Education, Awareness and Digital Competence (Section H)*

#### **H. Education, Awareness and Digital Competence**

50. Governments and stakeholders should work together to educate consumers, government officials and businesses about e-commerce to foster informed decision-making. They should work towards increasing business and consumer awareness of the consumer protection framework that applies to their online activities, including their respective rights and obligations, at domestic and cross-border levels.

51. Governments and stakeholders should work together to improve consumers’ digital competence through education and awareness programmes aimed at providing them with relevant knowledge and skills to access and use digital technology to participate in e-commerce. Such programmes should be designed to meet the needs of different groups, taking into account factors such as age, income, and literacy.

52. Governments and stakeholders should make use of all effective means to educate consumers and businesses, including innovative techniques made possible by global networks.

53. Close to 80% of the Respondents have launched education and awareness programmes targeting consumers, a large majority of which (around 67%) targeting businesses, and around 43% targeting government officials.

- In **Canada**, government agencies use a variety of social media and other targeted communications products to educate and raise awareness of consumers. For example, Competition Bureau Canada has increased awareness of issues related to the digital economy in a number of ways in order to reach as many Canadian consumers and business as possible. In 2016, the Bureau launched a specialised web portal<sup>41</sup> on its website where regular alerts discussing emerging trends in deceptive marketing enforcement of particular importance or relevance to

consumers and businesses are posted. Health Canada routinely communicates with industry through a variety of consumer product safety resources including: social media, websites,<sup>42</sup> in person meetings and webinars. The federal Office of the Privacy Commission (OPC) provides ad-hoc Business advisory services to help assess the privacy issues of new programs or initiatives. The OPC regularly updates its webpage<sup>43</sup> providing information and advice for businesses and government officials<sup>44</sup>.

- In **Germany**, the “Digital Compass Plus” project aims to provide concrete support for senior citizens to learn digital skills that are relevant to everyday life. This is done with the help of guides, who can be contacted via the Internet and who are mostly in the same age group as the target group of the project. The mediation work is carried out by the guides with the help of interactive training offers, including via roundtables held virtually. In addition, newsletters are sent every three months, covering digital trends relevant to everyday life are held. Moreover, senior citizens receive support in dealing with digital media and devices. The aim of the project is to open a total of 100 Digital-Compass locations nationwide, which serve as contact points for senior citizens.
- In **Greece**, under its “Young consumer... the basic rights” programme, the consumer protection authority actively promotes consumer education for students and teachers of primary and secondary education. The programme is designed to increase the awareness of young people in many aspects of their life as consumers, to help them make informed purchasing decisions (both online and offline), and to make them aware of their rights and responsibilities. The programme was launched in March 2019 and until the end of the school year in June 2019, more than 1000 students have participated in it.
- In **Lithuania**, the State Consumer Rights Protection Authority implemented educational campaigns on consumer rights (including on the purchase of products online) for children, which were initiated by the Ministry of Justice. In addition, several seminars were organised for elderly consumers at the "Third Age" university. Moreover, trainings and seminars about online investigations have been provided to government officials. Furthermore, seminars are provided to businesses according to annual business training plans and new issues identified on consumer protection. Seminars on e-commerce and advertising have to date triggered particular interest among businesses.
- In the **United States**, the FTC regularly conducts education and awareness programs for consumers, businesses, and other government officials. The Division of Consumer and Business Education is dedicated to developing free, plain language online, print, and video consumer protection resources for consumers and organisations. The objective advice – sometimes targeted to a particular audience – informs consumers and businesses about steps they can take to avoid or resolve a problem. The Division publishes hundreds of blog posts and sends free email alerts to several hundred thousand subscribers. It also participates in hundreds of outreach events nationwide, including webinars, trainings and presentations. Additionally, the US FTC regularly hosts public workshops<sup>45</sup>, and engages with state, federal, and international government counterparts to generate discussion and disseminate information regarding key consumer protection topics<sup>46</sup>.

## PART TWO: IMPLEMENTATION PRINCIPLES

### PART TWO: IMPLEMENTATION PRINCIPLES

53. To achieve the purpose of this Recommendation, governments should, in co-operation with stakeholders:

- i. Work towards improving the evidence base for e-commerce policy making through:
  - The collection and analysis of consumer complaints, surveys and other trend data, and
  - Empirical research based on the insights gained from information and behavioural economics;
- ii. Review and, if necessary, adopt and adapt laws protecting consumers in e-commerce, having in mind the principle of technology neutrality;
- iii. Establish and maintain consumer protection enforcement authorities that have the authority and powers to investigate and take action to protect consumers against fraudulent, misleading or unfair commercial practices and the resources and technical expertise to exercise their powers effectively;
- iv. Work towards enabling their consumer protection enforcement authorities to take action against domestic businesses engaged in fraudulent and deceptive commercial practices against foreign consumers, and to take action against foreign businesses engaged in fraudulent and deceptive commercial practices against domestic consumers;  
  
Encourage the continued development of effective co-regulatory and self-regulatory mechanisms that help to enhance trust in e-commerce, including through the promotion of effective dispute resolution mechanisms; vi) Encourage the continued development of technology as a tool to protect and empower consumers; vii) Facilitate the ability of consumers to access consumer education information and advice and to file complaints related to e-commerce.

54. Many Respondents have introduced regulatory or other initiatives aimed to improve the evidence base for consumer policy making related to e-commerce. Around 73% of the Respondents have mechanisms in place to collect and analyse consumer complaints or developed and analysed consumer surveys. In addition, 50% of the Respondents have used technology to collect data, such as web crawler or automated complaints extraction. Moreover, around 43% of the Respondents have engaged in empirical research and used behavioural insights to understand and address consumer behavioural biases.

- In **Ireland**, the CCPS provides consumers with information about consumer rights through their dedicated helpline. The helpline also provides information on personal finance products. In 2020, the helpline provided information directly to 48,603 consumers and businesses. The details of all contacts are logged on the database for information purposes and for analysis of trends in complaints received. Information gathered is shared with the enforcement divisions who in turn use this to inform their enforcement actions. The CCPS also regularly undertakes market research and conducts consumer surveys to develop evidence based insights into consumer behaviour.<sup>47</sup> Moreover, empirical research initiatives are regularly undertaken to inform priorities and activities; this includes for example a survey on

“Business Awareness of Consumer Rights when Buying Online<sup>48</sup>” which is a survey of SMEs in the retail trade in Ireland, as well as a survey on “Brexit and Online Shopping 2019”<sup>49</sup> which is a research project on online shopping behaviours.

- In **Israel**, all complaints received are categorized according to how the transaction was concluded, and transactions via e-commerce are tagged accordingly. The information is distributed accordingly to the various units in the authority, analysed, and used for policy making and identifying priorities. In addition, the authority develops and analyses consumer surveys on different issues. With regard to e-commerce, surveys are conducted, for example, to examine the purchasing behaviour of children in online games/applications and the level of parental consent and awareness.
- In **Latvia**, consumer surveys are conducted through the CRPC’s website and/or social media. In order to collect and analyse complaints in a regular way, the following four-step procedure was introduced to detect unfair e-shops: Step 1: On the ground of information/signals received about no delivery of goods within promised time (~ 10 calls or ~ 5-10 complaints in a short time period), the authority starts the investigation. Step 2: The CPRC applies preventive measures, which includes request to exclude the relevant website from price comparison portals, request for blocking of the content on Facebook/Instagram, and inspection on-site. Step 3: The CPRC initiates administrative proceedings. Step 4: The CPRC cooperates with the State Police for possible criminal proceedings, issue a press release/warning for consumers, and update the “Black list” of the CRPC website.
- In the **United States**, the FTC uses various technological tools to protect and empower consumers. Three examples are: 1) The FTC’s complaints reporting website, [reportfraud.ftc.gov](https://reportfraud.ftc.gov); 2) The [econsumer.gov](https://econsumer.gov) website<sup>50</sup> where consumers can report complaints which are then entered into the Consumer Sentinel Network database; and 3) The FTC’s Tableau page, which contains visualizations of complaints data. Additionally, the FTC recently expanded its online tools for sharing data about international scams, launching two new interactive dashboards that provide details about international complaints submitted to Consumer Sentinel and [econsumer.gov](https://econsumer.gov).

55. The CCP has engaged in a number of activities to enhance the evidence base for consumer policy decision making, including in the area of e-commerce. For example, at its 91<sup>st</sup> Session in April 2016, the CCP held a Roundtable on Behavioural Insights and Consumer Policy [[DSTI/CP/M\(2016\)1/CORR](#)] to assess how consumer policies have benefited from behavioural insights and to identify current challenges. The discussion highlighted a number of ways to reflect behavioural insights in the policy decision making process, including the use of consumer behavioural surveys, laboratory experiments, and randomised control trials to measure the effectiveness of policies and improve the evidence-base. Based on the discussion at the roundtable and further research, the CCP developed a report *Use of Behavioural Insights in Consumer Policy*, examining how behavioural insights have been used by governments and other public policy organisations within their consumer policy making process and policy initiatives (OECD, 2017<sub>[16]</sub>). The report also shed new light on some of the challenges arising due to behavioural biases, in areas such as labelling and information disclosures. In 2018, the CCP published a policy note on online disclosure from the perspective of behavioural insight (OECD, 2018<sub>[20]</sub>). In 2019, the CCP published a report providing an introduction to the key aspects of online advertising and highlights some of the main benefits and risks for consumers, drawing on behavioural insights (OECD, 2019<sub>[21]</sub>). In addition, the CCP has implemented a survey on consumer detriment on e-commerce,

based on the work on peer platform market in 2017. The report [[DSTI/CP\(2021\)9](#)] will be finalised in the 102<sup>nd</sup> Session of the CCP in 2022 April.

56. Moreover, the WPCPS is currently developing a draft good practice note on effective presentation of product recall information on websites and apps, a first draft of which [[DSTI/CP/CPS\(2021\)9](#)] was discussed at the 22<sup>nd</sup> WPCPS meeting in November 2021.

## **PART THREE: GLOBAL CO-OPERATION PRINCIPLES**

### **PART THREE: GLOBAL CO-OPERATION PRINCIPLES**

54. In order to provide effective consumer protection in the context of global e-commerce, governments should:

- i. Facilitate communication, co-operation, and, where appropriate, the development and enforcement of joint initiatives at the international level among governments and stakeholders;
- ii. Improve the ability of consumer protection enforcement authorities and other relevant authorities, as appropriate, to co-operate and co-ordinate their investigations and enforcement activities, through notification, information sharing, investigative assistance and joint actions. In particular, governments should:
  - Call for businesses to make readily available information about themselves that is sufficient to allow, at a minimum, location of the business and its principals for the purpose of law enforcement, regulatory oversight and compliance enforcement, including in the cross-border context,
  - Strive to improve the ability of consumer protection enforcement authorities to share information subject to appropriate safeguards for confidential business information or personal data,
  - Simplify assistance and co-operation, avoid duplication of efforts, and make every effort to resolve disagreements as to co-operation that may arise, recognising that co-operation on particular cases or investigations remains within the discretion of the consumer protection enforcement authority being asked to co-operate.
- iii. Make use of existing international networks and enter into bilateral and/or multilateral agreements or other arrangements as appropriate, to accomplish such co-operation;
- iv. Continue to build consensus, both at the national and international levels, on core consumer protections to further the goals of promoting consumer welfare and enhancing consumer trust, ensuring predictability for businesses, and protecting consumers;
- v. Co-operate and work toward developing agreements or other arrangements for the mutual recognition and enforcement of judgments resulting from disputes between consumers and businesses, and judgments resulting from law enforcement actions taken to combat fraudulent, misleading or unfair commercial conduct;



- |   |
|---|
| vi. Consider the role of applicable law and jurisdiction in enhancing consumer trust in e-commerce. |
|---|

57. When asked about activities to improve the implementation of the Recommendation with respect to domestic enforcement, as well as cross-border enforcement co-operation aimed to address issues associated with online transactions, 70% of the Respondents answered that they had conducted a review, adapted or adopted laws in this context and close to 57% of them stressed that they had ensured consumer access to education, information and advice. Moreover, around 47% have established or granted more power to consumer protection enforcement authorities, or introduced the use of technology as a tool to protect and empower consumers.

- In **Colombia**, a guidance on Public Policy on E-commerce<sup>51</sup> was released in 2020, which describes the national policy on e-commerce and aims to promote appropriate use of e-commerce by both businesses/consumers and enhance enforcement co-operation.
- In **Israel**, the authority is currently considering introducing amendments to the country's law on consumer protection to obtain the necessary powers that can assist them in domestic enforcement and cross border enforcement co-operation. The authority intends to use the Implementation Toolkit on Legislative Actions for Consumer Protection Enforcement Co-operation (OECD, 2021<sup>[15]</sup>) to obtain these powers.
- In **Latvia**, amendments to the Consumer Rights Protection Law have entered into force on 15 June 2021 providing the CRPC with additional powers to: 1) trace financial flows, ascertain the identity of persons involved in financial flows, and ascertain bank account information; 2) trace data flows, check the identity of persons involved in data flows, and check ownership of websites; and 3) remove content or restrict access to an online interface, order a hosting service provider to remove, disable or restrict access to an online interface, or order domain registries or registrars to delete a fully qualified domain name.
- In **Portugal**, a national decree-law implementing the legal rules defined in the European CPC Regulation has been introduced in 2018. In addition, new European CPC Regulation, and the national initiatives regarding its implementation, will provide new enforcement powers for national authorities<sup>52</sup>.
- In the **United States**, in October 2020, the US Congress renewed the U.S. SAFE WEB Act which provides the FTC with a number of tools to improve enforcement regarding consumer protection matters, particularly those with an international dimension, including increased co-operation with foreign law enforcement authorities through confidential information sharing and provision of investigative assistance. It also allows enhanced staff exchanges and other international co-operative efforts. Moreover, in 2016, the US enacted two new consumer protection laws – the Consumer Review Fairness Act and the BOTS Act – and delegated enforcement of those laws to the FTC.

58. In 2018, the CCP conducted a study on cross-border enforcement co-operation based on information received from consumer protection enforcement authorities of OECD Members and non-Members, focusing on the ability of these authorities to co-operate across borders (OECD, 2018<sup>[22]</sup>). The CCP found that while many OECD Members and non-Members had engaged in some type of cross-border co-operation, a number of challenges to effective cross-border enforcement co-operation remained. To further promote international co-operation, the CCP organised a roundtable in October 2019 to share information about successful legal schemes



implemented in jurisdictions to enhance cross-border enforcement co-operation (OECD, 2020<sup>[23]</sup>). The roundtable highlighted the importance of adopting and enforcing domestic laws enabling consumer protection enforcement agencies to enhance cross-border co-operation, and the need to increase agencies' ability to co-operate cross borders, in particular regarding information sharing, including of confidential information; investigative assistance; and securing outcomes. Following the discussion, the CCP then developed, in consultation with ICPEN, the Implementation Toolkit on Legislative Actions for Consumer Protection Enforcement Co-operation ("the Toolkit") (OECD, 2021<sup>[15]</sup>), which was released in June 2020 at the OECD's international consumer conference.

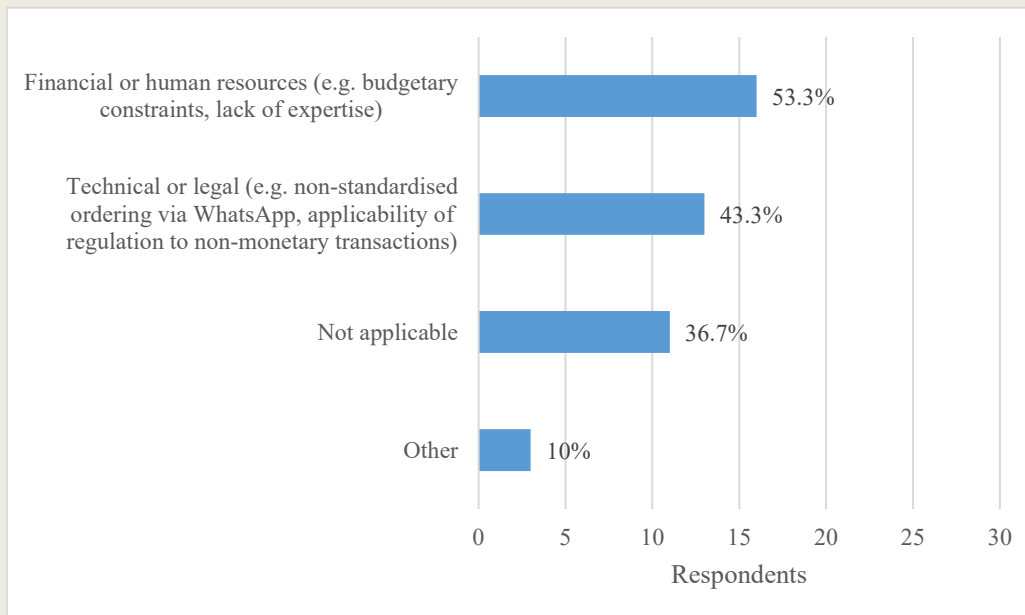
59. The Toolkit supports the implementation of policy principles on cross-border enforcement co-operation in the 2003 Cross-Border Fraud and 2016 E-commerce Recommendations. It sets out a range of legislative actions that OECD Members and non-Members may take to improve cross-border enforcement co-operation. It thereby acts a practical resource for consumer protection enforcement agencies that do not currently have the domestic legal authority needed for enforcement co-operation to make the case for obtaining relevant legislative tools, and provides guidance to ensure related legislative reforms are fit for purpose. In particular, the Toolkit sets forth ten guiding principles on legal and operational issues relating to: i) investigatory powers, ii) enforcement outcomes, and iii) co-operation practices. To help jurisdictions develop specific enabling legislation, statutes, and rules, its Annex provides a rationale for each guiding principle as well as examples of cases of cross-border enforcement co-operation and related statutory text from jurisdictions (of both OECD Members and non-Members), including from the product safety, competition, privacy and financial securities policy areas.

## **Implementation challenges**

60. When asked about the challenges regarding the implementation of the Recommendation, in particular to address newer issues such as non-monetary transactions, mobile commerce, or new forms of consumer vulnerability, around 54% of the Respondents presented financial or human resources (e.g. budgetary constraints, lack of expertise) as a challenge and around 44% of them referred to technical or legal matters (e.g. non-standardised ordering via WhatsApp, applicability of regulation to non-monetary transactions) as an obstacle (see Box 5). The following issues were mentioned:

- Lack of staff and financial resources, especially to cover all of the areas in the Recommendation and for greater oversight and enforcement; limited budget for mystery shopping and (or) to purchase IT tools for online investigations;
- Regulatory gap to address specific new issues (e.g. non-monetary transactions, liability of online marketplaces);
- Need for enhanced expertise and knowledge of new technologies (e.g. artificial intelligence); training of officials or hiring of IT-skilled experts may be expensive;
- Challenges in dealing with cross-border enforcement cases, especially against large tech firms;
- Jurisdictional issues associated with e-commerce.

### Box 5. Implementation challenges



61. In addition, when asked about the need for further actions to improve the implementation of the Recommendation, close to 47% of the Respondents acknowledged that more efforts are required to address the need for:

- increased involvement of business to secure fair business, advertising and marketing practices and to promote self-regulation; and
- enhanced promotion of consumer education in e-commerce and for building consumer trust.

62. Moreover, one Respondent suggested that the Recommendation would be more useful if accompanied by a good practice guide elaborating on each principle, similar to that developed by the CCP on consumer ratings and reviews (OECD, 2019<sup>[19]</sup>).

## 6. Summary and conclusions

### Dissemination

63. The Recommendation was disseminated within and across borders by Adherents and the CCP, thereby increasing government and business awareness. While dissemination by the CCP took place both within and outside the OECD (e.g. collaboration with other international fora), dissemination by Adherents was achieved in three ways:

- to relevant ministries, different levels of government (at local and national levels), and other public stakeholders within their jurisdictions;
- to stakeholders;
- through discussions of its implementation and related work at CCP meetings and with other international fora.

64. According to the survey results, however, almost half of the Respondents have not made any efforts to disseminate the Recommendation. More dissemination efforts are therefore necessary to better achieve the objectives of the Recommendation and increase its impact. Possible options include further dissemination:

- within the OECD, through collaborations with other relevant bodies (e.g. a joint workshop with the Competition Committee will be held in 2023 to explore consumer and competition issues associated with behavioural insights, dark commercial patterns and online disclosures; partnership will be made with the Environmental Policy Committee to address issues associated with digital consumer protection and empowerment in the green economy);
- among Members and non-Members through the translation of the Recommendation in additional languages; and
- among non-Members or other fora, which are in the process of adopting new legislation or guidelines on e-commerce. This will be done, for example, through a third joint meeting to be organised with the ASEAN's Committee for Consumer Protection in 2023, as well as through workshops and other forms of dialogues aimed to further strengthen global cooperation on digital consumer protection and empowerment issues.

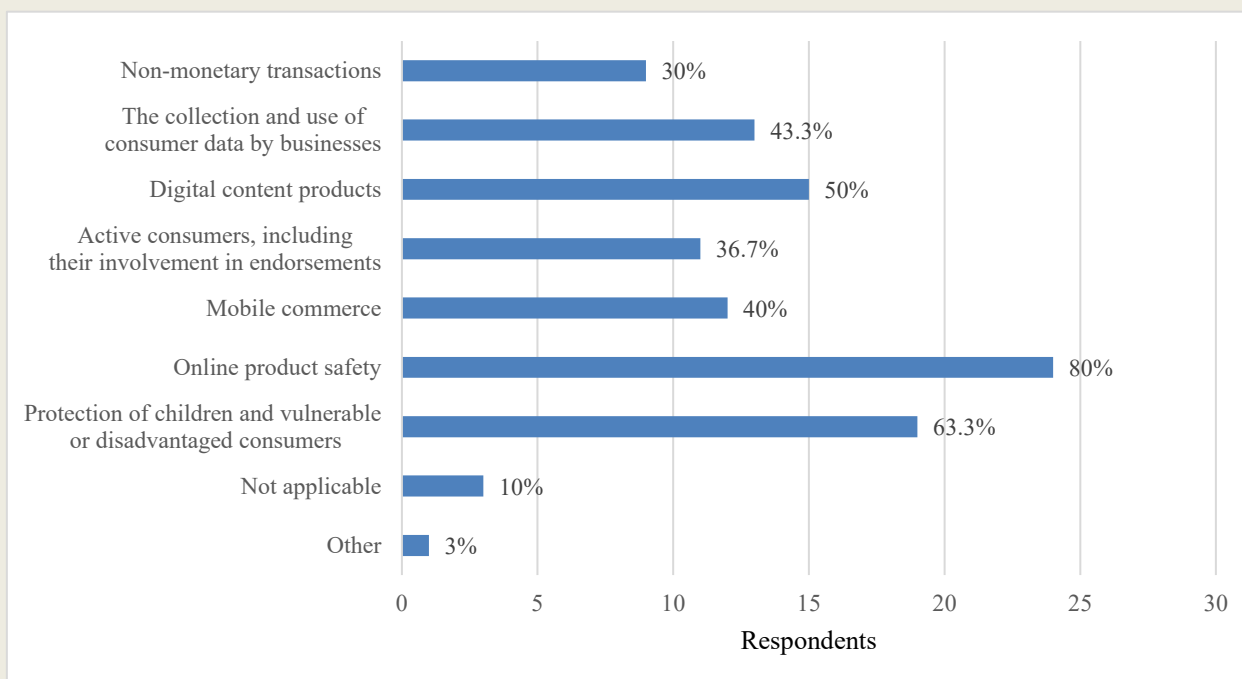
## **Implementation**

65. Findings from the survey suggest that since the adoption of the Recommendation, Adherents have made significant and continued efforts to implement in their policy frameworks the core consumer protections in e-commerce set out in the instrument, in close co-operation with various stakeholders. The Recommendation has proven influential to help Adherents identify, promote and implement core consumer protections in e-commerce, at domestic and global levels. However, 47% of the Respondents noted that further actions are required to improve the implementation of the Recommendation in several areas, including:

- cross-border enforcement co-operation: as highlighted in the CCP's 2021 Toolkit in this area, some Adherents still lack legislative powers and resources to co-operate internationally;
- consumer and business education; and
- Some of the issues highlighted in the Recommendation, such as non-monetary transactions (as noted in Section 5 of this Report on Challenges).

66. When asked about whether new policy areas in the Recommendation have been addressed in their respective jurisdiction, 80% of the Respondents answered positively, indicating for example that they had dealt with new issues associated with online product safety. Additionally, 50% indicated having introduced measures relating to digital content products. Fewer have adopted measures related to non-monetary transactions (30%) and active consumers (including endorsements and testimonials) (around 37%) (see Box 6).

## Box 6. Measures adopted to address new issue areas covered by the Recommendation



67. Future actions to be undertaken by Adherents to further implement the Recommendation include enhancing engagement with other stakeholders in order to discuss various emerging issues concerning consumer protection measures, including on digital platforms. An example of such initiatives are the “consumer dialogues” organised by the European Commission in 2018 in the Member States with citizens and other stakeholders<sup>53</sup>.

68. The CCP will continue promoting its work on e-commerce and developing relevant joint projects with other OECD Directorates. For example, the CCP is planning to contribute to the CDEP-led digital Ministerial to be held in December 2022; the Committee will also hold a joint workshop with the Competition Committee in 2023 on behavioural insights, dark commercial patterns online and online disclosures; and it will seek collaboration with the Environmental Policy Committee to inform its planned work under the 2023-24 biennium on empowering digital consumers in the green transition.

### Continued relevance

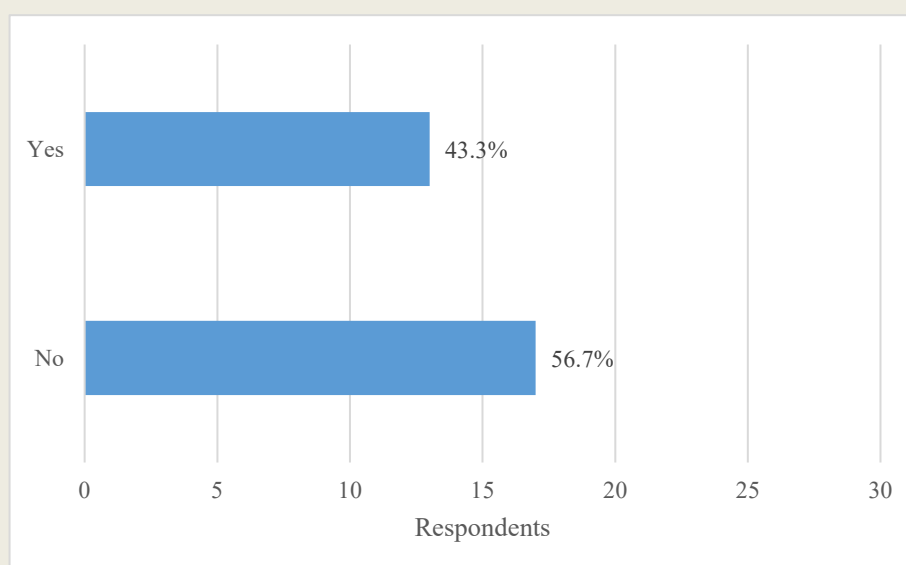
69. A large majority of the Respondents acknowledged the Recommendation’s value in providing fundamental principles for consumer protection in e-commerce as well as for reminding Adherents of specific shared challenges in e-commerce.

70. In particular, some Respondents highlighted that the Recommendation has served as a model for the development of domestic and international standards in this area. For example, **France** indicated that the Recommendation strongly inspires its official position during the negotiations of the different binding instruments that are discussed at the EU level to regulate e-commerce and protect consumers. **Turkey** also stated that the Recommendation offers fundamental principles for consumer protection in this field and it is one of the documents to be taken into account primarily when domestic legislation is designed.

71. While close to 57% of the Respondents stated that there is no need to update the Recommendation at this stage (see Box 7), some identified the following areas for possible future revisions through new provisions aimed to:

- Address new issues associated with: technological changes, such as AI; dark commercial patterns; the commercial use of data; the exploitation by businesses of default settings, consumer biases and behavioural manipulation online, including via algorithm-driven automated decision making;
- Cover online marketplace liability (including third party liability), as well as their role and responsibilities in relation to, for example, the collection and use of consumer data for commercial purposes, dispute resolution, transparency on the ranking of search results, and measures to prevent unsafe products from being sold on their platform; and
- Address new issues arising from the COVID-19 crisis, such as financial scams, price gauging of essential goods and the promotion of unsafe products.

**Box 7. Are any changes to the Recommendation needed?**



72. In today's complex digital transformation where authorities increasingly need to co-operate within and across borders, as well as across disciplines, to address consumer protection issues, the Recommendation remains highly relevant and serves as a robust and widely recognised international standard for the effective development of laws and regulations, and enforcement. Accordingly, the Recommendation continues to provide an effective and robust framework for consumer protection in e-commerce at domestic and global levels.

73. Accordingly, it is proposed that the CCP continues to join forces with Adherents to implement and promote the Recommendation at domestic and international levels and report back to Council on the implementation, dissemination and continued relevance of the Recommendation in ten years, or earlier if there are any new developments.

- <sup>1</sup> The Declaration (in document [SG/EC\(98\)14/FINAL](#)) was released during the OECD Ministerial conference “A Borderless World: Realising the Potential of Global Electronic Commerce” held on 7-9 October 1998 in Ottawa, Canada.
- <sup>2</sup> Information on Ministerial Meeting on *The Future of the Internet Economy* can be found here: <https://www.oecd.org/futureinternet/>.
- <sup>3</sup> Ibid.
- <sup>4</sup> In addition to French and English, the Recommendation was translated into Czech, Spanish, and Japanese (see: <https://www.oecd.org/sti/consumer/consumersinthedigitaleconomy.htm>).
- <sup>5</sup> Foro Iberoamericano de Agencias Gubernamentales de Protección al Consumidor: <http://201.144.226.20/>.
- <sup>6</sup> [https://www.consumo.go.cr/educacion\\_consumidor/capacitaciones\\_impartidas.aspx](https://www.consumo.go.cr/educacion_consumidor/capacitaciones_impartidas.aspx).
- <sup>7</sup> [https://www.oecd-ilibrary.org/science-and-technology/trust-in-peer-platform-markets\\_1a893b58-en](https://www.oecd-ilibrary.org/science-and-technology/trust-in-peer-platform-markets_1a893b58-en).
- <sup>8</sup> <https://www.oecd.org/digital/consumer/conference-consumer-marketplace-of-the-future/>.
- <sup>99</sup> More information on the joint OECD/ASEAN event is at: <https://www.oecd.org/sti/consumer/nudging-consumers-toward-greener-choices.htm>.
- <sup>10</sup> [https://www.2021portugal.eu/media/katky2rx/agenda\\_european\\_consumer\\_2021.pdf](https://www.2021portugal.eu/media/katky2rx/agenda_european_consumer_2021.pdf).
- <sup>11</sup> <https://www.oecd.org/going-digital/topics/digital-consumers/IoT-AI-and-product-safety-conference-programme.pdf>.
- <sup>12</sup> Zweites Gesetz zur Änderung des Jugendschutzgesetzes, see <https://www.bmfsfj.de/bmfsfj/service/gesetze/zweites-gesetz-zur-aenderung-des-jugendschutzgesetzes-147956>.
- <sup>13</sup> <https://ptac.gov.lv/lv/news/ptac-veicis-petijumu-par-pateretaju-tiesibu-uzraudzibu-socialajos-tiklos>.
- <sup>14</sup> <https://www.ptac.gov.lv/lv/jaunums/ptac-istenojis-projektu-par-situacijas-izpeti-un-uzraudzibu-influenceru-marketinga-joma>.
- <sup>15</sup> <http://www.ptac.gov.lv/lv/news/socialie-tikli-and-infulencers-marketing>.
- <sup>16</sup> <http://www.consumeracademy.gov.tr/data/58bd652f1a79f7ea0857d910/COMMERCIAL%20ADVERTISING%20AND%20UNFAIR%20COMMERCIAL%20PRACTICES.doc>.
- <sup>17</sup> <https://www.gov.uk/government/publications/consumer-vulnerability-challenges-and-potential-solutions/consumer-vulnerability-challenges-and-potential-solutions>.
- <sup>18</sup> <https://www.gov.uk/government/publications/opss-covid-19-consumer-survey>.
- <sup>19</sup> Kids' Privacy (COPPA) | Federal Trade Commission (ftc.gov).
- <sup>20</sup> Pass It On | Federal Trade Commission (ftc.gov).
- <sup>21</sup> Community Advocate Center: Listening to what consumers have to say | Federal Trade Commission (ftc.gov).
- <sup>22</sup> <https://www.productsafety.gov.au/product-safety-laws/compliance-surveillance/australian-product-safety-pledge>.
- <sup>23</sup> <https://www.sernac.cl/portal/604/w3-article-56126.html>.
- <sup>24</sup> [https://www.gvh.hu/en/actualities/gvh\\_compliance\\_influencer](https://www.gvh.hu/en/actualities/gvh_compliance_influencer).
- <sup>25</sup> <https://www.ttja.ee/media/306/download>.

<https://cdn.www.gob.pe/uploads/document/file/1830459/Propuestas%20para%20la%20protecci%C3%B3n%20del%20consumidor%20en%20el%20comercio%20electr%C3%B3nico%20y%20la%20seguridad%20de%20productos.pdf>.

<sup>27</sup> Guidance to consumers and traders in this regard has been published <https://www.ccpc.ie/business/ccpc-publishes-brexite-guidance-to-help-businesses-amidst-challenges/> <https://www.ccpc.ie/consumers/shopping/buying-online/>.

<https://www.ccpc.ie/business/help-for-business/guidelines-for-business/consumer-rights-directive/>.

<sup>28</sup> [https://laws-lois.justice.gc.ca/eng/annualstatutes/2018\\_27/page-40.html](https://laws-lois.justice.gc.ca/eng/annualstatutes/2018_27/page-40.html).

<sup>29</sup> [https://www.priv.gc.ca/en/opc-actions-and-decisions/submissions-to-consultations/sub\\_fc\\_171006/](https://www.priv.gc.ca/en/opc-actions-and-decisions/submissions-to-consultations/sub_fc_171006/).

<sup>30</sup> [https://www.priv.gc.ca/en/opc-actions-and-decisions/submissions-to-consultations/sub\\_fc\\_190211/](https://www.priv.gc.ca/en/opc-actions-and-decisions/submissions-to-consultations/sub_fc_190211/).

<sup>31</sup> <https://www.ccpc.ie/consumers/shopping/disputed-card-transactions-chargeback/>.

<sup>32</sup> For example in 2019, the CCPC reviewed 79 separate SEPA complaints and engaged directly with traders in relation to SEPA issues.

<sup>33</sup> “Signalconso” can be accessed from <https://signal.conso.gouv.fr/>.

<sup>34</sup> <https://dre.pt/pesquisa/-/search/107541411/details/maximized>.

<sup>35</sup> <https://www.livroreclamacoes.pt/inicio>.

<sup>36</sup> <https://www.consumidor.gov.pt/livro-de-reclamacoes.aspx>.

<sup>37</sup> [http://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2018/lei/113709.htm](http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/113709.htm).

<sup>38</sup> <https://lovdata.no/dokument/LTI/lov/2018-06-15-38>.

<sup>39</sup> <https://www.forbrukerradet.no/internet-of-things/>.

<sup>40</sup> <https://www.gov.uk/government/collections/secure-by-design>.

<sup>41</sup> [https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/h\\_04118.html](https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/h_04118.html).

<sup>42</sup> <https://www.canada.ca/en/health-canada/services/consumer-product-safety/legislation-guidelines/acts-regulations/canada-consumer-product-safety-act.html>.

<sup>43</sup> <https://www.priv.gc.ca/en/for-businesses/>.

<sup>44</sup> <https://www.priv.gc.ca/en/for-federal-institutions/>.

<sup>45</sup> The US FTC’s April 2021 “Bringing Dark Patterns to Light” public workshop is an example of how the agency brings together a wide range of stakeholders to discuss and disseminate information about important consumer protection issues. [Bringing Dark Patterns to Light: An FTC Workshop | Federal Trade Commission](#).

<sup>46</sup> For instance, through its ongoing “Every Community Initiative,” the US FTC works to expand its strategies for prevention, law enforcement, and outreach in older, African American, Latino, Native American, military, and other communities that may disproportionately experience consumer fraud, including in their online activities. See [Every Community | FTC Consumer Information](#). Additionally, the US FTC recently launched an initiative aimed at partnering with community legal aid organisations to expand its outreach to lower income communities to encourage them to report fraud and to provide them with advice to help recover money lost. See [FTC Launches Initiative to Encourage Lower-Income Communities to Report Fraud | Federal Trade Commission](#).

<sup>47</sup> <https://www.ccpc.ie/business/research/>.

- <sup>48</sup> <https://www.ccpc.ie/business/research/market-research/trader-awareness-of-consumer-rights-when-buying-online/>.
- <sup>49</sup> <https://www.ccpc.ie/business/research/market-research/brexit-and-online-shopping-2019/>.
- <sup>50</sup> <https://www.econsumer.gov/#crnt>.
- <sup>51</sup> <https://colaboracion.dnp.gov.co/CDT/Conpes/Econ%C3%B3micos/4012.pdf>.
- <sup>52</sup> <https://eur-lex.europa.eu/legal-content/Pt/TXT/?uri=celex:32017R2394>.
- <sup>53</sup> [https://ec.europa.eu/info/law/law-topic/consumers/citizens-dialogues-new-deal-consumers\\_en](https://ec.europa.eu/info/law/law-topic/consumers/citizens-dialogues-new-deal-consumers_en).



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