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# DSTI/CP(2002)1



Organisation de Coopération et de Développement Economiques Organisation for Economic Co-operation and Development

11-Feb-2002

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### DIRECTORATE FOR SCIENCE, TECHNOLOGY AND INDUSTRY COMMITTEE ON CONSUMER POLICY

## PROPOSALS FOR THE COMMITTEE ON CONSUMER POLICY WORK PROGRAMME FOR 2003-2004

The attached document sets out proposals for the 2003-2004 Committee on Consumer Policy work programme.

Delegates will find in Annex I "voting sheets" on which they are invited to indicate on a preliminary basis the priorities (high, medium or low) they give to proposed activities. These voting sheets should be filled and returned to Michael Donohue of the Secretariat by 6 March 2002.

The Secretariat will then circulate a summary of Delegation's preliminary priorities before the discussion on the proposed programme of work at the 62nd Session on 13-14 March 2002 (Item 5 of the Draft Agenda).

English - Or. English

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## JT00120628

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## PROPOSALS FOR THE COMMITTEE ON CONSUMER POLICY WORK PROGRAMME FOR 2003-2004

#### The programme of work and budget process

1. Delegates to the Committee on Consumer Policy (CCP) will find attached Secretariat proposals for the Committee's programme of work in 2003-2004. The programme of work should be considered in light of the strategic objectives described below, as well as the terms of reference approved by the OECD Council in renewing the CCP's mandate [C(2001)239/REV1]. The proposed activities are described in the attached activity fact sheets. For each of the activities proposed, a brief text is given summarising the objectives, content and methodology, and expected outputs as well as co-operation with other bodies inside and outside the OECD.

2. With respect to resource requirements, the working assumption at this stage is that the total level of resources for DSTI in 2003 and 2004 will be the same as the level which the Council approved in December 2001 for the 2002 Programme of Work and Budget. Currently, the Committee benefits from 1 A2/A3 administrator post and a B3 assistant post shared with the ICCP Committee programmes on information security and privacy. About one-third of the B3 post is allocated to the work of the CCP. This work is carried out under the general supervision of the Head of the ICCP Division. Assuming as well that the Committee continues to benefit from the current level of voluntary contributions (1 A2/A3 project post), the Secretariat expects to be able to support work in each of the proposed activities. However, given the limited level of resources available to the CCP, no resource allocation has been made by activity in this document.

### **Priority setting**

3. The CCP's discussion on its proposed programme represents a key step in the broader process of the preparation of the Organisation's Programme of Work and Budget for 2003-2004 which the Council is to approve at the end of 2002. The precise elements and time schedule of this process are not yet known. These issues – as well as priority setting – are part of the current discussions on OECD modernisation and reform that have been launched on the basis of the Secretary-General's document *"The OECD - Challenges and Strategic Objectives"* [C(2001)240] and his subsequent proposals. These discussions are not likely to be concluded before mid-2002, but it is clear that in any case the Committee's own priorities concerning the proposed activities should be one essential input to the overall OECD programming and budgeting exercise.

4. Delegates will therefore find in Annex I "voting sheets" on which they are invited to indicate on a preliminary basis the priorities (high, medium or low) they give to proposed activities (it is advisable to have a balanced distribution between highs, mediums and lows). These voting sheets should be filled and returned to Michael Donohue of the Secretariat [e-mail: michael.donohue@oecd.org; fax: +33 1 44 30 62 59] by 6 March 2002. The Secretariat will then circulate a summary of Delegation's preliminary priorities before the discussion on the proposed programme of work at the 62nd Session.

5. If needed, the description of the proposed activities will be revised following the discussion of the CCP at its 62nd Session and circulated on OLIS by 29 March 2002 for further comment.

6. Delegates will be invited to indicate their final priorities (and if there is a revised version submit their further comments on this revised version) to the Secretariat by 26 April 2002.

## Strategic objectives

### Policy perspective

7. The overarching goal of the CCP's work for 2003-2004 is the development of an effective policy framework for consumer protection in a global marketplace. The challenges and opportunities that electronic commerce brings to consumer policy – particularly the cross-border dimension – have brought into sharper focus the importance of such a framework. The work proposals below continue to build on the *Guidelines for Consumer Protection in the Context of Electronic Commerce* [C(99)184/FINAL], but apply more broadly to the challenge of building consumer trust in a global marketplace.

### **Relevance to OECD priority themes**

8. Building consumer trust in electronic commerce, and in the global marketplace more generally, is a key component in the overall OECD priority areas of economic growth and stability and best uses for new technologies. More particularly, it contributes to OECD-wide work on electronic commerce co-ordinated by DSTI. Additionally, items within the Committee's fifth activity, *Impact of New Technologies and Emerging Business Models*, will contribute to the DSTI's work on the role of intellectual property rights.

### Collaboration with other OECD committees

9. As in the past, the CCP will work closely with other OECD bodies in the areas of shared interest and expertise. Recently this collaboration has focussed on shared projects with the ICCP Committee and more particularly its Working Party on Information Security and Privacy (WPISP), as well as co-operation with the SME Working Party of CIBE, and DAFFE's Competition Law and Policy Committee. Consumer policy concerns touch on a sweeping range of subject matters, many of which are being considered in greater detail in other parts of the OECD. In particular, the work on the environment, sustainable consumption, and food safety is often of interest to CCP delegates. The CCP regularly invites presentations about the work ongoing elsewhere in the OECD, in addition to sharing its own expertise as needed.

### Collaboration with other bodies

10. In addition to disseminating information about its own work, the CCP keeps informed about work of interest ongoing in other fora. The most obvious example here is the International Marketing Supervision Network (IMSN), with which the CCP works closely on projects of mutual interest. Likewise the work within the European Commission's Health and Consumer Protection Directorate-General often parallels and reinforces Committee efforts. Other fora include bodies that do work on standards like the ISO Committee on Consumer Policy Committee (COPOLCO) and legal harmonisation like the Hague Conference on Private International Law (HCOPIL), as well as bodies like the Transatlantic Consumer Dialogue (TACD), and the Global Business Dialogue on Electronic Commerce (GBDe).

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## Outreach dimension

11. CPP outreach activities are an essential element of its work programme. The Guidelines specifically call for Member countries to consult, co-operate and facilitate information sharing with non-members on consumer protection issues and also invite non-member countries to take account of the Guidelines in reviewing their consumer protection policies. CCP collaboration with global bodies like the United Nations Conference on Trade and Development (UNCTAD) and regional bodies like Asia-Pacific Economic Cooperation (APEC) and the Free Trade Area of the Americas (FTAA) also provides excellent opportunities for outreach to non-member countries.

## General approach and methodology

12. The CCP remains uniquely situated as the only international forum working effectively to address the consumer policy challenges arising out of the global marketplace. Although inter-governmental co-operation is a key element of this task, input from business representatives and civil society is no less essential. Such input is routine in the CCP, in part through the participation of Consumers International and BIAC. Additions to the terms of reference of the Committee's new mandate highlight increased emphasis on ensuring the consideration of relevant quantitative information in consumer policy deliberations and integrating consumer policy considerations into other policy areas.

13. The CCP meets twice a year and supplements these meetings with public conferences from time to time. These conferences help ensure that the full complement of stakeholders, including from non-member countries, contribute to consumer policy debate. The CCP also works informally through *ad hoc* working groups. This work is carried out remotely, either through email or electronic discussion groups. In addition to serving as a necessary supplement to limited Secretariat resources, the working groups keep delegates actively engaged in shaping the work of the CCP.

## **ACTIVITY FACT SHEETS**

### Activity 1: Assessing the Impact of the Guidelines

#### Rationale/objectives

December 2004 marks the five-year anniversary of the OECD Guidelines for Consumer Protection in the Context of Electronic Commerce (the "Guidelines"), an appropriate time to take stock of the effectiveness of the Guidelines. The first stock-taking exercise culminated in 2001 with a public conference in Berlin. As a follow-up, the CCP will evaluate and discuss the Guidelines in the context of developments in the online marketplace over the previous five years and issue a public report. Further efforts by the CCP to promote the Guidelines to all stakeholders will also form an important aspect of this continuing work.

#### Main areas

- Encourage implementation of the Guidelines to all stakeholders, including in non-member countries.
- Survey initiatives to implement the Guidelines.
- Report on effectiveness of the Guidelines in achieving transparent and effective protection and building consumer trust on line.

### **Outputs/Scheduling**

A public conference will be held in late 2004 to assess the impact of the Guidelines: "Taking Stock: The Guidelines After Five Years". The conference will be preceded by a survey of implementation activities and followed by the publication of a report describing the effectiveness of efforts to implement the Guidelines (2004). Resources permitting, the CCP could organise a conference in a non-member country to tackle the theme of building consumer trust online in a more inclusive manner: "Building Consumer Trust On Line: A Global Objective" (2003).

#### **Co-operation**

The Guidelines were developed through consultation with a large contingent of stakeholders outside government ministries. Likewise, effective implementation is dependent on active involvement of representatives of business and consumer groups. In assessing the impact of the Guidelines, the CCP will solicit input from a wide cross-section of stakeholders, including from other international bodies like IMSN, APEC, FTAA, UNCTAD, COPOLCO, TACD, and the GBDe.

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## Activity 2: Consensus-building on Core Consumer Protections

### Rationale/objectives

The Guidelines reflect high-level agreement among Member countries about a number of important principles for consumer protection. There remain, however, differences in the manner in which Member countries implement the Guidelines, and differences in the substantive consumer laws in OECD countries. This fact is implicit in the Guidelines recommendation in Part Four, which calls for Member countries to work toward building consensus on core consumer protections. The CCP will focus on the most promising areas for building consensus: Member country laws that aim to protect consumers from deceptive and unfair practices.

### Main areas

- *Identify common approaches to defining a deceptive marketing practice.*
- *Identify practices collectively considered to be unfair marketing practices.* The focus of this work will be the identification of particular practices rather than obtaining broad conceptual agreement on a definition.

## Outputs/Scheduling

The CCP will develop a working paper that describes Member country approaches to identifying deceptive or unfair practices and explores ways of building consensus (2004).

## **Co-operation**

The IMSN is already working on these issues from an enforcement perspective, and the results of the IMSN work will inform the policy discussions in the CCP. In addition the CCP will obtain updates about efforts in the European Commission to develop a harmonised approach to fair trade practices in the EU.

## Activity 3: Policy Issues for Cross-border Enforcement Co-operation

### Rationale/objectives

Member country bodies charged with enforcing consumer protection laws were set up for a largely domestic marketplace. The increasingly cross-border business-to-consumer marketplace poses significant challenges to the existing enforcement structures. Part IV of the Guidelines emphasises the importance of cross-border co-operation in general, and highlights in particular the need for co-operation to prevent deceptive and unfair marketing practices. A CCP working group was formed in 2000 to consider the challenges of ensuring effective cross-border remedies for enforcement authorities. Sustained attention to these challenges will be necessary to find workable solutions.

### Main areas

- Work to foster an effective policy framework for cross-border government enforcement.
- *Explore challenges posed by information sharing restrictions.*
- Explore enforcement policy issues raised by Internet governance and technological developments. Contact information for commercial domain name registrants – often available through a "who is" search – can be a useful consumer protection enforcement tool. The CCP will examine efforts to ensure the accuracy and availability of that information.

## **Outputs/Scheduling**

Forum sessions have proven a useful format for consideration of these issues in the past, and a future forum session focussed on information sharing restrictions is contemplated (2003). A working paper will also be developed from the experiences shared at the forum sessions, which lays out the challenges in this area (2003). It is also anticipated that this topic will form a basis for a joint meeting with the IMSN (2003).

### **Co-operation**

Continued close collaboration with the IMSN is essential for all issues related to this Activity. In addition, the CCP will co-ordinate its work on domain name registration practices with DAFFE, TISP and WPISP.

## Activity 4: Dispute Resolution for Cross-border Consumer Transactions

### Rationale/objectives

Work on this activity flows from provisions in the Guidelines on dispute resolution and redress. Stakeholders are encouraged to participate in the ongoing examinations of rules for jurisdiction and applicable law and to work to develop fair and effective ADR mechanisms. Since the Guidelines were finalised, there have been a number of efforts in other fora to address this issue. As the only international forum for the regular discussion of consumer policy, the CCP will stay informed about these efforts. The CCP may also wish to consider the consumer protection issues raised by emerging types of payment mechanisms, with particular attention to the cross-border implications.

## Main areas

- Updates on efforts to address jurisdiction and applicable law for consumers in other fora.
- Examine redress issues arising out of new types of payment mechanisms.
- Assess development of effective ADR mechanisms. With the completion of the current joint work programme on ADR with the WPISP anticipated for later in 2002, the CCP will continue to monitor and assess developments in this area.

## **Outputs/Scheduling**

At present work on this activity is expected to focus on information exchange (2003-2004).

## **Co-operation**

The issues related to jurisdiction are of interest to many other parties inside and outside the OECD, and the CCP will proceed carefully and consistently with developments elsewhere. For example, the CCP will obtain updates from experts on the proposed Hague convention on jurisdiction and foreign judgements. With respect to ADR, the CCP will co-operate with work being done in CIBE's Working Party on Small and Medium-Sized Enterprises, as well as with the ICC and other bodies working on the issue.

### Activity 5: Impact of New Technologies and Emerging Business Models

#### Rationale/objectives

New technologies and emerging business models provide exciting opportunities for businesses and consumers alike. For example, mobile commerce offers the promise of providing services to consumers where and when they want them, while increased access to broadband paves the way for innovative service offerings. However, such developments can also present novel consumer protection issues that, if not addressed, can undermine consumer confidence and impede their success. By obtaining timely information about consumer protection concerns raised by technological developments and emerging business models, the CCP can ensure that it is well positioned to contribute to the policy debate, and thereby to assist in bringing their full benefits to Member country economies.

### Main areas

At this stage, the CCP plans to consider several topics as part of this activity, but these topics may be supplemented as new issues arise.

- *Consumer protection issues raised by mobile commerce*: Mobile communication technologies raise consumer protection issues regarding, for example, the use of location information for advertising purposes, the effectiveness of information disclosures on small screens, and the use of mobile devices as a payment mechanism. The policy implications of these issues could be fruitfully explored with other OECD bodies with expertise in these areas.
- Disclosure issues raised by the use of technology for protecting intellectual property rights: Technology offers businesses new tools for protecting intellectual property rights, but can also raise issues related to the need for disclosure to consumers of technologically-imposed restrictions on normal usage.
- Dynamic pricing practices on line: Although dynamic pricing practices long predate the Internet (*e.g.* in the airline industry) the Internet greatly facilitates the efficient collection of information about a consumer's shopping habits and thereby offers greater opportunities for personalising the pricing and related elements of transactions with consumers. The CCP can serve as a forum for discussion of the effects that the widespread use of dynamic prices would bring to consumer expectations and behaviour.

#### **Outputs/Scheduling**

Given the dynamic nature of the topics to be addressed, the focus of this activity will be information exchange and issue identification. Issues that generate particular interest may form the subject of forum sessions, workshops, or possibly working papers (2003-2004).

#### **Co-operation**

Work on mobile commerce will be done in co-operation with WPISP and TISP. Work on the disclosure issues surrounding IPR protections will be co-ordinated with the broader work on IPR innovation being done within the DSTI.

## ANNEX I

# **COMMITTEE ON CONSUMER POLICY – PRIORITY VOTING**

Please give each activity a rating of high (H), medium (M) or low (L).

# NAME OF COUNTRY:

ACTIVITY	PRIORITY
1. Assessing the Impact of the Guidelines	
2. Consensus-building on Core Consumer Protections	
3. Policy Issues for Cross-border Enforcement Co-operation	
4. Dispute Resolution for Cross-border Consumer Transactions	
5. Impact of New Technologies and Emerging Business Models	