



COMMISSION OF THE EUROPEAN COMMUNITIES

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COM(2003) 443 final

2003/0162 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on cooperation between national authorities responsible for the enforcement of
consumer protection laws ("the regulation on consumer protection cooperation")**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. EXECUTIVE SUMMARY

1. The effective functioning of the internal market calls for a significant improvement in the way laws that protect consumers economic interests are enforced in cross-border cases. The development of cross-border transactions, including through the greater use of the Internet, has made the need for this improvement more urgent. Enlargement further reinforces the need for action.

2. The protection of consumers from cross-border infringements requires the creation of a network of public enforcement authorities throughout the internal market. These authorities require a minimum of common investigation and enforcement powers. The proposal provides a framework of mutual assistance rights and obligations for enforcement authorities to use when dealing with cross-border infringements. The resulting network is designed to give national enforcement authorities an enforcement solution to deal quickly with the most serious rogue traders.

3. The proposed regulation also provides for wider administrative cooperation among the Member States and with the Commission on projects of common interest that are designed to inform and educate consumers and empower them. The scope of the proposed regulation is limited to cross-border infringements. Therefore the Member States are not required to change their arrangements for domestic infringements.

2. THE NEED FOR ACTION

4. In 2001, the Green Paper on EU Consumer Protection¹ identified a gap in the enforcement of consumer protection laws relating to consumer economic interests in the internal market. It argued that there was a need for a legal framework for cooperation between public authorities responsible for the enforcement of consumer protection laws. It outlined the possible elements for inclusion in such an instrument.

5. The Commission's ideas were very favourably received by nearly all stakeholders². There was widespread agreement that such an instrument would help secure the proper functioning of the internal market and enhance consumer protection. Business stakeholders in particular welcomed the Commission's intentions.

6. In the communication on the follow-up to the Green Paper³, the Commission undertook to present a proposal for such a legal instrument, following further consultation with national governments. This consultation took place in the autumn of 2002 and spring of 2003 (including at the informal ministerial meeting at Eretria in May) and broadly confirmed the orientations of national governments expressed in their responses to the Green Paper and follow-up communication⁴. The recent Internal Market Strategy 2003-2006⁵ also argued that

¹ COM (2001) 531 final

² Responses to the Green Paper can be found at:http://europa.eu.int/comm/consumers/cons_int/safe_shop/fair_bus_pract/green_pap_comm/responses/index_en.htm

³ Com (2002) 289 final

⁴ Responses to the follow-up communication can be found at:

better enforcement was needed to ensure consumer confidence in the internal market and identified this proposal as a priority action.

7. In addition, the Council adopted a resolution on 2 December 2002 on the Community's consumer policy strategy 2002-2006 that welcomed the Commission's intention to make a proposal in this area⁶. The European Parliament adopted a resolution on the consumer policy strategy and two resolutions on the Green Paper and follow-up communication on 13 March 2003 that also welcomed the Commission's intention to make a proposal⁷.

8. There is therefore a broad consensus that consistent and effective enforcement of consumer protection laws is essential to the good functioning of the internal market, the elimination of distortions of competition and the protection of consumers.

9. The development of cross-border shopping has increased the possibility of cross-border infringements. It is increasingly likely that the advertiser or retailer will be located in a different jurisdiction from the consumer. In only its first sixteen months of operation, the European Extra-Judicial Network of alternative dispute resolution bodies (EEJ-net) recorded 1115 cross-border disputes⁸. The Consumer Sentinel, a US-led international enforcement project, has recorded 4100 cross-border complaints from consumers against traders in EU, EEA and acceding countries since 1999, over half of which occurred in January to September 2002⁹.

10. The development of e-commerce, the arrival of Euro notes and coins and the more widespread use of common languages are likely to increase cross-border shopping still further. The greater use of cross-border advertising and marketing through post, the Internet and television will have an important part to play in stimulating cross-border shopping. However, unless backed by effective enforcement, the freedoms of cross-border trade and e-commerce could become freedom for rogue traders to undermine the internal market and harm consumers with impunity. The European Advertising Standards Alliance (EASA) estimates that around 63% of the cross-border complaints received between 1992 and 2002 concern rogue or peripheral traders and that this figure rises to around 86% for direct mail¹⁰.

11. Consumer confidence in cross-border shopping in the internal market depends, in large part, on effective cross-border enforcement. In a recent Eurobarometer survey, 43% of those consumers who were less confident in cross-border shopping said that enabling their own national authorities to intervene abroad on their behalf was very important in increasing

http://europa.eu.int/comm/consumers/cons_int/safe_shop/fair_bus_pract/green_pap_comm/responses_followup/index_en.htm

⁵ Internal Market Strategy: Priorities 2003-2006 COM (2003) 238 final

⁶ Council Resolution of 2 December 2002 on Community consumer policy strategy 2002-2006 OJ C11 of 17.01.2003 p1

⁷ European Parliament resolution on the implications of the Commission Green Paper on European Union Consumer Protection for the future of EU consumer policy (COM(2001) 531 - C5-0295/2002 - 2002/2151(COS)), European Parliament resolution on prospects for legal protection of the consumer in the light of the Commission Green Paper on European Union Consumer Protection (COM(2001) 531 - C5-0294/2002 - 2002/2150(COS)), European Parliament resolution on the Commission communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on 'Consumer Policy Strategy 2002-2006' (COM(2002) 208 - C5-0329/2002 - 2002/2173(COS))

⁸ http://europa.eu.int/comm/consumers/redress/out_of_court/eej_net/index_en.htm

⁹ <http://www.ftc.gov/bcp/online/edcams/crossborder/PDFs/Cross-BorderCY-2002.pdf>

¹⁰ Source: EASA estimate of their own cross-border complaints figures

their confidence. A further 33% said that such a measure would be important¹¹. Business confidence in a level playing field also depends on the guarantee of consistent and effective enforcement throughout the internal market.

12. Each Member State has developed an enforcement system adapted to its own laws and institutions. Each system has come into being in order to tackle purely domestic infringements and is not fully adapted to the challenges of the internal market. Domestic authorities lack the power to investigate infringements outside their jurisdiction. Some are also restricted in acting against traders within their own jurisdiction who are directing their activities at foreign but not domestic consumers. National authorities are also under no obligations to assist their counterparts in other Member States.

13. The result is a system of enforcement in the internal market that has not adapted sufficiently to meet the demands of the internal market and is not, at present, able to meet the challenge posed by rogue traders seeking to exploit the potential of the Internet in particular. The enlargement of the internal market in 2004 is likely to significantly increase the enforcement challenges that already exist and further highlight the inadequacies of current arrangements.

14. This analysis of the importance of the enforcement cooperation to the internal market is hardly new. It has been recognised in several policy fields, notably customs¹², indirect taxation¹³, competition¹⁴, financial services¹⁵ and food¹⁶ and product safety that the greater development of cross-border trade requires the development of a more rigorous EU approach.

15. The need for effective cross-border enforcement for consumer protection has also been recognised in the international domain. In 1999 the OECD adopted a recommendation on consumer protection in relation to e-commerce that stated that member countries should through 'their judicial, regulatory and law enforcement authorities co-operate at the international level, as appropriate, through information exchange, coordination, communication and joint action to combat cross-border fraudulent, misleading and unfair commercial conduct'¹⁷. On 11 June 2003, the OECD adopted further guidelines protecting consumers from cross-border fraudulent and deceptive commercial practices that recognise that the same enforcement problems and inadequacies of existing systems exist worldwide¹⁸.

¹¹ http://europa.eu.int/comm/consumers/cons_int/safe_shop/fair_bus_pract/green_pap_comm/studies/index_en.htm

¹² Council Regulation 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters OJ L 082 of 22/03/1997 p1

¹³ Proposal for a Council Regulation on administrative cooperation in the field of value added tax COM (2001) 294 final OJ C270 of 25.09.2001 p 87 – now the subject of a common position

¹⁴ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty OJ L1 of 4.01.2003 p1

¹⁵ Proposal for a directive of the European Parliament and of the Council on investment services and regulated markets COM (2002) 625 (01) and the recently adopted directive on insider dealing and market manipulation (market abuse) - common position: OJ C 228 E of 25.09.2002 p19.

¹⁶ Proposal for a regulation of the European Parliament and of the Council on official feed and food controls COM (2003) 52 final

¹⁷ Recommendation of the Council of the OECD concerning Guidelines for Consumer Protection in the context of electronic commerce, adopted on 9 December 1999 [C(99)184/FINAL]

¹⁸ <http://www.oecd.org/sti/crossborderfraud>

16. Some initiatives have been taken at EU and international level to address these issues. The Injunctions Directive¹⁹ gives certain bodies, notably consumer associations, nominated by the Member States the right to seek injunctions in courts in other Member States against rogue traders. The International Marketing Supervision Network (IMSN) recently re-named the International Consumer Protection Enforcement Network (ICPEN) provides a bi-annual opportunity for enforcement officials from several countries to cooperate informally. An EU sub-group also meets bi-annually to discuss issues related to EU law.

17. In addition some Member States have signed bilateral cooperation agreements. The most notable of these is the cooperation agreement between the four Nordic enforcement authorities.

18. These initiatives have an important part to play in the enforcement dimension of EU consumer protection. They are not however sufficient. As in other internal market policy fields, a network is needed of enforcement authorities in each Member State linked through reciprocal rights and obligations ('mutual assistance'). This network needs a legal basis, not least to overcome the legal barriers to cooperation that have been identified.

3. THE REGULATION ON CONSUMER PROTECTION COOPERATION

3.1 Chapter 1: Objective, definitions, scope and competent authorities

3.1.1 Objective

19. The overall goals of the regulation are to ensure the smooth functioning of the internal market and the effective protection of consumers participating in the internal market. The proposed regulation has two specific objectives to achieve these goals, both related to the way the Member States and in particular their competent authorities cooperate with each other and with the Commission to protect consumers' economic interests. They are:

- to provide for cooperation between enforcement authorities in dealing with intra-Community infringements that disrupt the internal market;
- to contribute to improving the quality and consistency of enforcement of consumer protection laws and to the monitoring of the protection of consumer economic interests.

20. The first objective is designed to ensure that enforcement authorities can cooperate efficiently and effectively with their counterparts in other Member States. The second objective recognises that the EU can contribute to raising the standard of enforcement through common projects and the exchange of best practice on a wide range of information, education and representation activities. It also acknowledges the EU contribution to monitoring the functioning of the internal market.

21. These goals and objectives have determined the choice of legal base and instrument. The Commission has opted for Article 95 of the Treaty as a legal base. There are a number of examples of the barriers to efficiently and effectively tackling cross-border rogue traders that disrupt the smooth functioning of the internal market:

¹⁹ Directive 98/27/EC of the European Parliament and of the Council of 19.05.1998 on injunctions for the protection of consumers' interests. (OJ L 166 of 11.06.1998, pp. 51-56)

- A public authority in the Member State of the consumer may be prevented, under national confidentiality rules, from communicating the necessary information requesting assistance from an authority in the Member State of the trader.
- The public authority in the Member State of the trader is unable to act on behalf of foreign consumers, lacks the powers or resources to investigate or act or simply refuses to act, on grounds of national interest, rather than the Community interest. The public authority may also lack the power to seek injunctions to cease a practice quickly, thus having to use criminal law procedures.
- No public authority exists in the Member State of the trader to investigate the infringement and to seek an injunction against the trader.
- No public authority exists in the Member State of the consumer to seek the assistance of a public authority in the Member State of the trader.
- No obligations exist between Member States to provide mutual assistance in cross-border cases.

22. These barriers to cross-border enforcement mean that a rogue trader can evade enforcement relatively easily either by targeting consumers in another jurisdiction or by targeting their own consumers but from another jurisdiction. Consequently, traders respecting the law suffer from a competitive disadvantage from this lack of effective cross-border enforcement, leading to a distortion of competition.

23. These barriers to cross-border enforcement are also likely to inhibit the development of consumer confidence in cross-border shopping in the internal market and thus cause obstacles to the take-up of goods and services cross-border. The proposed Regulation thus both contributes to removing distortions of competition and to eliminating internal market obstacles.

24. The Injunctions Directive, which also aims at improving enforcement of consumer protection rules, provides one precedent for the use of Article 95 for enforcement questions. Existing directives on data protection and investment services, which also provide for the establishment of public bodies with investigative and enforcement powers are also based on Article 95.

25. A regulation has been chosen (as has been the practice in other such EU cooperation instruments, notably those on customs cooperation, VAT cooperation and feed and food controls), as the measure essentially provides arrangements for cooperation between public authorities of direct applicability.

3.1.2 Definitions, scope and competent authorities

26. The scope of the regulation is limited to intra-Community infringements of EU legislation that protects consumers' interests. The scope of the regulation will be enlarged when the proposed framework directive prohibiting unfair commercial practices enters into force.

27. Competent authorities are at the heart of the proposed regulation. The regulation puts in place a series of mutual assistance tools. The use of these tools rests entirely in the hands of the competent authorities, who are best placed to judge the operational enforcement needs of

consumer protection. The regulation grants the Commission no enforcement rights or responsibilities.

28. The designation of competent authorities is left to the Member States, in order to take account of national constitutional arrangements for consumer protection enforcement. Member States are free to nominate national and/or regional, local or sectoral competent authorities. The proposal also provides for the designation by each Member State of a single liaison office to ensure proper co-ordination between the competent authorities nominated in each Member State.

29. Competent authorities are defined as public authorities with specific consumer protection enforcement responsibilities. The proposal also ensures that only those authorities with a minimum of common investigation and enforcement powers can be designated as competent authorities. This common minimum is required to ensure that the provisions on mutual assistance can function in practice and act as a credible deterrent to rogue traders. The need for a network of public authorities having such powers has also been recognised in Community instruments on data protection, competition and financial services.

30. The regulation will require some change to the enforcement rules of all Member States. Clearly however, some Member States will be more affected than others will. A large majority of Member States and acceding countries nevertheless have public authorities with specific consumer protection enforcement responsibilities.

31. However no such authorities exist in Germany, the Netherlands or in Luxembourg. In Austria, Länder authorities have executive authority to impose fines on traders for breaches of certain laws.

32. The Member States, since the Injunctions Directive, have provided a privileged place for consumer organisations in enforcement and many also foresee an enforcement role for competitors and business organisations. All these organisations have a valuable role to play. The present proposal does not change or diminish the role played by these organisations at national or EU level in any way. Their role should continue to be encouraged, including in cross-border cases.

33. The proposed regulation puts in place a network of competent authorities and a framework for mutual assistance that complements those which exist already in each Member State or which exist on a sectoral basis at Community level. The existing systems are not on their own sufficient to ensure the smooth functioning of the internal market or the protection of consumers. The proposed network is designed to provide an enforcement solution to deal quickly with the most difficult rogue traders committing cross-border infringements, especially those who seek to exploit the freedoms of the internal market to harm consumers.

34. There are several reasons why an EU network of public authorities is required.

- Only public authorities can have the investigation powers necessary to obtain evidence of an infringement.
- Only public authorities can provide sufficient guarantee of the confidentiality and professional secrecy concerning information exchanged. A guarantee of confidentiality and secrecy is essential to ensure the trader's reputation is not unfairly harmed and to prevent investigations being compromised.

- The public authorities in the large majority of Member States where they exist have demonstrated the efficiency and effectiveness of a public dimension to enforcement. The threat of speedy action from public authorities is an important deterrent to rogue traders, especially those taking advantage of the opportunities of the internet. The credibility of this deterrent at EU level would be harmed if there were gaps in the network. Some anecdotal evidence has come to light in ICPEN discussions that some rogue traders may already be exploiting these gaps to base themselves in Member States without public authorities.
- Public authorities are both impartial and accountable in the way that they operate to defend the public interest. This is an important reassurance for traders. Private bodies are not so accountable. In order to ensure the accountable operation of the regulation, the mutual assistance rights provided in the regulation should therefore only be entrusted to public authorities. In addition, private bodies are primarily concerned, given their organisation along national lines, with consumers in their own country rather than other consumers in the EU
- The effectiveness of the enforcement network established in the proposal depends upon the reciprocal rights and obligations of mutual assistance. Because of this reciprocity, each Member States can be sure that their consumers will be effectively protected in cross-border situations. This reciprocity can only be guaranteed by equivalent public authorities in each Member State.
- Given that a large majority of the Member States recognise the value of a public dimension to their enforcement systems, the creation of a network of public authorities at EU level is an important element in overcoming reluctance to apply the principles of maximum harmonisation to consumer protection laws. Reassuring the Member States that consumers will be protected by equally effective public authorities when shopping cross-border will make inclusion of maximum harmonisation in a directive on unfair commercial practices and future consumer legislation more acceptable.
- The prospect of enlargement demands action to safeguard consumer interests in an enlarged internal market. Most of the new Member States do not have a long tradition of consumer protection enforcement, although they have established public authorities. The proposed regulation is therefore an opportunity to ensure that effective enforcement is in place throughout the new internal market.

35. The scope of the proposed regulation is limited to cross-border infringements. Therefore the Member States are not required to change their arrangements for domestic infringements by this regulation.

36. New public authorities are also not necessarily required in those Member States that currently lack them. The limited responsibilities of the regulation could be given to existing public authorities. For example, in several Member States and third countries, enforcement responsibilities for consumer protection are carried out by the agency responsible for the enforcement of competition law matters. Positive synergies exist between the consumer protection and competition dimensions of market surveillance and enforcement.

3.2 Chapter II – Mutual Assistance

37. The proposed regulation establishes several reciprocal mutual assistance rights and obligations on competent authorities. This balance reflects the fact that the competent authority in the Member State of the consumer is best placed to understand and judge the

harm suffered by the consumer but the competent authority in the Member State of the trader is best placed to act within their own jurisdiction and national culture. All competent authorities will have to play both roles.

38. The basis of mutual assistance is free and confidential information exchange between competent authorities. The proposal puts in place a system of exchange on request and, just as importantly, spontaneous exchange. Spontaneous exchange is essential to effective internal market surveillance.

39. If the information exchanged confirms the existence of an intra-Community infringement, the proposal requires that competent authorities act to bring about cessation of the infringement without delay. The requested authority is free to determine the most effective and efficient way to achieve this, being best placed to make this judgement. Injunctions are likely to be the main enforcement tool. They enable action to be taken speedily and effectively to remove practices from the internal market that infringe EU rules before consumers are harmed.

40. The proposal also provides for co-ordination of surveillance and enforcement actions between competent authorities. It is increasingly likely that cross-border problems will not simply be bilateral but will involve consumers in several Member States, especially where the Internet is involved.

3.3 Chapter III: general conditions governing mutual assistance

41. The proposal establishes the general principle that competent authorities can act against traders within their jurisdiction regardless of the location of the consumers involved. This chapter also sets out general procedural rules for the conduct of mutual assistance and standard rules on the use of information exchanged as a result of the Regulation.

42. Article 13 sets out the possibility for information to be exchanged with competent authorities of third countries under bilateral agreements. Article 14 foresees the conditions under which competent authorities may refuse assistance. The default principle of the Regulation is that requests for assistance should be accepted. This article sets out the conditions that can be used to justify a refusal to assist.

3.4 Chapter IV: Community activities

43. The principal task of the Regulation is to provide a system for cooperation between competent authorities in enforcement. However, the Community also has a role to play in supporting enforcement and in co-ordinating the wider Member States' information, education and representation activities designed to promote consumer economic interests. The Community's role is limited here to supporting measures which raise the standard of enforcement generally and which improve the ability of consumers to enforce their rights. The Community has a traditional role of encouraging the exchange of best practice and co-ordinating national efforts so as to avoid duplication and the waste of scarce resources.

44. There is in addition a need for negotiation at Community level of mutual assistance agreements with third countries. Similar agreements exist in the area of competition and customs. The work in the OECD has demonstrated that there is a demand for mutual assistance on an international scale. Considerable efficiency gains can be expected if such international agreements can be negotiated on a Community-wide basis rather than individually with each Member State. The arrangements for this are set out in Article 18.

45. Article 15 provides for information notified to the Commission to be stored in a database accessible to competent authorities. This is designed to improve the quality of the surveillance of the internal market. A similar database already exists under the aegis of the EU-group of the ICPEN and the Commission.

46. Article 16 provides for Community co-ordination of administrative activities of competent authorities related to enforcement. The article sets out possible areas for co-ordination, leaving the Member States and the Commission to decide over time the precise actions needed at Community level to co-ordinate their enforcement work. It also makes explicit provision for exchanges of officials between competent authorities.

47. Article 17 sets out further possible areas for Community co-ordination in relation to national actions on information, advice and education, consumer representation, the extra-judicial settlement of disputes, access to justice and statistics. Once again, it is left to the Member States and the Commission to decide over time the precise actions needed at Community level to coordinate their actions.

48. These coordinated actions may or may not require Community and/or national funding. The present proposal does not of itself provide the legal basis for Community expenditure on these actions. The Commission's proposed legal framework for Community action in support of consumer policy 2004-2007²⁰ and successor frameworks shall provide the basis for such expenditure. The present proposal instead provides a decision-making framework for co-ordinated actions. It will provide the possibility for the practical arrangements concerning the operation of the EEJ-net and the European Consumer Information Centres (sometimes known as the Euroguichets) to be put on a more formal basis.

3.5 Chapter V: final provisions

49. The proposal provides for an Advisory Committee to be set up to assist the Commission in implementing the practical procedures for the operation of the regulation. Articles 6, 7, 8, 9, 11, 14, 15, 16, 17, and 19 provide for detailed practical arrangements (such as common forms) and other implementing measures to be delegated to the Committee, as is common to other mutual assistance arrangements. Given the operational enforcement issues covered by the Regulation, representatives of competent authorities, amongst others, should be members of this Committee. The role of the Advisory Committee shall not include issues covered by the Contact Committee established under the Television without frontiers Directive.

50. Articles 20 and 21 set out the necessary arrangements for the monitoring of the effectiveness of enforcement in the EU. Member States are required to regularly report on the application of the Regulation.

²⁰ Proposal for a Decision of the European Parliament and of the Council establishing a legal framework for Community actions in support of consumer policy 2004-2007 COM (2003) 44 final.

4. FINAL REMARKS

51. The proposed regulation is designed to operate on the basis of the existing consumer protection acquis. However the effective operation of the arrangements would undoubtedly be boosted with the adoption of a directive on unfair commercial practices and the development of maximum harmonisation in all the consumer protection acquis. A more harmonised and simpler regulatory system can make the work of enforcement officials easier as well as that of traders and consumers.

52. The Commission considers that adoption of the proposed regulation by Council and Parliament should be undertaken as quickly as possible, in particular, given the imminent enlargement of the EU.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on cooperation between national authorities responsible for the enforcement of consumer protection laws ("the regulation on consumer protection cooperation")

(text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) The Council resolution of 8 July 1996⁵ acknowledged that a continuing effort is required to improve cooperation between administrations and invited the Member States and the Commission to examine as a matter of priority the possibility of reinforcing administrative cooperation in the enforcement of legislation.
- (2) Existing national enforcement arrangements for the laws that protect consumers' interests are not adapted to the challenges of enforcement in the internal market and effective and efficient enforcement cooperation in these cases is not currently possible. These difficulties give rise to barriers to cooperation between public authorities to detect, investigate and bring about the cessation of infringements of the laws that protect consumers' interests in cross-border cases. The resulting lack of effective enforcement in cross-border cases enables sellers and suppliers to evade enforcement attempts by relocating within the Community. This gives rise to a distortion of competition for law-abiding sellers and suppliers operating either domestically or cross-border. The difficulties of enforcement in cross-border cases also undermines the confidence of consumers in taking up cross-border offers and hence their confidence in the internal market.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ C 224, 01.08.1996, p 3

- (3) It is therefore appropriate to facilitate cooperation between public authorities responsible for enforcement of consumer protection in dealing with intra-Community infringements; to contribute to improving the smooth functioning of the internal market, the quality and consistency of enforcement of consumer protection laws and the monitoring of the protection of consumers' economic interests.
- (4) Since the objectives of the proposed action cannot be sufficiently achieved by the Member States because they cannot ensure cooperation and co-ordination by acting alone and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this regulation does not go beyond what is necessary in order to achieve those objectives.
- (5) The scope of the provisions on mutual assistance in this regulation should be limited to intra-Community infringements of Community directives on consumer protection. The effectiveness with which infringements at national level are pursued should ensure that there is no discrimination between national and intra-Community transactions. This regulation does not affect the responsibilities of the Commission with regard to infringements of Community law by the Member States.
- (6) The protection of consumers from cross-border infringements requires the establishment of a network of public enforcement authorities throughout the Community and these authorities require a minimum of common investigation and enforcement powers to apply this regulation effectively and to deter sellers or suppliers from committing intra-Community infringements.
- (7) The ability of competent authorities to cooperate freely on a reciprocal basis in exchanging information, detecting and investigating intra-Community infringements and in taking action to bring about their cessation or prohibition is essential to guaranteeing the smooth functioning of the internal market and the protection of consumers.
- (8) Competent authorities should also make use of powers granted to them at national level to initiate or refer matters for criminal prosecution to also bring about the cessation or prohibition of intra-Community infringements without delay as a result of a request for mutual assistance, where this is appropriate.
- (9) Information exchanged between competent authorities should be subject to the strictest guarantees of confidentiality and secrecy in order to ensure investigations are not compromised or the reputation of sellers or suppliers unfairly harmed.
- (10) In the event of a refusal to provide mutual assistance on the grounds set out in this regulation, the Member State of the applicant authority may, in order to ensure the protection of consumers, take measures to restrict the freedom of the seller or supplier responsible for the intra-Community infringement to supply goods or services to the Member State of the applicant authority, provided that such measures are in conformity with Community law.
- (11) The enforcement challenges that exist go beyond the frontiers of the European Union and the interests of European consumers need to be protected from rogue traders based in third countries. Hence, there is a need for international agreements with third

countries regarding mutual assistance in the enforcement of the laws that protect consumers' interests to be negotiated. These international agreements should be negotiated at Community level on the basis of this Regulation in order to ensure the optimum protection of European consumers and the smooth functioning of enforcement cooperation with third countries.

- (12) It is appropriate to co-ordinate at Community level the enforcement activities of the Member States in respect of intra-Community infringements in order to improve the application of this regulation and contribute to raising the standard and consistency of enforcement .
- (13) It is appropriate to co-ordinate at Community level the administrative cooperation activities of the Member States, in respect of their intra-Community dimension, in order to contribute to the better application of consumer protection laws and this role has already been demonstrated in the establishment of the European extra-judicial network.
- (14) Where the co-ordination of the activities of the Member States under this Regulation entails Community financial support, the decision to grant such support shall be taken in accordance with the procedures set out in the Decision of the European Parliament and of the Council of XX establishing a legal framework for Community actions in support of consumer policy 2004-2007, in particular Actions 5 and 10 set out in the Annex to that Decision and successor Decisions.
- (15) The measures necessary for the implementation of this regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁶,
- (16) The effective monitoring of the application of this regulation and the effectiveness of consumer protection requires regular reports from the Member States.

HAVE ADOPTED THIS REGULATION:

Chapter I

Objective, definitions, scope and competent authorities

Article 1 *Objective*

This Regulation lays down the conditions under which the competent authorities in the Member States responsible for the enforcement of the laws that protect consumers' interests are to be designated and are to cooperate with each other and with the Commission in order to ensure compliance with those laws and the smooth functioning of the internal market and in order to enhance the protection of consumers' economic interests.

⁶ OJ L 184, 17.7.1999, p. 22.

Article 2
Scope

1. The provisions on mutual assistance in this regulation shall cover intra-Community infringements.
2. This regulation shall be without prejudice to the rules on private international law, in particular rules related to court jurisdiction and applicable law.
3. This regulation does not affect the application in the Member States of measures relating to judicial cooperation in criminal and civil matters, in particular the operation of the European judicial networks.
4. This regulation shall be without prejudice to Community law relating to the internal market, in particular those provisions concerning the free movement of goods and services.
5. This regulation shall be without prejudice to Community law relating to television broadcasting services.

Article 3
Definitions

For the purposes of this regulation:

- a. ‘laws that protect consumers’ interests’ means the Directives listed in Annex I as transposed into the internal legal order of the Member States.
- b. ‘intra-Community infringement’ means any act contrary to the laws that protect consumers’ interests that harms, or is likely to harm, the collective interests of consumers residing in a Member State or Member States other than the Member State where the act originated.
- c. ‘competent authority’ means any public authority established either at national, regional or local level with specific responsibilities to ensure compliance with the laws that protect consumers’ interests.
- d. ‘single liaison office’ means the public authority in each Member State designated as responsible for co-ordinating the application of this regulation within that Member State.
- e. ‘competent official’ means the official who can directly request assistance or supply information .
- f. ‘applicant authority’ means the competent authority that makes a request for mutual assistance.
- g. ‘requested authority’ means the competent authority that receives a request for mutual assistance.
- h. ‘seller or supplier’ means any natural or legal person who, in respect of the laws that protect consumers’ interests, is acting for purposes relating to his trade, business or profession;

- i. 'surveillance activities' means the actions of a competent authority designed to detect whether intra-Community infringements have taken place within its jurisdiction.
- j. 'complaint' means a statement that a seller or supplier has committed, or is likely to commit, an infringement of the laws that protect consumers' interests.
- k. 'mutual assistance' means the supply of information or the taking of enforcement measures .
- l. 'collective interests of consumers' means the general interests of consumers that do not include the cumulation of the interests of individuals who have been harmed by an infringement.

Article 4
Competent authorities

1. Each Member State shall designate the competent authorities and single liaison office responsible for the application of this regulation.
2. Competent authorities shall have the investigation and enforcement powers necessary for the application of this regulation and shall exercise them in conformity with national law.
3. These powers shall include, at least, the right:
 - (a) to have access to any document in any form whatsoever;
 - (b) to request information from any person, and if needed, to obtain judicial orders requiring the supply of information by any person;
 - (c) to carry out on-site inspections;
 - (d) to request in writing that the seller or supplier cease the intra-Community infringement;
 - (e) to obtain from seller(s) or supplier(s) responsible for intra-Community infringements a binding commitment to cease the intra-Community infringement; and to publish the resulting commitment;
 - (f) to require the cessation or prohibition of any intra-Community infringement or to obtain judicial orders requiring the cessation or prohibition of any intra-Community infringement; and to publish resulting decisions;
 - (g) to obtain judicial orders against the losing defendant for payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with a decision;
 - (h) to obtain judicial orders requesting the freezing and/or sequestration of assets;
4. Competent authorities shall have adequate resources necessary for the application of this regulation. The staff of such authorities shall observe professional standards and be subject to appropriate internal procedures or rules of conduct that ensure, in particular, the

protection of personal data, procedural fairness and the proper observance of the confidentiality and professional secrecy provisions established in Article 12.

5. Each competent authority shall make known to the general public the rights and responsibilities it has been granted under this regulation.

6. Each competent authority shall designate competent officials who can directly request assistance or exchange information on the basis of the provisions set down in Article 11.

Article 5

Lists

1. Each Member State shall communicate to the Commission and other Member States the identities of the competent authorities and single liaison office designated under Article 4(1).

2. Each single liaison office shall keep an up-to-date list of competent officials designated under Article 4 (6) and communicate it to the other single liaison offices.

3. The Commission shall publish and update the list of single liaison offices and competent authorities in the *Official Journal of the European Union*.

Chapter II

Mutual assistance

Article 6

Exchange of information on request

1. A requested authority shall, on request from an applicant authority, supply any information required to establish whether an intra-Community infringement has occurred or is likely to occur. The requested authority shall supply the information requested without delay.

2. The requested authority shall undertake the appropriate investigations or any other necessary measures, in order to gather the required information.

3. On request from the applicant authority, a competent official of the applicant authority may accompany the officials of the requested authority in the course of their investigations.

4. The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19 (2).

Article 7

Spontaneous exchange of information

1. When a competent authority becomes aware of an intra-Community infringement, or considers that a serious risk of such an infringement exists, it shall notify the competent authorities of other relevant Member States and the Commission, supplying all necessary information, without delay.

2. When a competent authority takes further enforcement measures or receives requests for mutual assistance in relation to the intra-Community infringement, it shall notify the competent authorities of other Member States and the Commission.

3. The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19 (2).

Article 8 *Requests for enforcement measures*

1. A requested authority shall, on request from an applicant authority, take all necessary measures to bring about the cessation or prohibition of the intra-Community infringement without delay. These measures shall include, where appropriate, an appeal to a higher court, in the event that any action before a court is not successful.

2. In order to fulfil its obligations under paragraph 1, the requested authority shall exercise the powers set out under Article 4 (3) and any additional powers granted to the requested authority under national law. The requested authority shall determine the measures to be taken to bring about the cessation or prohibition of the intra-Community infringement in the most efficient and effective way.

3. The requested authority shall consult the applicant authority in the course of taking the enforcement measures. The requested authority shall notify the applicant authority, the competent authorities of other Member States and the Commission of its measures without delay.

4. The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19 (2).

Article 9 *Co-ordination of surveillance and enforcement*

1. Competent authorities shall co-ordinate their surveillance and enforcement activities. They shall exchange all information necessary to achieve this.

2. When competent authorities become aware that an intra-Community infringement harms consumers in more than two Member States, the competent authorities concerned shall coordinate their enforcement actions and requests for mutual assistance. In particular they shall seek to conduct simultaneous investigations and enforcement measures.

3. The competent authorities shall inform the Commission in advance of this co-ordination and may invite the Commission to participate.

4. The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19 (2).

Chapter III

General conditions governing mutual assistance

Article 10 *General Responsibilities*

1. Competent authorities shall fulfil their obligations under this regulation as though acting on behalf of consumers in their own country and on their own account or at the request of another competent authority in their own country.
2. Member States shall take all necessary measures to ensure effective co-ordination of the application of this regulation by the competent authorities designated by them, through the single liaison office.

Article 11 *Request and information exchange procedures*

1. The applicant authority shall ensure that all requests for mutual assistance contain sufficient information to enable a requested authority to fulfil the request.
2. Requests shall be sent either to single liaison offices, to competent authorities or competent officials.
3. Requests for assistance and the communication of information (including notifications to the Commission) shall be made in writing, using a standard form and communicated electronically. Requests for assistance or the communication of information between competent officials may be made in another way, if both agree.
4. The languages used for requests and the communication of information shall be agreed by the competent authorities or competent officials in question before requests have been made.
5. Information communicated as a result of a request shall be communicated directly to the applicant authority or competent officials who made the request. Competent authorities or competent officials shall ensure that single liaison offices are informed of all requests sent or received and information communicated following a request.
6. The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19 (2).

Article 12 *Use of information exchanged*

1. Information supplied may only be used for the purposes of ensuring compliance with the laws that protect consumers' interests.
2. Competent authorities may invoke as evidence any information, documents, findings, statements, certified true copies or intelligence communicated pursuant to this regulation on the same basis as similar documents obtained in their own country.

3. Information communicated in any form pursuant to the mutual assistance provisions of this regulation, including when notified to the Commission and stored on the database referred to in Article 15, shall be confidential and be covered by the obligation of professional secrecy, unless:

- a. the authority communicating the information consents to its disclosure;
- b. it is invoked as evidence;
- c. it is disclosed as part of the publication of the commitment or decision referred to in Article 4(3) (e) or (f)

4. Member States shall for the purpose of applying this regulation adopt the legislative measures necessary to safeguard the interests referred to in Article 13(1)(d) and (f) of Directive 95/46/EC⁷.

Article 13 *Information exchange with third countries*

1. When a competent authority receives information from an authority of a third country, it shall supply the information to the relevant competent authorities of other Member States, in so far as it is permitted by bilateral assistance agreements with the third country.

2. Information communicated under this Regulation may also be supplied to an authority of a third country by a competent authority under an assistance agreement with the third country, provided the consent of the competent authority that originally supplied the information has been obtained.

Article 14 *Conditions*

1. Member States shall waive all claims for the reimbursement of expenses incurred in applying this regulation. However, the Member State of the applicant authority shall remain liable to the Member State of the requested authority for any costs and any losses incurred as a result of measures held to be unfounded by a court as far as the substance of the intra-Community infringement is concerned.

2. A requested authority may refuse to comply with a request for mutual assistance if:
- a. the request would impose a disproportionate administrative burden on the requested authority in relation to the scale of the intra-Community infringement, in terms of the potential consumer detriment.
 - b. judicial proceedings have already been initiated or final judgement has already been passed in respect of the same intra-Community infringements and against the same sellers or suppliers before the judicial authorities in the Member State of the requested authority.

⁷ OJ L 281, 23.11.1995, p 31

c. the request is not well founded.

3. The requested authority shall inform the applicant authority and the Commission of the grounds for refusing a request for assistance.

4. The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19 (2).

Chapter IV

Community activities

Article 15

Complaints and Database

1. The Member States shall regularly notify to the Commission statistics on consumer complaints received by competent authorities.

2. The Commission shall maintain an electronic database in which it shall store and process the information it receives under Articles 7, 8, 9 and this Article. The database shall be made available for consultation by the competent authorities.

3. The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19 (2).

Article 16

Enforcement coordination

1. Member States shall, with the Commission, co-ordinate the following activities:

- a. the training of their officials, including language training and the organisation of training seminars;
- b. the collection and classification of consumer complaints;
- c. the development of sector-specific networks of competent officials;
- d. their strategy, planning and risk analysis activities related to surveillance and enforcement;
- e. the development of information and communication tools;
- f. the development of standards, methodologies and guidelines for enforcement officials.
- g. the exchange of their officials.

2. Where appropriate, the competent authorities shall exchange competent officials in order to improve cooperation. The competent authorities shall take the necessary measures to enable exchanged competent officials to play an effective part in activities of the competent authority. To this end such competent officials shall be authorised to carry out the duties entrusted to them by the host competent authority in accordance with the laws of that Member State.

3. During the exchange the civil liability of the competent official shall be treated in the same way as that of the officials of the host competent authority. Exchanged competent officials shall observe professional standards and be subject to the appropriate internal rules

of conduct of the host competent authority that ensure, in particular, the protection of personal data, procedural fairness and the proper observance of the confidentiality and professional secrecy provisions established in Article 12.

4. The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19 (2).

Article 17
Administrative cooperation

1. Member States shall, with the Commission, co-ordinate their activities designed to:
 - a. inform, advise and educate consumers;
 - b. support the activities of consumer representatives;
 - c. support the activities of bodies responsible for the extra-judicial settlement of consumer disputes;
 - d. support consumers' access to justice;
 - e. gather statistics, research or other information relating to consumer behaviour, attitudes and outcomes;
2. The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19 (2).

Article 18
International agreements

The Community shall cooperate with third countries and with the competent international organisations in order to enhance the protection of consumers' economic interests. The arrangements for cooperation, including the establishment of mutual assistance arrangements, may be the subject of agreements between the Community and the third parties concerned.

Chapter V

Final provisions

Article 19
Standing Committee

1. The Commission shall be assisted by a Standing Committee on Consumer Protection Cooperation, hereinafter referred to as 'the Committee', composed of representatives of the Member States and chaired by the representative of the Commission. However, matters regulated by the provisions of Directive 89/552/EEC, as amended, shall continue to be examined only by the Contact Committee set up by that Directive.
2. Where reference is made to this paragraph, Article 3 and 7 of Decision 1999/468/EC shall apply having regard to the provisions of Article 8 thereof.
3. The Committee shall adopt its Rules of Procedure.

Article 20
Committee tasks

1. The Committee may examine all matters relating to the application of this Regulation raised by its chairman, either on his own initiative or at the request of the representative of a Member State.
2. In particular, it shall examine and evaluate how the arrangements for cooperation provided for in this regulation are working.
3. Where appropriate, the Committee may also invite qualified entities notified under Article 3 of the Injunctions Directive to participate in its meetings.

Article 21
National Reports

1. Member States shall communicate to the Commission the text of any provisions of national law that they adopt or of agreements, other than to deal with individual cases, that they conclude on matters covered by this Regulation.
2. Every two years from the date of entry into force of this Regulation, the Member States shall report to the Commission on the application of this Regulation.
3. National reports shall address:
 - a. any new information about the organisation, powers, resources or responsibilities of the competent authorities.
 - b. any information concerning trends, means or methods of committing intra-Community infringements, particularly those that has revealed shortcomings or lacunae in this regulation or in the laws that protect consumers' interests.
 - c. any information on enforcement techniques that have proved their effectiveness.
 - d. statistics relating to the activities of competent authorities such as actions under this regulation, complaints received, enforcement actions and judgements.
 - e. summaries of significant national interpretative judgements in the laws that protect consumers' interests.
 - f. any other information relevant to the application of this regulation.

Article 22
Other mutual assistance obligations

The provisions of this Regulation shall be without prejudice to the fulfilment of any wider obligations in relation to mutual assistance, including in criminal matters, ensuing from other legal acts, including bilateral or multilateral agreements.

Article 23
Entry into force

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [] [] 20[].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

LIST OF DIRECTIVES COVERED BY ARTICLE 2 (*)

1. Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising (OJ L 250, 19.9.1984, p. 17) and Directive 97/55/EC of the European Parliament and of the Council of 6 October 1997 amending Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising (OJ L290, 22/10/1997 P.18-22).
2. Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises (OJ L 372, 31.12.1985, p. 31).
3. Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit (OJ L 42, 12.2.1987, p. 48), as last amended by Directive 98/7/EC (OJ L 101, 1.4.1998, p. 17) [and Directive XX/XX/EC of X].
4. Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities: Articles 10 to 21 (OJ L 298, 17.10.1989, p. 22 as amended by Directive 97/36/EC (OJ L 202,30.7.1997, p. 60)).
5. Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (OJ L 158, 23. 6.1990, p. 59).
6. Directive 2001/83/EC of the European Parliament and of the Council of 23 September 2001 on the Community code relating to medicinal products for human use: Articles 86 to 100 (OJ L 311, 28.11.2001, p. 67)"
7. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993,p. 29).
8. Directive 94/47/EC of the European Parliament and of the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis (OJ L 280, 29.10.1994, p. 83).
9. Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (OJ L 144, 4.6.1997, p. 19).
10. Directive 1999/44/EC of the European Parliament and of the Council of 25 may 1999 on certain aspects of the sale of consumer goods and associated guarantees (OJ L 171, 7.7.1999, p12).
11. Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic

commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.07.2000 p. 1)

12. Directive 2002/65/EC of the European Parliament and of the Council concerning the distance marketing of consumer financial services. (OJ L [L271](#), 9/10/2002, p.16-24)
13. European Parliament and Council Regulation XXXX/XX/EC on sales promotions.
14. European Parliament and Council Directive XXXX/XX/EC concerning unfair business-to-consumer commercial practices in the internal market (the unfair commercial practices directive).
15. European Parliament and Council Regulation XXXX/XX/EC on nutrition and health claims made on foods.
16. Council Regulation (EEC) No 295/91 of 4 February 1991 establishing common rules for a denied-boarding compensation system in scheduled air transport, OJ L 36 of 8.2.1991
17. Council Regulation XXXX/XX/EC establishing common rules for compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights

(*) Directive Nos. 1, 6, 7 and 9 contain specific provisions on injunctive actions.

LEGISLATIVE FINANCIAL STATEMENT

Policy area: HEALTH AND CONSUMER PROTECTION

Activity: Consumer policy

TITLE OF ACTION: REGULATION ON CONSUMER PROTECTION COOPERATION

1. BUDGET LINE(S) + HEADING(S)

170201 (B5-100) Community activities in favour of consumers

2. OVERALL FIGURES

2.1. Total allocation for action (Part B): 150,000 per year for commitment

2.2. Period of application:

From 2004, unlimited

2.3. Overall multiannual estimate of expenditure:

(a) Schedule of commitment appropriations/payment appropriations (financial intervention) *(see point 6.1.1)*

€ million *(to three decimal places)*

	2004	2005	2006	2007	2008	2009+ subs yrs	Total
Commitments	0.150	0.150	0.100	0.050	0.050	0.050	0.550
Payments	0.045	0.090	0.135	0.105	0.070	0.050	0.495

(b) Technical and administrative assistance and support expenditure *(see point 6.1.2)*

Commitments							
Payments							

Subtotal a+b							
Commitments	0.150	0.150	0.100	0.050	0.050	0.050	0.550
Payments	0.045	0.090	0.135	0.105	0.070	0.050	0.495

(c) Overall financial impact of human resources and other administrative expenditure *(see points 7.2 and 7.3)*

Commitments/ payments	0.229	0.229	0.229	0.229	0.229	0.229	1.374
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TOTAL a+b+c							
Commitments	0.379	0.379	0.329	0.279	0.279	0.279	1.924
Payments	0.274	0.319	0.364	0.334	0.299	0.279	1.869

2.4. Compatibility with financial programming and financial perspective

Proposal is compatible with existing financial programming.

2.5. Financial impact on revenue:¹

Proposal has no financial implications (involves technical aspects regarding implementation of a measure)

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
Non-comp	Diff	NO	YES	YES, subject to negotiations on participation	No 3

4. LEGAL BASIS

Article 95 and 153(3)b TEC and the proposal for a decision of the European Parliament and of the Council establishing a general framework for financing Community actions in support of consumer policy for the years 2004-2007.

5. DESCRIPTION AND GROUNDS

5.1. Need for Community intervention ²

The need for Community budgetary intervention in this area has already been set out in the proposal for a decision of the European Parliament and of the Council establishing a general framework for financing Community actions in support of consumer policy for the years 2004-2007. In particular that proposal established the effective enforcement of consumer protection rules as a central policy objective. Action 5 of the proposed general framework refers specifically to the actions necessary for the co-ordination of surveillance and enforcement actions referred to in this regulation to be financed 100% from the Community budget. In addition joint action 10 provides for the possibility of co-financing the same actions with one or more Member States.

The Community contribution envisaged in this regulation concerns measures to support, supplement and monitor the consumer protection policy pursued by the Member States. In particular the proposed actions with budgetary consequences are designed to:

¹ For further information, see separate explanatory note.

² For further information, see separate explanatory note.

- ensure the maintenance of two databases (of intra-Community infringements and complaints received by competent authorities) under Article 7 and Article 12.
- support the co-ordination of national enforcement activities (Article 17)
- support the co-ordination of national administrative actions designed to improve consumer education, information and representation (Article 18).

The only direct budgetary consequences of the present regulation arise from the commitments to maintain the databases established under Articles 7 and 12. The provisions on cooperation in Article 17 and 18 do not themselves give rise to annual budgetary consequences, only providing a decision-making framework for non-budgetary issues. Any budgetary decisions arising from of the activities foreseen in Articles 17 and 18 will be taken under the procedures foreseen in the general framework for 2004-2007. Only the budgetary consequences of the databases established under Articles 7 and 12 are therefore addressed in this legislative financial statement.

5.1.1. Objectives pursued

The proposed databases are designed to contribute to meeting the Treaty objective that refers to the monitoring of national policies. They aim more specifically:

- to provide easily accessible information to competent authorities relating to intra-Community infringements reported by other competent authorities;
- to provide Member States and the Commission with information about trends in complaints about sellers or suppliers. This information is an important contribution to policymakers responsible for consumer protection regulation and enforcement.

5.1.2. Measures taken in connection with ex ante evaluation

The measures taken are set out in the legislative financial statement attached to the proposal for a decision of the European Parliament and of the Council establishing a general framework for financing Community actions in support of consumer policy for the years 2004-2007.

5.2. Action envisaged and budget intervention arrangements

The two actions will put in place and maintain two databases, one of intra-Community infringements (Article 7), one of complaints received by competent authorities (Article 12). The databases will be made available to the competent authorities. The ultimate beneficiaries will be consumers in the EU.

The following budget intervention arrangements are foreseen:

- Actions taken by the Commission through contracts following procurement procedures, such as calls for tenders. Appropriate technical specifications will be defined for each action.

These arrangements for budget intervention will be applied in accordance with the relevant provisions of the Financial Regulation applicable to the general budget of the European Communities.

5.3. Methods of implementation

The actions under the framework will be implemented and managed directly by the Commission using either permanent or temporary staff.

6. FINANCIAL IMPACT

6.1. Total financial impact on Part B - (over the entire programming period)

(The method of calculating the total amounts set out in the table below must be explained by the breakdown in Table 6.2.)

6.1.1. Financial intervention

NB. These credits have already been foreseen in the proposal for a decision of the European Parliament and of the Council establishing a general framework for financing Community actions in support of consumer policy for the years 2004-2007.

Commitments (in € million to three decimal places)

Breakdown	2004	2005	2006	2007	2008	2009+ subs yrs	Total
Databases	0.150	0.150	0.100	0.50	0.50	0.50	
TOTAL	0.150	0.150	0.100	0.50	0.50	0.50	

6.1.2. Technical and administrative assistance, support expenditure and IT expenditure (commitment appropriations)

n/a

6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)³

n/a

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

7.1. Impact on human resources

Types of post	Staff to be assigned to management of the action using existing resources		Total	Description of tasks deriving from the action
	Number of permanent posts	Number of temporary posts		
Officials or temporary staff	A 1 (50%) B 1 (50%) C 1 (50%)		162,000	<i>If necessary, a fuller description of the tasks may be annexed.</i>
Other human resources				
Total	1.5		162,000	

³ For further information, see separate explanatory note.

7.2. Overall financial impact of human resources

Type of human resources	Amount (€)	Method of calculation *
Officials	162,000	1.5*108,000
Temporary staff		
Other human resources (specify budget line)		
Total	162,000	

The amounts are total expenditure for twelve months.

7.3. Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount €	Method of calculation
Overall allocation (Title A7)		
A0701 – Missions	2,292	1*8*286.45
A07030 – Meetings	-	-
A07031 – Compulsory committees ¹	65,000	4*25*650
A07032 – Non-compulsory committees ¹		
A07040 – Conferences		
A0705 – Studies and consultations		
Other expenditure (specify)		
Information systems (A-5001/A-4300)		
Other expenditure - Part A (specify)		
Total	67292	

The amounts are total expenditure for twelve months.

¹ Specify the type of committee and the group to which it belongs.

I.	Annual total (7.2 + 7.3)	€ 229,292
II.	Duration of action	indeterminate
III.	Total cost of action (I x II)	n/a

8. FOLLOW-UP AND EVALUATION

8.1. Follow-up arrangements

The arrangements to be taken are set out in the legislative financial statement attached to the proposal for a decision of the European Parliament and of the Council establishing a general framework for financing Community actions in support of consumer policy for the years 2004-2007.

8.2. Arrangements and schedule for the planned evaluation

See 8.1.

9. ANTI-FRAUD MEASURES

See 8.1.