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COMMISSION STAFF WORKING DOCUMENT

Overview of key market trends and priorities for the enforcement of consumer law in 2022-2023

The redacted parts and pages 1, 2, 3, 4, 5, 7, 16, 17, 18, 19
are out of the scope of the request.

3.1.2 Activities of the CPC network

In the two years since the CPC Regulation entered into force (17 January 2020 - 17 January 2022), CPC authorities cooperated on 312 mutual requests, of which 231 were requests to take enforcement measures. Most of these requests related to potential infringements of horizontal EU consumer law, such as the Unfair Commercial Practices Directive 2005/29/EC (120 requests), the Consumer Rights Directive (95 requests) or the Unfair Contract Terms Directive 93/13/EEC (17 requests). In 48 cases, the request related to the sale of goods to consumers. However, sectoral compliance issues were also raised, such as issues of e-privacy (31 requests), and specific travel- and holiday-related issues (26 requests related to package holidays, vehicle rentals or transportation and accommodation services).

The CPC network and the Commission exchanged 89 alerts of suspected breaches of consumer law. The alerts exchanged within the network covered a wide scope of EU consumer law issues, relating to practices by e-shops, online marketplaces and social media and entertainment services. They mostly concerned a lack of price transparency, misleading advertisements and misleading labelling of commercial content, unclear or missing pre-contractual information, geo-blocking, drop-shipping, warranty issues and greenwashing practices. There were also particular sector-specific problems related to traders operating in travel or financial services. Of the 89 exchanged alerts on practices by specific traders, 45 have a potential EU dimension¹⁰. 23 of these 45 alerts were followed up by the CPC network in a coordinated EU-level manner and are detailed in the next chapter.

The CPC cooperation mechanism is facilitated by the Internal Market Information System,¹¹ which ensures that consumer protection cooperation between Member States is carried out in a secure and coordinated manner.

The CPC Regulation also allows consumer and business associations nominated at national or EU level to alert the CPC network and the Commission of EU-level unfair business practices and other suspected breaches of EU consumer law. So far, 75 external entities have been nominated by 23 Member States and 2 EU-level stakeholders are registered in the external alert system¹². Overall, these stakeholders sent 36 alerts to the CPC network and the Commission, several of which prompted a specific response from the network (see more details in the following chapter).

3.2 CPC enforcement activities in 2020-2021

In 2020-2021, in addition to addressing certain issues that required urgent attention in the face of the COVID-19 pandemic, the main CPC coordinated activities covered areas which are aligned with the key priorities of the New Consumer Agenda.

¹⁰Article 3(4) CPC Regulation: 2/3 of the Member States accounting for at least 2/3 of the EU's population.

¹¹https://ec.europa.eu/internal_market/imi-net/index_en.htm

¹²The public list of these entities is available here: https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/consumer-protection-cooperation-network_en#cpc-actors

3.2.2 Digital markets

a) Online platform checks

The CPC network initiated a record number of joint actions on different practices carried out by big online platforms. CPC authorities performed thorough platform checks on online marketplaces (such as AliExpress¹⁹), search engines (Google²⁰), social media and entertainment platforms (TikTok²¹), dating websites (Parship²²) as well as travel booking platforms (Expedia group²³). All actions were concluded with a positive result, i.e. with the businesses committing to improve the shortcomings identified on their websites by the CPC authorities (tbc – Google, TikTok).

For instance, following a coordinated dialogue with the CPC authorities:

¹⁶<https://www.beuc.eu/publications/beuc-reports-major-airlines-breaching-passenger-rights-and-calls-industry-investigation/html>

¹⁷https://ec.europa.eu/info/sites/default/files/120321_key_consumer_data_factsheet_en.pdf

¹⁸https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/sweeps_en#2021-mini-sweep-on-consumer-credit

¹⁹https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/market-places-and-digital-services_en#aliexpress

²⁰https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/social-media-and-search-engines_en#google

²¹https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/social-media-and-search-engines_en#tiktok

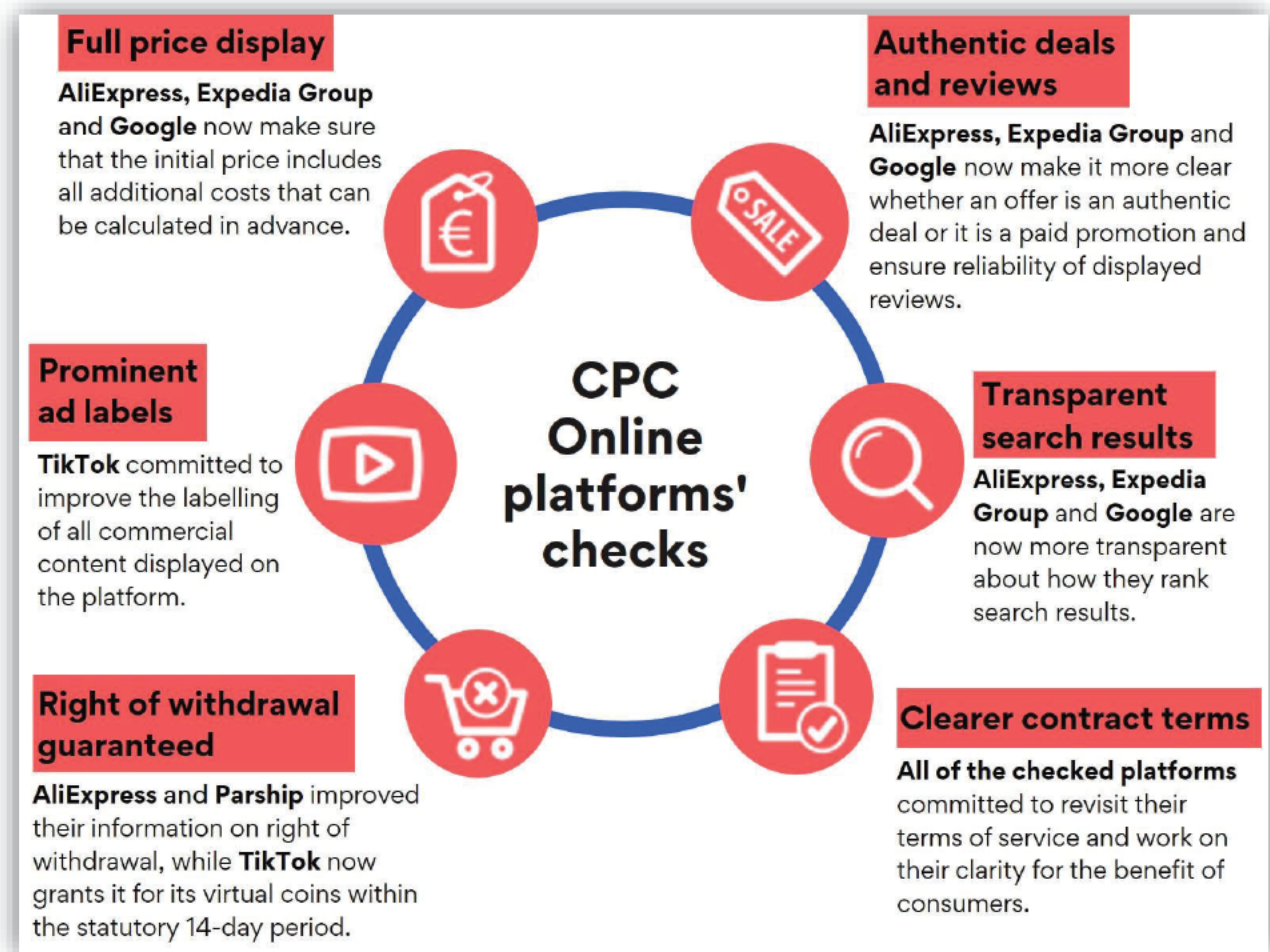
²²https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/market-places-and-digital-services_en#parship

²³https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/accommodation-booking_en

- **AliExpress**, a popular low-cost online marketplace, made EU-wide commitments to ensure that its practices as well as those of its traders respect EU consumer law. In particular, this concerns clear and transparent information on right of withdrawal, the identity of the seller, how products are ranked in search results on the website and the two-year legal conformity guarantee applicable under EU law. AliExpress also committed to revisit its terms of service and to better inform consumers on how to complain or take action against sellers.
- The CPC authorities reached out to **Google** requesting more transparency (on its business model, search results and reviews policy) and more clarity on prices and essential pre-contractual information that Google provides to consumers in its various products (Google Hotels and Flights, Google Store, Google Play, Google Search and Ads). Google sent its reply with proposed changes that could bring its practices in line with EU consumer law. The reply is currently assessed by the CPC network.
- The CPC network has also started a dialogue with **TikTok**, the most popular social media and entertainment service provider in 2021 in terms of new downloads²⁴. CPC authorities questioned TikTok's business operation related to advertising practices and labelling of commercial content (paid adverts and influencers), personalisation and targeted marketing aimed at a young audience, and its internal policies on the virtual items available for users on the platform to flag appreciation of video content published by other users. **[TBC depending if this action is closed before or at the time of publication of this report: TikTok committed to improving the labelling of all commercial content displayed on the platform. Consumers are now able to immediately recognise if the video they see is pure entertainment or in fact a commercial. In addition, TikTok also redrafted its Virtual Items Policies so users can better understand how much they spend on the platform. Users now have a guarantee they can return the purchased virtual coins within the statutory 14-day period if they change their mind and do not want to use them. TikTok also committed to redesigning the opt-in button for receiving personalised adverts so users can easily reject such offer./ The commitments proposed by TikTok to change its business practices are currently assessed by the CPC Network.]** This investigation was triggered by an external alert of the European Consumer Organisation BEUC.
- The dating platform **Parship** has improved the information displayed on its website regarding users' right of withdrawal and automatic renewal of contracts. Following these changes, consumers are now better informed of the cost of subscribing to Parship services.
- The **Expedia Group** committed to make the search results more transparent so it is clearly presented when an offer displayed on the website is in effect the best possible offer or if it has been promoted by the trader because it is a paid advertisement. Expedia also improved the presentation of prices and discounts and implemented an improved audit system for special price offers across the EU/EEA sites. Users can now clearly distinguish between accommodation offered by professional and private hosts since Expedia committed to continuously updating the information disclosed by accommodation providers.

²⁴<https://www.forbes.com/sites/johnkoetsier/2021/12/27/top-10-most-downloaded-apps-and-games-of-2021-tiktok-telegram-big-winners/?sh=3e96d3003a1f>

The main achievements of the CPC online platforms' checks are illustrated below [to check references to Google/TikTok before it goes to the ISC; instead of “prominent ad labels”, “Clear label to distinguish professional traders” could be considered]:





4. Main market trends and enforcement priorities in 2022-2023

Building on past and ongoing investigation work of the CPC network in 2020-2021 and the continuous examination of market trends affecting consumer rights by CPC authorities, the common enforcement priorities for 2022-2023 are grouped into the following four strategic areas:

- **Ensure fairness of digital markets**

²⁵[Protecting consumers from misleading reviews \(europa.eu\)](#)

²⁶https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/sweeps_en

- **Increase consumer trust in green products**
- **Mitigate continuous COVID-19 impacts on consumers**
- **Promote EU standards and enforcement priorities with international partners**

The enforcement priorities of the CPC network will reflect the discussions and conclusions of the 2022 European Consumer Summit that took place on 10 and 11 February 2022. The event brought together more than 1 400 stakeholders from all EU Member States, including policymakers, national enforcement authorities, academia, consumer and business organisations, youth representatives and other EU institutions. The stakeholders joined four different panels to discuss the common challenges of consumer protection in the digital and ecological transition and proposed several specific action points for 2022. The CPC network supports the conclusions of the 2022 European Consumer Summit and will help pursue the joint initiatives proposed by the stakeholders where possible, and in line with its enforcement priorities.

4.1 Ensure fairness of digital markets

The rise in e-commerce and the accelerated digitalisation triggered by the pandemic has brought to light many consumer law issues and data-related risks since consumers are increasingly exposed to advertisement through multiple online channels. According to private professional sources, digital advertising is likely to account for 64.4% of total advertising in 2021, up from 60.5% in 2020 and 52.1% in 2019,²⁷ and digital advertising volumes (search, social, video, banners, digital audio) grew 146% of the pre-COVID market size.²⁸

Social media and entertainment platforms have become effective tools to boost and facilitate e-commerce. In 2020, spending on social media advertising in Europe was EUR 16.1 billion, growing over 16% year-on-year during the COVID-19 pandemic.²⁹ Germany and France were the top two markets with highest social advertising spend in EU27.³⁰ Such platforms create a multi-level environment where commercial content blends with ‘organic’ user-generated content. When consumers engage on social media or play games, they often do not realise that they are exposed to advertisements, product placement and incentivised consumer reviews often presented as if it were a friend-to-friend recommendation. In addition, consumer online behaviour is highly tracked to be used for targeted and personalised advertising. It is therefore key that consumers understand how their data is being used and that what they see online is the result of sophisticated algorithms pursuing commercial purposes. Graph 5 shows the main consumer concerns regarding online targeted advertising³¹.

²⁷WPP report: [This Year Next Year: Global 2021 End-of-Year Forecast - GroupM](#)

²⁸<https://magnaglobal.com/global-advertising-market-reaches-new-heights-and-exceeds-pre-covid-levels/>

The Magna report further specifies that digital ad formats (volume of online presence) worldwide grew by double-digits in 2021, led by digital video formats (long and short form) +37%, social media +34% and search +33%.

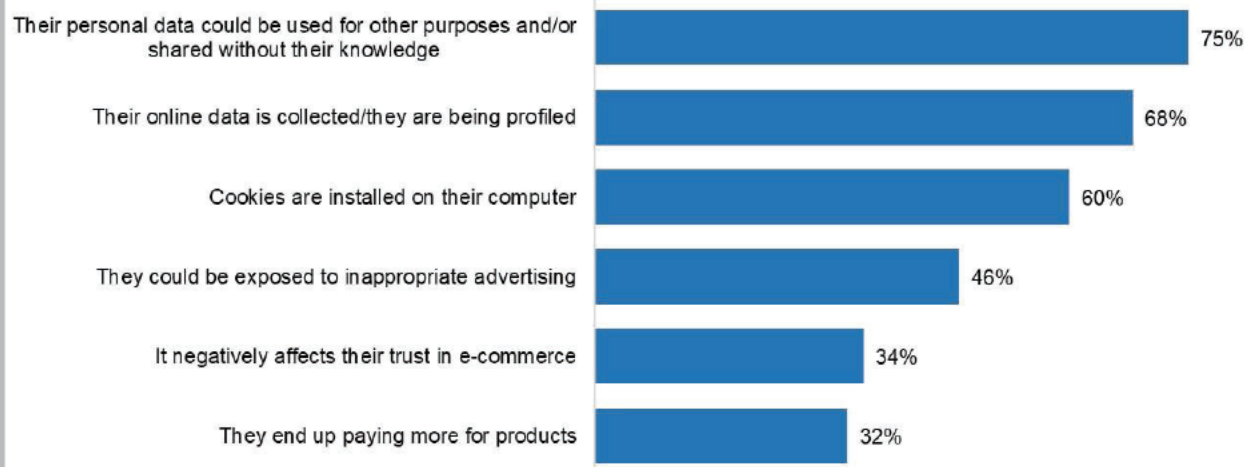
²⁹<https://www.statista.com/statistics/461963/social-media-advertising-revenue-countries-digital-market-outlook-europe/>

³⁰<https://www.statista.com/statistics/899269/ad-spend-social-vs-other-display/>

³¹[Consumer Conditions Survey: Consumers at home in the single market – 2021 edition](#)

Main consumer concerns about online targeted advertising in 2020

(% represents the EU27 average)



Source: Consumer Conditions Survey: Consumers at home in the single market - 2021 edition

Graph 5

In particular, children and young people, who are vulnerable consumers, have become extremely active online and exposed to new marketing techniques, notably via influencers, which can have high impact on their consumer behaviour.³² According to Eurostat data, in 2020 57% of people in the EU used the internet to participate in social networks.³³ Among young people aged 16 to 24 years, almost 9 in every 10 did (from 79% in Italy to 97% in Denmark).

According to a Forbes article³⁴, the majority (97%) of Gen Z³⁵ consumers say they now use social media as their top source of shopping inspiration. For instance, the hashtag #tiktokmademebuyit reached 2.3 billion views on TikTok, and #amazonfinds has more than 6.7 billion views³⁶. Social media-generated commerce is thus likely to revolutionise the way consumers shop by ‘offering something radically different through a sense of connection and community’, as advertisement and communication consultant predicts.³⁷ With the online experience becoming even more immersive (e.g. live streaming, AR/VR experiences), national enforcement authorities will be challenged by new innovative marketing techniques and other business practices and will be called to assess its compliance with EU consumer standards.

³²The recent testimony of a former Facebook employee and whistle-blower, Frances Haugen, on the negative impact of big tech companies’ products on users, delivered in the public hearing of the European Parliament’s Committee on the Internal Market and Consumer Protection on 8 November 2021 available at https://multimedia.europarl.europa.eu/en/webstreaming/committee-on-internal-market-and-consumer-protection_20211108-1645-COMMITTEE-IMCO

³³<https://ec.europa.eu/eurostat/web/products-eurostat-news/-/edn-20210630-1>

³⁴<https://www.forbes.com/sites/forbesagencycouncil/2021/05/17/gen-z-and-the-rise-of-social-commerce/?sh=169b1df5251d>, using data from <https://theinfluencemarketingfactory.com/wp-content/uploads/2021/03/social-commerce-report.pdf>

³⁵People born from 1995 to 2010.

³⁶Same as No. 34.

³⁷<https://www.accenture.com/il-en/insights/software-platforms/why-shopping-set-social-revolution>

The CPC network has therefore decided to be particularly vigilant about:

a) **Influencers** disclosing their commercial links with traders and the **transparency of marketing on social media and entertainment platforms in general**

The CPC network will coordinate further exchanges on lessons learnt from individual national and cross-border enforcement cases and soft law approaches (such as guidelines of best practices for influencers or awareness-raising campaigns targeting youth and children). This will be beneficial to better map the landscape of current business practices and identify new trends of innovative marketing enabled by social media-generated commerce. In addition, it will commission a study on influencers, notably on how children and adults view advertisements on social media, complemented by a behavioural experiment connected to labelling of adverts to assist CPC authorities in their enforcement work. The study can build on the findings of the Commission's 2018 *Behavioural study on advertising and marketing practices in social media*³⁸ and take into account new major market players in the social media and entertainment sector and the impact of the latest techniques such as neuro-marketing (using brain imaging to fine-tune advertising).

b) **Dark patterns** that lead consumers to take a transactional decision that they would not have taken otherwise if the information had been presented in a transparent and fair manner

CPC authorities intend to examine websites to identify a wide range of marketing techniques that create unsubstantiated (and thus false) messages on scarcity, social proof, that generate automated fake price discounts, or aggressive practices urging consumers to rush through the purchase (countdown timers). They will also look into digital services that use negative nudging practices such as subscription traps or making it burdensome to opt-out or exercise their right of withdrawal. This work will be supported by the categorisation and results of the Commission's ongoing study³⁹ focusing on persuasion techniques (dark patterns and manipulative personalisation practices) and by other activities carried out by the international enforcement community on this front⁴⁰.

c) **Compliance by design of online intermediaries across sectors**

The CPC network will continue carrying out coordinated platform checks (such as in the accommodation booking sector carried out in the previous period). The objective is to engage with major digital intermediaries (marketplaces, search engines, social media and entertainment platforms) to proactively ensure that they comply with all applicable consumer law and notably with all pre-contractual information requirements. Particular attention will be given to ensuring that consumers, including the youngest consumers, can identify and understand advertising techniques including sponsored reviews, influencers or personalisation.

d) **Cooperation on cross-cutting issues with other networks**

Increasing and stepping up cooperation with other enforcement networks and exchanging best practices, such as with a network of data protection authorities, will be particularly useful when looking at cross-cutting issues such as personalised advertising and aggressive practices linked to cookies. In addition, cooperation with online marketing companies and their associations will help

³⁸ https://ec.europa.eu/info/publications/behavioural-study-advertising-and-marketing-practices-social-media-0_en

³⁹ The Commission's study is expected to be completed by spring 2022.

⁴⁰ For instance, the activities of the International Consumer Protection Enforcement Network (ICPEN) or in the OECD.

improve understanding of the different bodies involved in the process of collecting consumer data and transforming it into targeted advertising.

