



Support study for the impact assessment on the review of the CPC Regulation 2006/2004/EC

European Commission DG Health and Consumer (SANCO)

12 August 2015

**Revised General Baseline Report
Submitted by the Consumer Policy Evaluation Consortium
(CPEC)**



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Revised General Baseline Report

A report submitted by [ICF Consulting Services](#)
in association with

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Glossary of terms

Alert	Information exchange without a request through the CPC System between competent authorities as defined in Article 7 of the CPC Regulation 2006/2004. If a competent authority is warned or suspects that intra-Union infringement is occurring (or may occur), it shall inform the competent authorities in other Member State(s) and the European Commission via the CPC System.
Complaint	Statement, supported by reasonable evidence submitted by the consumer indicating that a seller or supplier has committed, or is likely to commit an infringement of consumer protection law.
CPC	Consumer Protection Cooperation Regulation 2006/2004/EC providing a cooperation framework for enforcement authorities in EU and EEA
CPCS	CPC-System is the common IT-tool used by competent authorities for the exchange of information for the performance of their mutual assistance obligation under the CPC Regulation. System is maintained by the European Commission.
Criminal sanctions	Severe sanctions imposed by civil courts of a non-pecuniary nature with the expressed aim of deterrence. Imprisonment is the most common criminal sanction relevant to consumer protection law.
Cross-border	Transactions related to a sales or service contract between consumers and traders located in different EU Member States.
Detriment	Harm or damage suffered by consumers from an infringement which can be financial, physical or psychological in nature. For the purposes of this study we refer only to financial detriment.
Domestic	Transactions between consumers and traders located in the same Member State
ECC-Net	European Consumer Centres Network is an EU-wide network of 30 European Consumer Centres (ECCs) which offer help and advice to consumers where they may have a problem with a good or service purchased in another Member State or a dispute with a supplier located in another Member State.
E-commerce	Electronic commerce, transactions conducted online
Enforcement	Consists of a range of remedies that can be used if a trader fails to comply with a law. This can be achieved by private and public enforcement means.
Enforcement request	A national competent authority in the EU Member State where the consumers interests are harmed can call on their counterpart in the Member State where the trader is located and ask for the cessation or prohibition of the infringement without delay. Such requests must be made through the CPC System, in line with Article 8 of the CPC Regulation 2006/2004.
Information request	A national competent authority is requested to provide information to establish whether an intra-Community infringement has occurred or whether there is a reasonable suspicion it may occur by a competent authority in another Member State. Such requests must be made through the CPC System.
Infringement	A violation of consumer protection law covered by the CPC Regulation in business-to-consumer transactions, irrespective of whether action has been taken in the form of legal proceedings or ADR.

Intra-Community	Transactions between consumers and traders located in different EU Member States, including domestic transactions where the consumer is purchasing from a subsidiary, branch, franchise or agent of a trader based in another EU Member State.
M-commerce	Mobile commerce, transactions conducted using mobile devices including tablets and smartphones
Parallel Domestic	Consumer transaction with a domestic agent, branch or subsidiary of a foreign trader. Often unknown to the consumer, due to the organisation of the business, the transaction is considered to have a cross-border dimension.
Private enforcement	Legal action brought by one private party against another party before a national court or before alternative dispute resolution bodies. Dealing principally with enforcing the consumers' individual interests (even though claims may be brought through grouped actions, such as in the case of collective redress actions), private enforcement proceedings can be initiated by consumer associations on behalf consumer's collective interests.
Public enforcement	Enforcement action in the public interest that is usually taken by public authorities and/or courts with a primary purpose to cease the infringement and to punish the infringer for violation of laws protecting such public interest.
Sanctions	Any type of legal consequence of breaching a law, typically a penalty imposed on the infringing trader. We refer to pecuniary (monetary) and non-pecuniary sanctions (i.e. closure of website or business).
Settlement	Is reached when a solution to a legal dispute is agreed upon among the parties as opposed to being decided (e.g. by a judge). In this context settlement procedure refers to the power of the authority to reach an extrajudicial agreement whereby the trader admits responsibility for an infringement and accepts a penalty for the infringement, thereby avoiding the full legal procedure.
SWEEPs	EU-wide screening of websites to identify breaches of consumer law in a given on-line market and to subsequently ensure compliance through enforcement activities
Undertaking	A promise made to the competent authority by infringing trader to cease the infringement within a specified time period and/or not to repeat the infringement. Failure to comply with the promise is treated as misconduct, resulting in possible civil or criminal proceedings being brought against the trader.

List of acronyms

ADR	Alternative Dispute Resolution
CPCS	CPC System
DSM	Digital Single Market
EC	European Commission
ECC	European Consumer Centre(s)
EU	European Union
GDP	Gross Domestic Product
IMF	International Monetary Fund
MS	Member State(s)
NCA	National Competent Authority(s)
OECD	Organisation for Economic Co-operation and Development
SLO	Single Liaison Office(s)
UCPD	Unfair Commercial Practices Directive
UCTD	Unfair Contract Terms Directive

Executive summary

Introduction

This report provides the findings of the baseline analysis, conducted in two parts. The first attempts to quantify the current and future scale of intra-Community infringements of EU consumer protection law. The second seeks to explore the diverging legal practices, procedures, and resources of Member State enforcement systems to develop a regulatory baseline.

The caseload and regulatory baselines will be used to assess differences in the incremental impacts of proposed policy options later in the impact assessment. A reliable and realistic baseline is important as it ensures that impacts are correctly attributed, accounting for changes which are known to occur in the future without further EU intervention. The baseline also ensures impacts are measured consistently from the same point when comparing different policy options.

The **caseload baseline** estimates the projected number of total infringements in all EU Member States from 2014 to 2025, for a chosen sample of products in five consumer markets¹. This baseline also estimates the financial consumer detriment of those infringements and the number of consumers affected.

The current CPC caseload of around 120 enforcement requests per year provides some indication of the scale of infringements occurring cross-border in the EU. In addition, some 40 information request and 100 alerts were recorded in the CPCS in 2013. However, the external evaluation² suggests that the current caseload of CPC is too low when compared to the scale of cross-border trade and the number of consumer complaints recorded by ECCs. The present number of requests therefore does not fully reflect the total number of intra-Community infringements occurring presently, or can be expected to occur in the future. In addition, up to now intra-Community was understood, according to Article 3 of the CPC Regulation, to include infringements that occur cross-border between consumers and a trader located in different Member States. However, parallel domestic infringements which occur where the trader operates in multiple Member States through a network of subsidiaries or branches have not been considered relevant. They contain a strong cross-border dimension, which should also be taken into account in any future definition of intra-Community infringements.

The **regulatory baseline** maps the regulatory landscape of each Member State. As legal systems, enforcement regimes and procedural rules of Member States have evolved in different ways, the (regulatory) baseline is inherently uneven. The implication is that the (incremental) impact of the proposed policy options to be assessed in this study will vary by Member State. For example, UK authorities have a wide range of enforcement powers available to them including administrative sanctions and civil/criminal sanctions imposed by a court. In Germany, characterised by a private enforcement regime, the powers are far more limited. Introducing additional minimum powers in both countries would therefore have different resource and legal implications, as the UK may already have some of the proposed powers, whereas wholesale changes may be needed in Germany. It is therefore necessary to capture these differences in the baseline to reliably and consistently compare policy options.

The identified factors included in the assessment of the regulatory baseline are:

- The type of enforcement system. The study distinguishes between administrative, civil and criminal systems which are not mutual exclusive in any given Member State. Private enforcement is also relevant in Germany and the Czech Republic;
- The investigation and enforcement powers already available to the enforcement authorities;

¹ Consumer sectors were selected to be representative of different consumer purchasing behaviour in the terms of the average per capita spending of consumers (over 16 years of age) by sector, the e-commerce and cross-border shopping penetration by sector, and the future potential of cross-border shopping. Selection also took into account CPCS infringement statistics and ECC data on cross-border complaints to identify sector of increasing or potential concern. Previous Sweep exercises were also used as comparators.

² http://ec.europa.eu/consumers/enforcement/docs/cpc_regulation_inception_report_revised290212_en.pdf

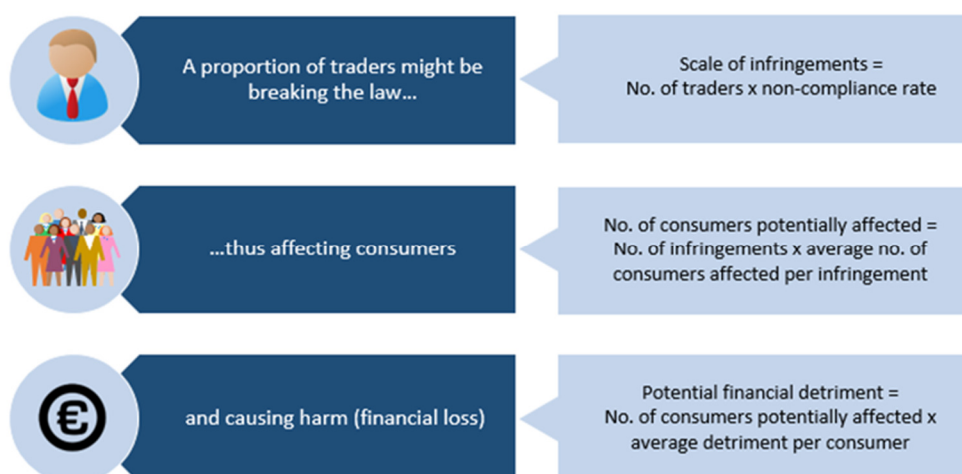
- The institutional set-up at Member State level, including the number of national competent authorities established in each Member State and the degree of decentralisation of enforcement powers, each of which are interrelated; and
- The administrative capacity and resources of enforcement authorities.

Approach

The report takes into account the results of a website review exercise conducted at the start of the study to quantify the number of websites with potential irregularities. The results of this review were used as inputs to the caseload baseline, developed from desk research reviewing the available literature and statistics on consumer protection and enforcement, including the results of the Commission’s own consultation of the CPC Regulation, Sweeps carried out by the CPC Network, CPCs and ECC statistics. Two expert panel meetings were also held in February and June 2014, at which independent academic experts critically appraised the methodological approach to the study and evaluated the results. A short survey of national enforcement authorities, trade bodies and consumer associations was also conducted in June and July of 2014 to collect crucial primary evidence supporting this exercise.

A simple logic was followed to estimate the caseload baseline, shown in Figure ES1 below.

Figure ES1 Logic of approach



Source: ICF Analysis

Spreadsheet models were developed based on this logic to estimate the relevant caseload in each sector for a sample of eight Member States, which have then been extrapolated to EU28 totals in this report based on the latest consumer expenditure data. A full description of the assumptions made, key variables and data sources are provided in the annexes.

In the regulatory baseline, differences in the scale of adjustment and adaptability of Member State enforcement systems was assessed through a series of indicators such as the number of enforcement and investigative powers of authorities, the type of enforcement regime, the types of legal proceedings available in consumer cases and the FTE resources of authorities. These indicators are also used later in the study to inform the impact assessment of the proposed policy options.

This task was based on desk-research drawing primarily from evidence produced in the Commission’s legal study³, the external evaluation of the CPC Regulation⁴, an OECD study on different consumer enforcement systems⁵, Member States’ web country consumer law profiles posted on the DG SANCO

³ Commission Legal Study (2014): Study on enforcement authorities’ powers and national procedural rules in the application of Regulation 2006/2004/EC on consumer protection cooperation

⁴ http://ec.europa.eu/consumers/enforcement/docs/cpc_regulation_inception_report_revised290212_en.pdf

⁵ OECD (2006): Best practices for consumer policy: Report on the effectiveness of enforcement regimes, Directorate for Science, Technology and Industry – Committee on consumer policy, DSTI/CP(2006)21/FINAL,

website⁶, Member States' CPC biennial reports, DG SANCO workshop reports (specifically on sanctions and definition of an 'intra-Community' infringement), plus additional web searches of national legislation.

Website review

The review involved screening websites for the following information:

- Provision of address, telephone number, email;
- Provision of product information;
- Presentation of the price including taxes as well as all additional freight, delivery or postal charges;
- Information on terms and conditions;
- Information on delivery and payment arrangements, and
- Information on the right to withdraw.

Not all aspects were relevant for all market sectors. The results are summarised in Figure ES2 (overleaf).

The table visualises the results through use of a colour coding of the percentage of surveyed websites on which indicated information was not available. While greenish colours indicate low percentages of websites lacking relevant information, reddish colours indicate increasing percentages of such websites. The colour 'bright red' indicates that more than 20% of surveyed websites in the specific sector and Member State do not provide the indicated information. The actual percentage of websites by consumer rule and Member State not providing the relevant information is provided for reference. An EU28 average is also provided for comparison.

The following findings are highlighted:

- Both business address and telephone number contact information was provided frequently across all sectors. In contrast, the number of instances where more than 20% of websites did not provide an email address was much higher;
- Relevant product information was available in most sectors and countries, the exception being the consumer credit sector, where in a large number of Member States (11 in total) more than 20% of surveyed websites did not provide relevant information (in this particular case: the Annual Percentage Rate of Charge; and an indication of the total cost of credit that a loan at a certain APR would incur). In a further seven Member States 12%-20% were found not to provide this information;
- Researchers also looked for information on price and payment methods, and compared the initial advertised price with the last price displayed before it was necessary to enter payment details. For all of the four sectors where this comparison applied (i.e. all, except the consumer credit sector), there was a high rate of inconsistency between the initially stated price and final price the consumer was requested to pay;
- Information concerning the right of withdrawal was also absent in a significant number of cases: In the sector of electronic goods, in 6 countries⁷ more than 20% of surveyed websites did not provide clearly worded information on the right to withdraw, in the sector of clothes and sports goods, this was the case in 3 countries⁸;
- Information on delivery times was also found to be absent in over 20% of websites selling electronic goods and tickets for entertainment events (where the option to print the e-ticket was not available) in a significant number of Member States; and
- Across all sectors, websites in Austria, the Czech Republic, Germany, Denmark, Hungary, and Sweden were found to provide the most required information.

available at:

<http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/CP%282006%2921/FINAL&docLanguage=En>

⁶ http://ec.europa.eu/consumers/archive/empowerment/cons_networks_en.htm

⁷ Belgium, Cyprus, Greece, Croatia, Malta and Romania

⁸ Bulgaria, Greece, and Croatia



Figure ES 2 Overview of results (Percentage of Surveyed websites on which indicated information was not available*)



	Clothes and sports goods										Electronic goods										Package travel					Recreation and culture (tickets for events)										Consumer credit					
	Address	Telephone	Email	Product information	Final price matches initial price	Information on delivery costs	Information on payment methods	Information on expected delivery time	Terms and conditions	Information on right to withdraw	Address	Telephone	Email	Product information	Final price matches initial price	Information on delivery costs	Information on payment methods	Information on expected delivery time	Terms and conditions	Information on right to withdraw	Address	Telephone	Email	Product information	Terms and conditions	Final price matches initial price	Address	Telephone	Email	Product information	Final price matches initial price	Information on delivery costs	Information on payment methods	Terms and conditions	Information on expected delivery time	Address	Telephone	Email	Terms and conditions	Product information	
AT	0%	0%	5%	0%	29%	0%	0%	10%	5%	0%	0%	0%	0%	8%	0%	0%	33%	0%	4%	0%	0%	5%	0%	57%	0%	0%	0%	40%	0%	5%	0%	5%	0%	0%	13%	0%	6%	44%			
BE	0%	6%	19%	0%	38%	0%	0%	0%	0%	0%	0%	0%	0%	32%	5%	27%	0%	0%	36%	0%	27%	0%	19%	63%	0%	6%	44%	0%	0%	27%	0%	40%	67%	7%	6%	13%	0%	0%	36%	18%	23%
BG	13%	4%	13%	4%	78%	0%	4%	13%	13%	35%	13%	0%	8%	0%	47%	13%	13%	29%	21%	17%	5%	5%	0%	0%	32%	10%	25%	25%	0%	25%	25%	17%	8%	17%	0%	0%	20%	17%	20%		
CY	14%	14%	0%	0%	0%	0%	0%	0%	14%	0%	0%	8%	25%	0%	25%	0%	0%	33%	25%	25%	0%	0%	0%	0%	40%	18%	0%	0%	0%	67%	33%	0%	67%	0%	0%	0%	20%	17%	20%		
CZ	0%	0%	0%	0%	24%	0%	0%	29%	0%	0%	0%	0%	8%	0%	8%	0%	0%	27%	0%	0%	0%	0%	6%	0%	6%	24%	0%	4%	4%	0%	17%	0%	0%	57%	0%	0%	10%	30%	14%		
DE	0%	0%	0%	0%	19%	0%	0%	27%	0%	0%	0%	0%	4%	4%	8%	0%	0%	46%	4%	0%	0%	0%	0%	0%	0%	85%	0%	0%	0%	64%	0%	0%	4%	0%	0%	0%	0%	0%	4%		
DK	0%	10%	5%	0%	29%	0%	0%	0%	0%	0%	0%	10%	0%	10%	0%	0%	10%	0%	0%	0%	6%	0%	18%	0%	6%	65%	5%	0%	11%	0%	32%	11%	0%	16%	0%	0%	6%	6%	19%		
EE	6%	6%	0%	0%	38%	0%	0%	31%	38%	19%	4%	0%	4%	0%	24%	8%	8%	16%	36%	20%	0%	0%	0%	19%	19%	0%	0%	0%	0%	25%	13%	50%	63%	0%	0%	0%	21%	42%			
EL	5%	0%	19%	0%	19%	10%	0%	10%	30%	29%	5%	9%	23%	0%	23%	0%	0%	5%	41%	50%	0%	7%	0%	7%	47%	7%	0%	13%	0%	40%	20%	7%	27%	7%	0%	0%	17%	17%	33%		
ES	4%	8%	33%	0%	29%	0%	0%	4%	12%	4%	4%	17%	17%	0%	58%	0%	0%	0%	0%	8%	0%	24%	0%	14%	52%	5%	20%	20%	0%	30%	15%	0%	0%	5%	5%	27%	23%	50%			
FI	0%	13%	17%	0%	17%	0%	0%	25%	0%	0%	0%	14%	9%	5%	27%	0%	0%	0%	5%	5%	5%	0%	24%	0%	5%	57%	0%	5%	10%	0%	35%	45%	0%	30%	10%	0%	4%	21%	8%		
FR	0%	0%	54%	0%	31%	4%	0%	4%	0%	4%	8%	12%	42%	4%	31%	4%	4%	15%	0%	4%	4%	0%	44%	0%	0%	96%	5%	19%	29%	0%	52%	33%	0%	0%	5%	0%	5%	81%	0%	0%	
HR	0%	0%	0%	0%	35%	18%	0%	18%	29%	47%	0%	0%	0%	0%	27%	0%	0%	13%	13%	60%	0%	0%	0%	0%	0%	14%	0%	0%	0%	13%	0%	0%	27%	0%	0%	0%	0%	5%	5%	0%	
HU	10%	10%	0%	0%	48%	0%	5%	5%	5%	10%	0%	5%	5%	0%	19%	5%	5%	5%	0%	10%	5%	5%	0%	9%	68%	0%	0%	6%	0%	59%	0%	0%	29%	0%	0%	7%	36%	0%	0%		
IE	0%	0%	5%	0%	15%	0%	0%	40%	20%	5%	0%	6%	22%	0%	33%	6%	6%	6%	6%	11%	0%	0%	5%	0%	5%	65%	5%	10%	20%	0%	55%	10%	0%	10%	10%	0%	0%	11%	21%	0%	
IT	0%	4%	21%	0%	50%	0%	0%	4%	4%	8%	0%	8%	29%	0%	71%	0%	0%	8%	4%	4%	4%	0%	8%	0%	8%	75%	8%	23%	12%	0%	65%	4%	0%	22%	0%	8%	16%	16%	28%		
LT	14%	0%	10%	0%	38%	5%	10%	10%	20%	0%	4%	0%	0%	8%	4%	4%	8%	33%	13%	11%	0%	6%	0%	72%	39%	8%	38%	0%	23%	38%	15%	31%	31%	0%	0%	5%	32%	11%			
LU	17%	0%	17%	0%	33%	0%	0%	17%	17%	0%	0%	33%	0%	50%	0%	0%	50%	0%	0%	25%	0%	25%	0%	0%	75%	0%	0%	0%	50%	50%	0%	25%	25%	14%	0%	29%	57%	29%			
LV	0%	5%	14%	0%	14%	0%	5%	9%	14%	14%	0%	0%	0%	4%	33%	0%	13%	38%	13%	0%	0%	5%	5%	42%	16%	0%	27%	7%	0%	0%	0%	33%	7%	0%	0%	0%	0%	0%	42%	25%	
MT	20%	10%	10%	0%	20%	0%	0%	30%	20%	20%	8%	0%	0%	0%	8%	17%	17%	33%	42%	42%	13%	0%	13%	0%	38%	13%	0%	13%	38%	13%	50%	50%	0%	0%	0%	25%	25%	75%	0%		
NL	0%	0%	8%	0%	40%	8%	0%	4%	0%	0%	0%	0%	28%	0%	12%	0%	0%	0%	0%	0%	0%	0%	20%	4%	0%	100%	8%	16%	16%	0%	60%	8%	4%	4%	0%	0%	18%	18%	23%		
PL	0%	0%	12%	0%	35%	0%	0%	8%	4%	0%	0%	4%	19%	0%	31%	0%	0%	4%	8%	12%	4%	0%	15%	0%	8%	31%	13%	13%	17%	0%	54%	17%	0%	0%	0%	0%	54%	23%	19%		
PT	0%	9%	35%	0%	52%	0%	0%	4%	22%	4%	9%	9%	4%	0%	52%	0%	0%	13%	17%	4%	9%	17%	39%	0%	13%	30%	5%	11%	11%	0%	47%	58%	0%	16%	21%	0%	5%	45%	55%	18%	
RO	10%	5%	5%	0%	30%	0%	0%	15%	0%	15%	17%	0%	11%	0%	44%	0%	0%	17%	11%	22%	10%	0%	15%	5%	43%	20%	7%	13%	7%	0%	40%	53%	0%	13%	0%	11%	6%	22%	11%	22%	
SE	0%	13%	4%	0%	26%	0%	0%	4%	0%	0%	0%	8%	12%	0%	20%	0%	0%	0%	0%	0%	0%	0%	0%	0%	88%	10%	0%	10%	0%	38%	5%	0%	5%	5%	0%	0%	4%	12%	0%		
SI	0%	0%	9%	0%	82%	0%	0%	45%	10%	0%	0%	0%	17%	0%	11%	0%	0%	22%	0%	0%	0%	0%	0%	0%	0%	12%	0%	0%	0%	17%	83%	0%	75%	67%	0%	0%	0%	12%	13%		
SK	0%	0%	8%	0%	33%	0%	4%	8%	4%	0%	0%	0%	5%	0%	5%	0%	0%	18%	0%	5%	0%	0%	0%	0%	14%	67%	0%	8%	31%	0%	15%	31%	5%	5%	21%	18%	16%				
UK	0%	4%	29%	0%	21%	0%	4%	0%	0%	4%	0%	0%	39%	0%	22%	0%	0%	9%	0%	9%	0%	5%	30%	0%	0%	70%	0%	11%	33%	0%	48%	19%	4%	7%	11%	0%	0%	16%	8%	0%	
EU	4%	4%	13%	0%	33%	2%	1%	12%	10%	8%	3%	4%	14%	1%	26%	2%	2%	17%	10%	13%	4%	2%	13%	1%	13%	48%	4%	9%	11%	0%	38%	25%	3%	17%	13%	1%	2%	19%	17%	19%	

* For the category 'Final price matches initial price' this refers to the percentage of websites where prices did not match. For the category 'Information on right to withdraw', this refers to the percentage of websites for which the information was unclear or not provided. For the category 'Product information', this refers to the percentage of websites for which none of two specified pieces of information were provided (Please see Table 1.3 of the main report (pp.7) for details of the product and pieces of information searched for on the website). Source: Civic Consulting website review. New Landscape section

Another approach to reporting the results of the web review is to calculate the percentage of websites which failed to implement one rule, two rules, three rules, etc. The consultant was also able to rate the websites (very poor, poor, average, good, very good) taking into account how easy the relevant information could be found on a particular website. These alternative rates of potential irregularities are presented in Table ES1. The results of the previous Sweeps of the CPC network are also reported in Table ES1 for comparison. The upper and lower estimates highlighted provide the basis for the caseload estimation.

The choice of upper and lower bound estimates of non-compliance by product sector was informed by the opinions of the external experts and evidence of non-compliance by offline retailers to laws concerning the sale of age restricted products in the UK. The evidence reviewed showed that non-compliance rates of 10% or below are typical, noting that in practice the compliance rate varies by product, region and Member State. On balance, the consultant considered the lower and upper bounds used in the analysis as appropriate, with the true level of compliance lying somewhere between these two estimates, hence the average is reported.

Table ES1 Comparison of the website review results by sector

Sector	Website review – “very poor”	Website review – “very poor” + “rather poor”	Website review – terms and conditions information	Website review – price information	Commission Sweeps	Website review – information missing
Clothing and sportswear	3%	13%	10%	33%	N/A.	35%
Electronics	5%	20%	10%	26%	55%	36%
Recreation and culture tickets	8%	26%	17%	38%	59%	39%
Consumer credit	11%	33%	17%	N/A	69%	32%
Food supplement products	8%	26%	17%	38%	N/A	39%

Source: ICF Analysis

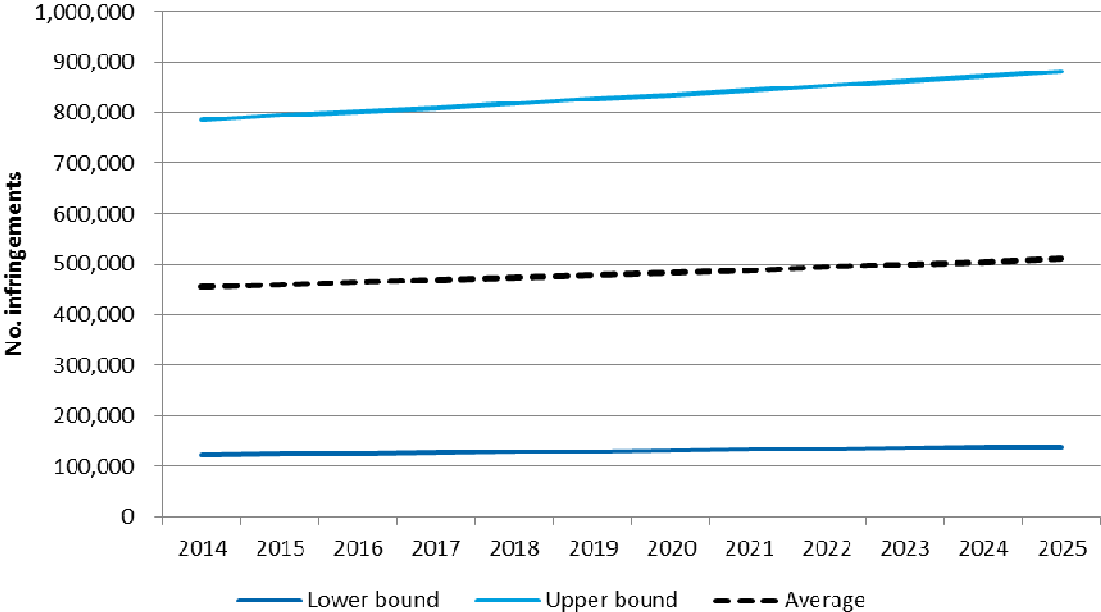
Note: As food supplement products were not covered by the website review, the results from recreation and culture tickets are used as a proxy

Caseload baseline of the CPC

The caseload baseline was estimated for three scenarios using the rates of possible irregularities obtained from the website review (lower bound, upper bound and average). The total number of infringements in the baseline, ranging from 123,000 infringements in the lower bound to 787,000 infringements in the upper bound (455,000 average) in 2014, increasing to 139,000 and 881,000 infringements respectively in 2025 (510,000 average), as shown in Figure ES3. The results are generally driven by the assumed infringement rates of businesses, as other factors in the model such as a sector’s share of the total consumer expenditure or the rate of economic growth change only marginally overtime.



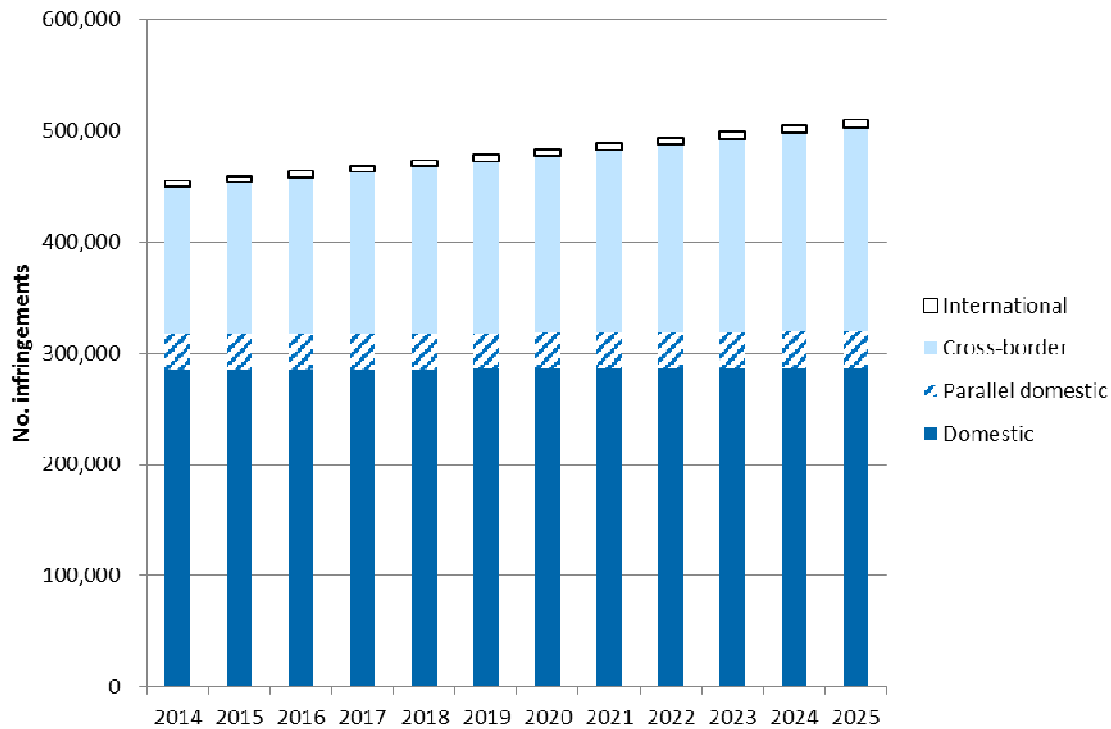
Figure ES3 Estimated total infringements by scenario (2014-2025), for selected five product sectors



Source: ICF Analysis

The breakdown between typology of infringement is provided in Figure ES4 for the average scenario, showing that an increasing proportion of infringements involve a cross-border dimension (i.e. parallel domestic, EU cross-border and international). The percentage of total infringements with a cross-border dimension as share of the total is estimated to increase from 30% in 2014 to 36% in 2025, the **largest and growing proportion of which are intra-Community infringements** (i.e. parallel domestic and EU cross-border). Increases reflect changes in consumer shopping patterns, particular e-commerce which is often a driver of cross-border retail, and projected changes in the organisation of businesses, with more traders operating in multiple countries through branches, subsidiaries and franchises.

Figure ES4 Estimated numbers of infringements in the average scenario by typology

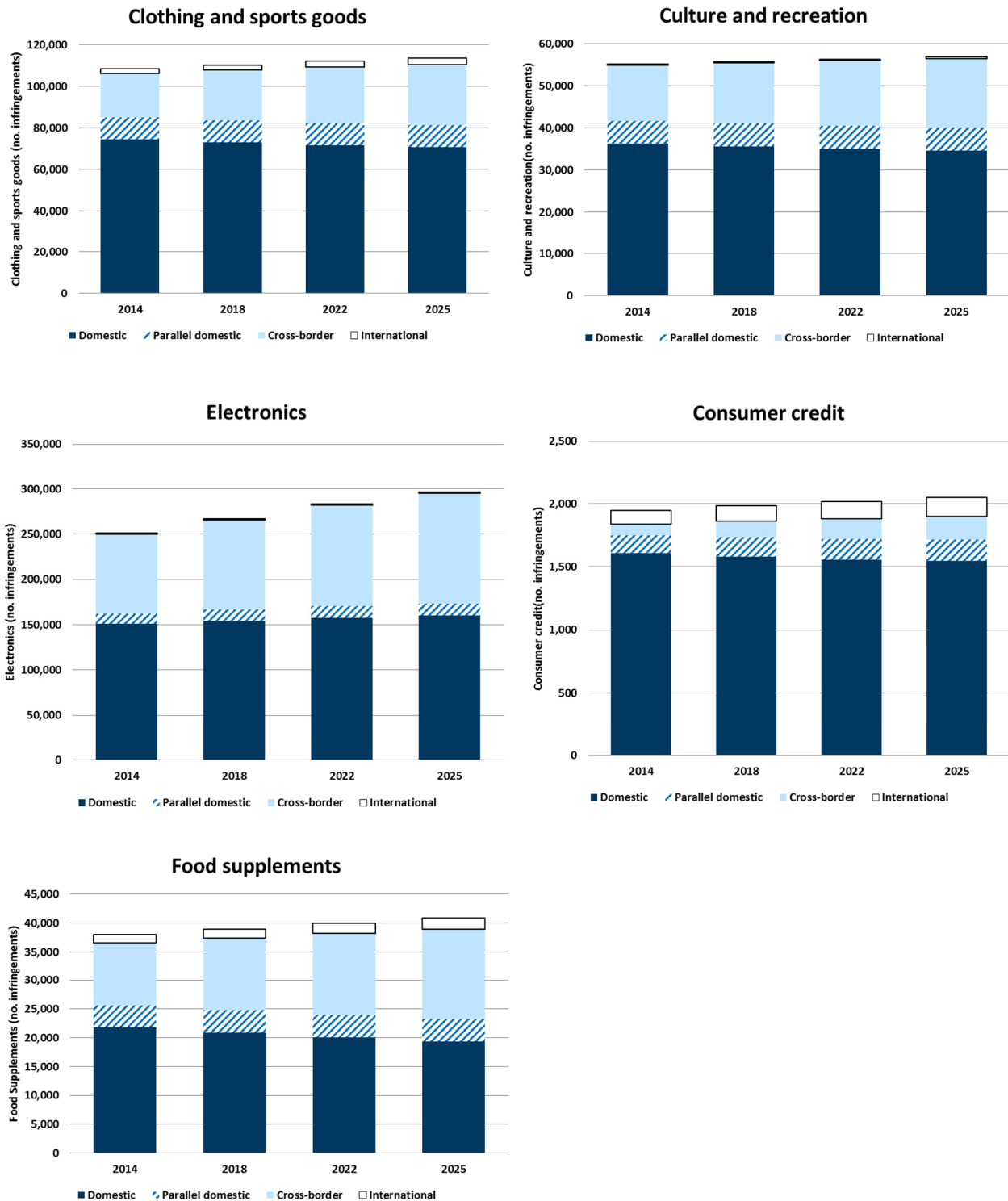


Source: ICF Analysis

Figure ES5 shows the variation in the composition of estimated infringements in each consumer sector for which estimates were calculated in the average scenario.

For both domestic and cross-border infringements, a higher number is estimated in the food supplements, consumer credit and electronic goods sectors. This is a reflection of higher non-compliance rates within these sectors and evolving importance as a share of average consumer expenditure. For example, both food supplements and consumer credit are characterised by high non-compliance rates (8%-11% for the lower bound scenario and 32%-42% for the upper bound) and electronics had a slightly lower non-compliance rate (5% for the lower bound and 36% for the upper bound).

Figure ES5 Estimated numbers of infringements by consumer sector

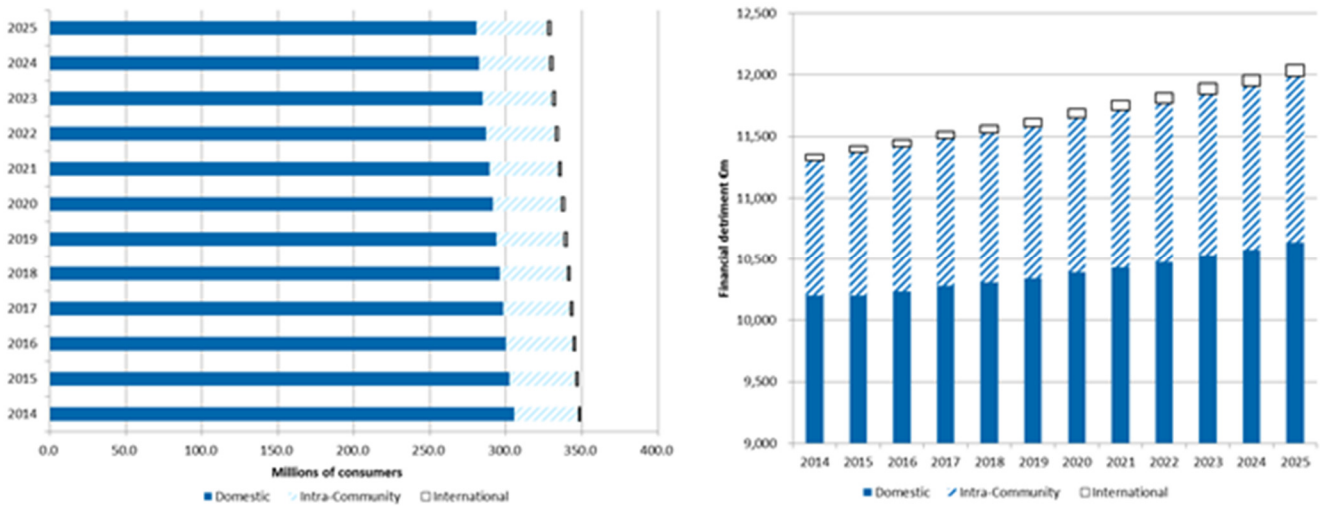


Source: ICF Analysis

Returning to the total number of infringements estimated in the baseline for the five sectors covered, the number of consumers affected by the infringements and the financial detriment suffered is also estimated. The results are shown in Figure ES6 indicating that intra-Community infringements are expected to generate financial detriment equivalent of €1.1bn in 2014, increasing to €1.3bn by 2025 for the sectors assessed (from a total of €11.3bn and €12.1bn detriment from all infringements). International

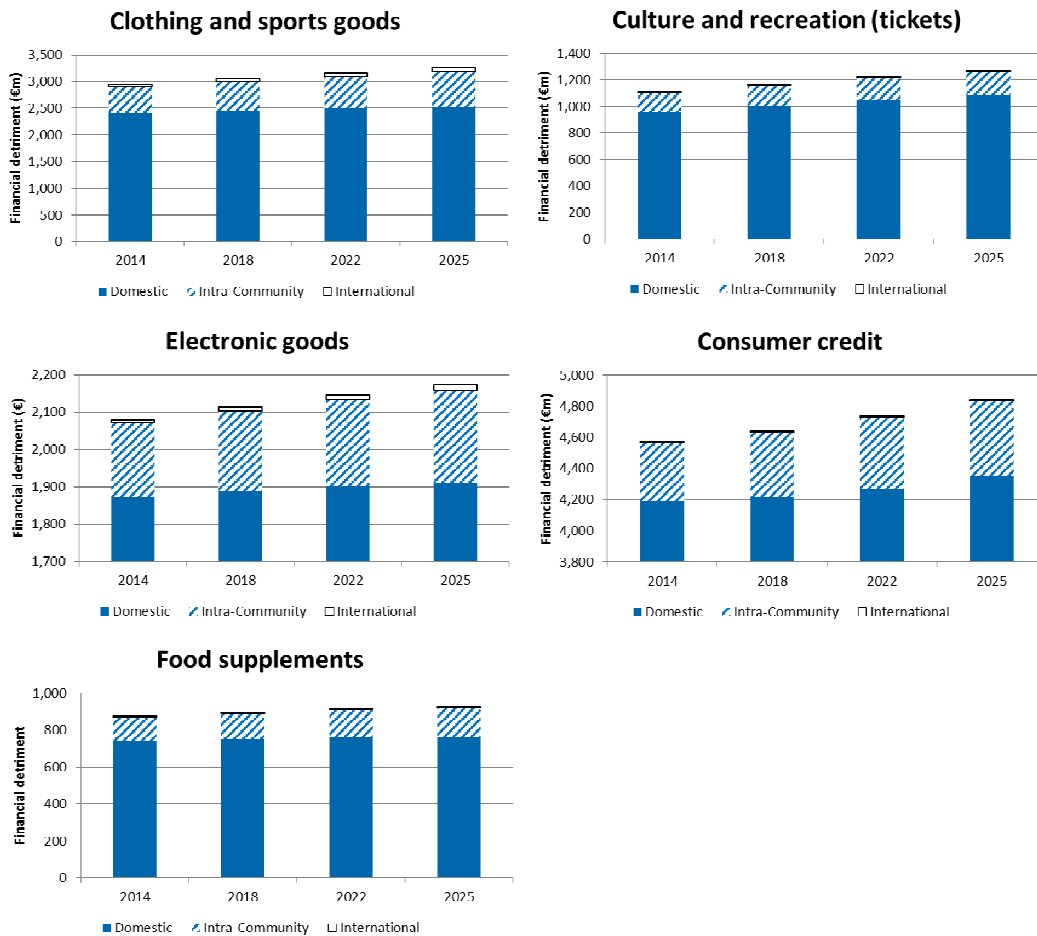
infringements account for a further €50 to €100m over the same period. The high value of electronic and consumer credit are in part drivers of this result, affecting large numbers of consumers (50 million by 2025). Figure ES7 provides a breakdown of average detriment by product sector.

Figure ES6 Estimated number of consumers affected and financial detriment in the baseline (average scenario)



Source: ICF Analysis

Figure ES7 Estimated financial detriment by sector (€ million)



Source: ICF Analysis

Regulatory baseline

The purpose of the regulatory baseline is to give an overview of the situation in the Member States as regards their public enforcement systems and the implementation of the existing CPC Regulation in their national law. The mapping of the regulatory baseline considered a number of relevant factors, for which indicators were collected and are presented in Table ES2. The factors were as follows:

- Whether the public enforcement system of the Member State is decentralised or centralised in structure;
- Whether the public enforcement in a Member State relies primarily on administrative, civil or criminal proceedings to stop violations of the consumer law;
- Whether Member State's authorities currently have other investigation and/or enforcement powers in addition to the minimum powers under Article 4(6) of the CPC Regulation. The following additional powers were considered:
 - **Investigation powers:** The power for authorities to conduct test purchases, and the power to conduct mystery shopping.
 - **Enforcement powers:** i) The power to name infringing traders; ii) The power to take down an infringing website; iii) The power to remove the trader's licences or professional membership to a trade body; iv) The power to impose interim measures (such as to freeze assets; or to temporarily withdraw a trade license/place a ban on activity); and v) The power to impose sanctions.
- The number of NCAs established in each Member State is provided, indicative of different institutional frameworks.

Other factors considered were the differences in administrative capacity and resources of authorities and sanctions which can be applied by different authorities, a more detailed analysis of which is provided in the main report.

Table ES2 Overview of the regulatory baseline




Member State	Decentralisation	Type of public enforcement			Private enforcement	No. additional investigation powers	No. additional enforcement powers	No. NCAs established under CPC
		Admin	Civil	Criminal				
AT						0	2	18
BE						0	2	1
BG						2	3	4
CY						1	3	5
CZ						2	2	10
DE						1	1	61
DK						2	3	5
EE						1	4	4
ES						2	5	9
FI						2	4	3
FR						2	3	8
GR						0	3	4
HR						1	1	1
HU						2	3	7
IE						1	2	5
IT						0	4	10

Member State	Decentralisation	Type of public enforcement			Private enforcement	No. additional investigation powers	No. additional enforcement powers	No. NCAs established under CPC
		Admin	Civil	Criminal				
LT						1	3	8
LU						0	3	4
LV						2	5	9
MT						0	3	6
NL						1	2	7
PL						1	2	7
PT						1	3	4
RO						2	3	12
SE						0	3	6
SK						2	3	8
SL						2	2	6
UK						2	7	7




Key: Decentralisation

 Enforcement system decentralised  Enforcement system centralised

Key: Public enforcement

 Principal enforcement approach  Enforcement approach used to a lesser extent  Enforcement approach not represented

Key: Current enforcement powers

 Principal enforcement approach  Enforcement approach used to a lesser extent  Enforcement approach not represented

The key findings of the regulatory baseline are:

- Civil law based enforcement systems such as those in Austria, Belgium, Croatia, Luxembourg, , and Sweden are found to have relatively few additional enforcement and investigation powers.
- This can be partly explained by the decision-making role of the courts in such systems and the limited competencies of ombudsmen in countries like Sweden and Denmark. These authorities focus on investigation of the violations whilst enforcement powers are vested with the courts. Authorities in some of these Member States do have the power to impose settlement procedures, avoiding what can be a costly legal proceeding for the infringing trader (i.e. Belgium, France, Netherlands, Sweden the UK).
- Mixed enforcement systems, which allow authorities to undertake civil, administrative and criminal proceedings like in the UK, have the highest number of additional powers. This allows authorities to adapt the proceeding to the type of infringement. The greater resources and experience with intra-Community consumer protection in larger Member States is also likely to impact the range of powers available (Spain France, and the UK all have five or more additional powers, Italy has four).
- Germany is an exception as its authorities have very limited additional powers, but are also highly decentralised with over 57 Lander competent authorities at regional level, in addition to four federal authorities. The implication of this could be that changes to the CPC Regulation could be more complex and costly to implement in Germany than in other Member States. German authorities also have relatively few additional powers, therefore the scale of adjustment is likely to be greater than for other Member States. This results largely from the private enforcement regime followed in Germany.



Other regimes which rely to some degree on private enforcement of consumer law include Austria and the Czech Republic.

- Member States with relatively high numbers of NCAs are Austria, Czech Republic, Spain, Romania, Slovakia and the UK. Each could therefore incur greater costs compared to Member States with fewer NCAs and more centralised enforcement systems.
- Member States with primarily administrative enforcement system such as Cyprus, Estonia, Italy, Ireland, Malta, the Netherlands, Poland and Portugal have relatively few additional investigation powers, but each has at least three additional enforcement powers. Bulgaria, the Czech Republic, Lithuania, Latvia, Spain, Finland, France, Hungary, and Romania are the exceptions as they have many additional investigation and enforcement powers. This would imply that any additional enforcement powers are likely to be introduced much faster than in civil based systems, where adjustment to changes may take longer as more time is needed to develop guidance, case law and awareness amongst the judiciary.

This mapping shows which Member States are likely to require more adjustment if the proposed policy options involve additional powers and which Member States may find it more difficult to implement the options if changes are required to the legislation underpinning each national authority.

1 Introduction

This is the general baseline report of the “*Support study for the impact assessment on the review of the CPC Regulation 2006/2004/EC*”. The study has been undertaken by the Consumer Policy Evaluation Consortium (CPEC) led by ICF Consulting Services on behalf of the European Commission Directorate-General for Health and Consumers (DG SANCO).

The report provides the findings of the baseline analysis, conducted in three parts to identify the current and future scale of intra-Community infringements of EU consumer protection law. Further, the analysis seeks to explore the diverging legal practices, procedures, and resources of Member State enforcement systems to develop a regulatory baseline. The regulatory baseline will be used to reflect differences in the incremental impacts of proposed policy options later in the impact assessment.

The report takes into account the results of a website review exercise conducted by CPEC partners, Civic Consulting; two expert panel meetings held in February and June 2014, at which independent academic experts⁹ critically appraised the methodological approach to the study; and a short survey of national enforcement authorities, trade bodies and consumer associations in June and July of 2014. The study also involved extensive desk research to review the available literature and statistics on consumer protection and enforcement, including the results of the Commission’s own consultation of the CPC Regulation¹⁰, CPCS and ECC statistics.

The following sub-sections describe the purpose of the general baseline report (Section 1.1), the background to the CPC Regulation (Section 1.2), before detailing the methodological approach (Section 1.3), the problems encountered during the study (Section 1.4), and the structure of the rest of the report (Section 1.5).

1.1 The purpose of the general baseline

The purpose of the baseline in impact assessment is to explain how the present situation will evolve in the absence of further EU intervention. The baseline represents the ‘no policy option’, determining what will happen if the CPC Regulation continues to function unchanged in the foreseeable future.

A reliable and realistic baseline should capture those changes that have an impact on consumer protection and enforcement activities, independent of further EU intervention and which can reasonably be predicted by the evaluator. For example, it may be known that a Member State is changing the roles and responsibilities of its enforcement authorities, or is enhancing their investigation and enforcement powers. Accounting for these factors in the baseline ensures that when comparing policy options, the impacts are correctly attributable to the actions of the Member States and the EU intervention under consideration.

Two baselines are considered in this report:

1. The **caseload baseline** estimates the projected number of total infringements in all EU Member States from 2014 to 2025 for a representative sample of five consumer products. This baseline also estimates the associate consumer detriment of those infringements; and
2. The **regulatory baseline** seeks to map the differences which exist between each Member State’s enforcement system, noting that each has and continues to evolve differently in terms of, enforcement regime, procedural rules and legal practices.

⁹ Experts panels involved the input of Professor Geraint Howells – Expert in European and consumer law, Professor Stephen Davies – Expert in the evaluation of competition and consumer economics; Anabela de Brito and Jacques Pelkmans from the Centre for European Policy Studies (CEPS) - experts in EU consumer policy in the internal market.

¹⁰ http://ec.europa.eu/consumers/enforcement/cross-border_enforcement_cooperation/docs/140416_consultation_summary_report_final_en.pdf

The baseline is particularly challenging in this study as there are many factors affecting the total number of infringements in each Member State, many of which can only be projected into the future with a high degree of uncertainty. There is also a need to break down the total number of infringements in to those which relate to domestic (outside the scope of the CPC Regulation), parallel domestic and cross-border infringements. Parallel domestic and cross-border are both considered intra-Community according to the CPC Regulation.

Factors to consider in the baseline include changes to business organisation models resulting in more businesses selling online, targeting consumers in different countries through local subsidiaries and branches in other Member States, the purchasing behaviour of consumers and new technology which introduces innovations to markets, including new products and channels through which trader and consumer transact (i.e. e- and m-commerce).

Another challenge of the study is a lack of available evidence on either baseline, as this is the first time both the enforcement systems of Member States and the scale of infringements has been analysed and quantified in this way, taking into account the recent accession of Croatia to the EU.

1.2 Background to the CPC Baseline

1.2.1 Contextual background

The current CPC caseload of around 120 enforcement requests per annum (as recorded in the CPC IT System) provides some indication of the scale of infringements occurring cross-border in the EU. However the external evaluation of the CPC Regulation¹¹ suggested that the current caseload using the mutual assistance mechanisms established by the CPC Regulation is sub-optimal and does not fully reflect reality. There are increasing numbers of consumers who are choosing to make purchases cross-border or through traders operating in more than a single Member State, Hence the assumed number of intra-Community infringements occurring at present and in the future is anticipated to be much higher than 120 cases. Consequently, there is a need to better understand the volume of infringements which could benefit from improved cooperation and coordination of Member State enforcement efforts through the CPC Regulation.

The CPC Regulation has successfully established mutual assistance mechanisms for Member State enforcement authorities to cooperate on intra-Community enforcement matters, support coordination of Member State market surveillance, and assist in the sharing of information. Recognising these achievements, there is a need to scale the 'problem' which could be addressed by further EU intervention, taking into account the increasingly complex way businesses organise their activities, the increasing number of consumer cross-border complaints recorded by ECCs¹², and the persistently high levels of non-compliance with EU consumer law, observed in recent Commission Sweeps¹³.

To account for these challenges, the estimation of the caseload baseline involved two tasks:

- The calculation of the 'observed' baseline of possible infringements from a review of 2,500 websites of online retailers in all EU-28 Member States, covering five product groups; and

¹¹ http://ec.europa.eu/consumers/enforcement/docs/cpc_regulation_inception_report_revised290212_en.pdf

¹² Annual reports of the ECC-Network provide a detailed summary of complaint statistics, which can be found here: http://ec.europa.eu/consumers/ecc/ecc_key_statistics_en.htm

¹³ Sweeps recently covered websites of the following sectors: Airline tickets (2007), Mobile phone content (2008), Electronic goods (2009), Online ticket sale (2010), Consumer credit (2011), Digital content (2012), and travel services (2013). Between 32% and 69% of websites were found to contain irregularities. More details can be found here: http://ec.europa.eu/consumers/enforcement/sweeps/index_en.htm

- The estimation of the total EU caseload of infringements, projected from 2014 to 2025, based on five product sectors in eight Member States.

The regulatory baseline was undertaken as a separate exercise.

1.2.2 The CPC Regulation

For reference in later chapters, the key provisions of the CPC Regulation 2006/2004/EC are summarised in Table 1.1.

Table 1.1 Key provisions of the CPC Regulation

	Key provisions
Article 1	Objective : <i>'This Regulation lays down the conditions under which the competent authorities in the Member States designated as responsible for the enforcement of the laws that protect consumers' interests shall 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'.</i>
Article 3	Definitions (See Section 1.2.3 below)
Article 4(4)	Competent authorities may exercise their powers: <ul style="list-style-type: none"> ■ directly under their own authority or under the supervision of the judicial authorities; or ■ by application to courts competent to grant the necessary decision, including, where appropriate, by appeal.
Article 4(6)	Sets out the minimum investigation and enforcement powers of Member States Minimum investigation powers: <ul style="list-style-type: none"> ■ to have access to any document related to an intra-Community infringement; ■ to require the supply by any person of relevant information related to an intra-Community infringement; and ■ to carry out necessary on-site inspections. Minimum enforcement powers: <ul style="list-style-type: none"> ■ to request in writing that the seller or supplier concerned cease the intra-Community infringement; ■ to obtain from the seller or supplier responsible for intra- Community infringements an undertaking to cease the infringement and where appropriate to publish the resulting undertaking; ■ to require the cessation or prohibition of any intra-Community infringement, and where appropriate to publish resulting decisions; and ■ to require the losing defendant to make relevant payments, in the event of failure to comply with the decision.
Article 6	Defines the scope and conditions of exchange of information on request A requested authority shall without delay supply any information required to establish whether an intra-Community infringement has occurred or to establish whether there is a reasonable suspicion it may occur and /or the appropriate investigations or any other necessary or appropriate measures
Article 7	Defines the scope and conditions of exchange of information on request (alerts) When a competent authority becomes aware of an intra- Community infringement, or reasonably suspects that such an infringement may occur, it shall notify the competent authorities of other Member States and the Commission, supplying all necessary information, without delay
Article 8	Enforcement measures

	Key provisions
	A requested authority shall, on request from an applicant authority, take all necessary enforcement measures to bring about the cessation or prohibition of the intra-Community infringement without delay.
Article 9	<p>Coordination of market surveillance and enforcement activities</p> <p>Competent authorities shall coordinate their market surveillance and enforcement activities. They shall exchange all information necessary to achieve this. Specifically, when competent authorities become aware that an intra-Community infringement harms the interests of consumers in more than two Member States, the competent authorities concerned shall coordinate their enforcement actions and requests for mutual assistance via the single liaison office.</p>
Article 12	<p>Mutual assistance and information exchange procedures</p> <p>Mutual request assistance to:</p> <ul style="list-style-type: none"> ▪ Contain sufficient information ▪ Sent to the single liaison office ▪ Made in writing using a standard form and communicated electronically via the database
Articles 16 and 17	<p>Community activities: enforcement coordination and administrative cooperation</p> <p>Member States shall inform each other and the Commission of their activities of Community interest in relevant areas.</p> <p>Member States may, in cooperation with the Commission, carry out common activities in these areas.</p>

1.2.3 Key Definitions

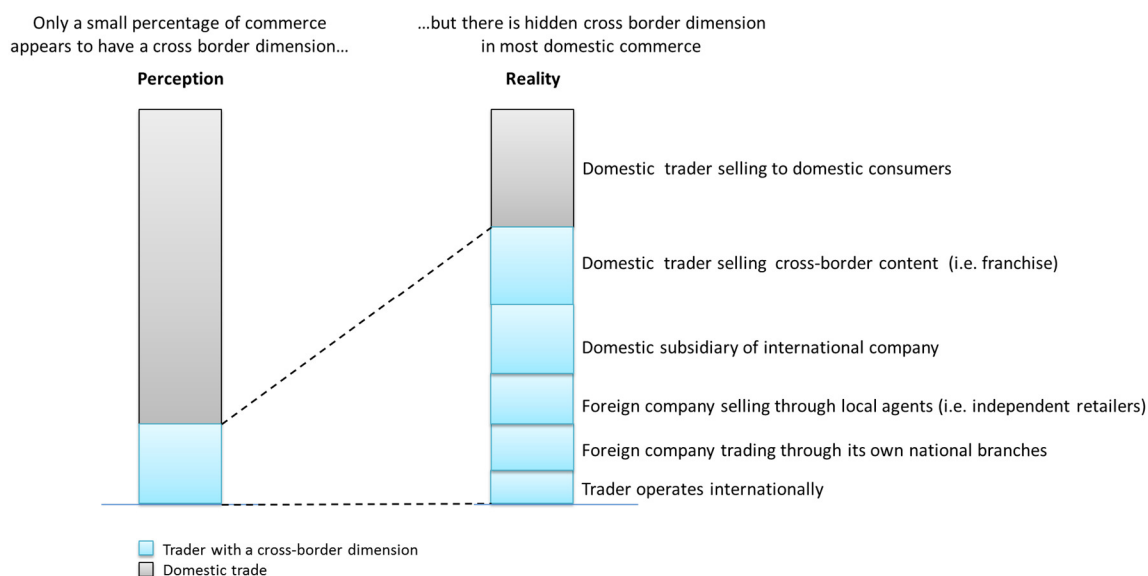
The study applied the following definitions:

- **Intra-Community infringement** means any act or omission contrary to the laws that protect consumers' interests (*Article 3(b)*) where the transaction occurs cross-border within the EU-28, including where the consumer transacts with a domestic agent, branch, or subsidiary of a foreign trader;
- **Laws that protect consumers' interests** means Directives and Regulations listed in the CPC Annex (*Article 3(b)*)
- **Domestic infringement** means any act or omission contrary to the laws that protect consumers, where the transaction between consumer and trader occurs in the same country.
- **Parallel domestic infringement** means any act or omission contrary to the laws that protect consumers, where the consumer transacts with a domestic agent, branch or subsidiary of a foreign trader. .
- **Cross-border infringement** means any act or omission contrary to the laws that protect consumers, where the consumer and trader transact from different Member States to one another.
- **International infringement** means any act or omission contrary to the laws that protect consumers, where the EU consumer transacts with a trader located outside the EU-28..
- **Trader** in this study should be understood as an enterprise which sells goods and/or services to consumers in a given sector. The terms trader refers to a single enterprise inclusive of its subsidiaries, branches and franchises which may operate in the EU or third countries.

The distinction between different infringement typologies mentioned above is important as perceptions and realities regarding domestic vs. cross-border infringement can differ. In

Figure 1.1 adapted from 'Cross-border e-commerce makes the world flatter'¹⁴ shows that although there is often a perception that most transactions (and therefore infringements) are domestic, in reality a significant proportion can be regarded as cross-border as the product is sold by the agents of multinational businesses. The findings of this study are relevant regarding the scope of the CPC Regulation and the definition of intra-Community infringements provided in Article (3(b)) of the Regulation.

Figure 1.1 Most domestic commerce has a non-domestic component



Source: Adapted from BCG (2014): *Cross-border E-commerce makes the world flatter*

1.3 Method of assignment

1.3.1 Approach to website review

The following six sequential steps were taken, informed by a tried and tested approach to the website review used by Civic Consulting in analogous studies:

1. **Selection of sectors:** this involved the identification of appropriate sectors for a review on the basis of the following criteria: a) popularity of the sector for online shopping; b) size and economic importance of the sector; c) frequency of non-compliance in previous Sweeps carried out by the Commission¹⁵; d) severity of consumer detriment or harm from non-compliance with consumer rules; and e) feasibility of researching the relevant sectors. On this basis, **clothing and sports goods**, **electronic goods** (mobile phones/tablets), **travel** (package holidays), **recreation and culture** (tickets for sports, entertainment and cultural events), and **financial services** (consumer credit) sectors were selected. Where relevant, the review focussed on the more narrowly defined products to ensure the consistency of the review across Member States. This entailed a review of an average of 18 websites per sector (90 in total) per Member State.
2. **Consumer rules** selected for the review prioritised the most important and measurable rules in CPC relevant legislation in force at the time of the website review (April-May

¹⁴ BCG (2014): 'Cross-border E-commerce makes the world flatter', Boston consulting Group Perspectives, 18 September 2014, available at: https://www.bcgperspectives.com/content/articles/transportation_travel_tourism_retail_cross_border_ecommerce_makes_world_flatter/

¹⁵ A "sweep" is an EU-wide screening of websites to identify breaches of consumer law in a given on-line market and to subsequently ensure compliance through enforcement activities.

2014)¹⁶, which may mean that review provides a conservative estimate of compliance across the Member States. Table 1.2 summarises the selected rules and the level of review.

Table 1.2 Summary of consumer rules agreed with the Commission

Consumer rules	Level of check
1. Trader identity Are the identity and geographical address of the trader provided?	Website
2. Product characteristics Is there clear information about the main characteristics of the product?	Product level
3a. Price – price elements Does the price contain taxes and relevant additional costs (such as additional delivery costs if they can be reasonably calculated in advance)?	Product level
3b. Price – consistency of price displayed Is the presentation of the final price to pay the same as stated in the information provided before the purchase?	Product level
4. Payment options Is the consumer provided with information on payment arrangements?	Website
5a. Delivery – options Is the consumer provided with information on delivery arrangements?	Website
5b. Delivery – countries Is there information on countries that the trader ships to? (other than the country the web site is targeted to)	Website
6. Returns Are consumers provided with information on their right to withdraw (i.e. return the product within a minimum of 7 days?)	Website
7a. Terms and conditions – language Are the Terms and Conditions provided in native language of the consumers targeted?	Website
7b. Terms and conditions – durable medium Can the Terms and Conditions be printed or downloaded?	Website

3. **Sampling and questionnaire** ensured that 2,500 websites were checked (at least 500 per market sector), with a slight over sampling of larger Member States and proportionally lower sampling of smaller countries¹⁷. Web indices and directories, especially DMOZ, were used to identify traders,¹⁸ followed by a web search using Google to enter and review each website. Effort was made to ensure that the most popular sites¹⁹ were included in the sample in the selected five sectors²⁰. A questionnaire log form (see Annex 1) was also prepared at this stage.

¹⁶ The Consumer Rights Directive came into effect in June 2014; therefore, it was not used as a legal basis for the website review.

¹⁷ i.e. Malta, Cyprus and Luxembourg.

¹⁸ DMOZ, the Open Directory Project, is the largest, most comprehensive human-edited directory of the Web. It is constructed and maintained by a global community of volunteer editors.

¹⁹ The global traffic rank result from Alexa – one of the oldest Internet traffic collection and analysis services existing on the web – is used to assess relative popularity of the site.

²⁰ The selection of sectors is based on cross-border relevance (sectors characterised by a high incidence of cross-border shopping), CPC relevance (with high current and future enforcement needs), economic relevance (sufficiently representative of total consumer expenditure) and feasibility (availability of data and evidence).

4. **Screening e-commerce websites against selected rules** involved a pre-trial of the questionnaires and recruitment of the review team. Following this phase, refinements to the approach were made, before the review could commence. In all, 2,682 websites were screened, systematically observing the following steps:
- Open the website and search for name, address and contact details of the trader;
 - Choose product search page;
 - Search for the specified product indicated to researchers and select advertised offer;
 - For the offer in question, researchers checked whether the various items listed in the questionnaire are implemented, where necessary, they also clicked on links to other relevant pages of the website, such as imprint and terms and conditions.

To ensure the review was conducted consistently across all sectors when using different researchers, guidelines were prepared in relation to how the researchers should answer each question. The key guidance provided and product characteristics searched for are provided in the box below.

Website review guidance

Product information

For the product information rule, it was necessary to narrow the scope of the website review from broad product group to a specific product which could be easily identified and compared consistently across all websites. The product of focus in each sector and the characteristics of the product searched for in the website review are summarised in Table 1.3.

Table 1.3 Product and product characteristics searched for in the website review

Sector	Product of focus	Product characteristic searched for
Clothing and sports goods	Sports shoes	<ul style="list-style-type: none"> ■ Colour ■ Material
Electronics	Tablet computer	<ul style="list-style-type: none"> ■ Screen resolution ■ Internal storage
Recreation and culture	Event tickets	<ul style="list-style-type: none"> ■ Date and time of the event ■ The location of the event ■ Information about seat category of the ticket (or whether it makes clear there is only one category of seat)
Consumer credit	Short term credit (6-24 months)	<ul style="list-style-type: none"> ■ Annual Percentage Rate of Charge (APR) ■ An indication of the total cost of credit that a loan at a certain APR would incur.²¹
Package travel	Flight and hotel package holiday	<ul style="list-style-type: none"> ■ Total length of trip ■ Information on meals and excursions included in package

Selling products to other countries

Further, certain guidelines were laid down as to how the researchers should answer this question. For example, if the website did not explicitly explain that delivery was possible to other countries, but provided a list of international delivery costs, this was counted as selling products to other countries. Likewise, this guidance was followed if the website offered consumers a link to take them to a version of the website that was designed for other countries (i.e. in a different language).

Right to withdraw

The designation 'unclear' was used in those cases where some information was given regarding the customer's right to return the product, but it was unclear under what conditions and/or within which timeframe the consumer could withdraw.

²¹ These figures do not have to apply to the exact amount that the consumer wants to borrow; they need only be presented for an example loan. Therefore researchers were asked to search the website for these pieces of information, but not attempt to submit a request for credit.

Annexes 1 and 7 provide more details on the guidelines followed and approach taken, as agreed at the inception phase of the study.

As no purchases are made by the researcher, screenshots of all websites were taken and are provided separately to DG SANCO as a final deliverable.

5. **Analysis of data** gathered from the review results was conducted using statistical software to provide a statistical analysis concerning:
 - Overall distribution of the sample;
 - Implementation rates across key product sectors;
 - Implementation rates across Member States, and
 - Implementation rates of different consumer rules.
6. **Quality assurance** included proof reading by a native English speaker and adherence to QA/QM procedures outlined in the contractor’s proposal.

Section 2 of this report presents the findings of the review.

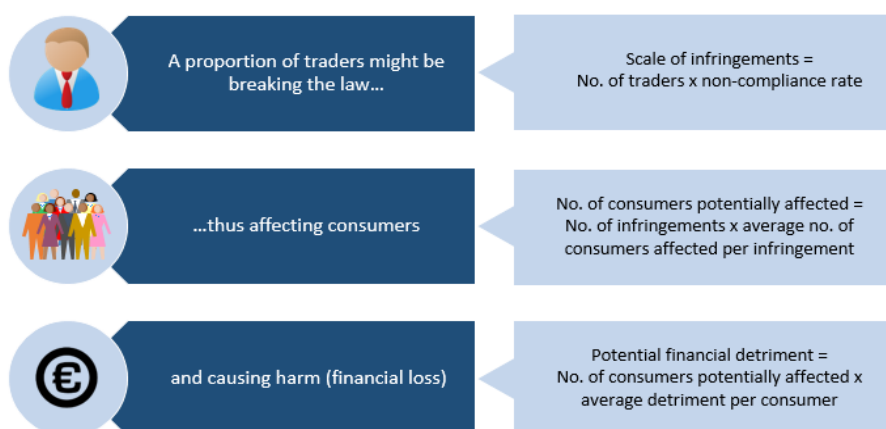
1.3.2 Approach to estimation of the future CPC caseloads

Logic of approach

The approach to estimating the baseline caseload is based on a simple logic (Figure 1.2), which starts by estimating the scale of infringements, followed by the number of consumers affected by those infringements, and finally estimating the financial detriment suffered as a result. This approach is elaborated in what follows, with a detailed description of the methodology and calculations used provided in Annex 2. Annex 3 further provides details on the key variables, their sources and caveats, while Annex 4 outlines all key assumptions and their rationale. Analysis is completed for each year 2014-2025, reporting annual estimates at each stage.

Two separate models were constructed in MS Excel to estimate the baseline caseload, due to the different datasets used, each employing the same methodological approach. The first model estimates the baseline with respect to EU consumers making purchases within the EU (i.e. from domestic or cross-border traders in another Member State). The second model concerns EU consumers making purchases from traders located outside the EU (i.e. international purchases from third countries). Where appropriate, the same assumptions have been used in both models to maintain consistency.

Figure 1.2 Logic of approach



Source: ICF Analysis

To operationalise this approach, extensive desk-research was undertaken to collect data on underlying consumer demand trends by sector, average consumer purchasing volumes and values, the proportion of consumers making purchases online and cross-border, in addition

to enterprise non-compliance rates by sector and Member State. ECC reports, EU umbrella and national consumer association literature, Eurostat statistics and trade publications, including mark research reports were found to be fertile sources for some of this information.

Considerable effort also went in to collecting data from additional primary sources, to limited success as many stakeholders contacted do not collect data on cross-border and non-EU trade at the granular level required for this study. Table 1.4 presents the overview on the types of inquiries that have been made and their subsequent results. Responses to a short survey of national competent authorities were received from nine Member States including: Czech Republic, Denmark, Germany, Hungary, Ireland, Latvia, Lithuania, Slovenia and Sweden.

Table 1.4 Types of inquiries and their outcomes

Data requirement	Data source	Result of inquiries
Number of Infringements	Survey of NCAs	<ul style="list-style-type: none"> ■ Limited number of responses was provided by the NCAs for multiple reasons including lack of market monitoring and data collection mechanisms. ■ In a few cases, where some responses were received, the data was often incomplete and did not allow disaggregation per sector. ■ Received responses covered only three out of the eight Member States included in the sample.
Consumer detriment/ Complaints/ Nature of detriment	Survey of NCAs	<ul style="list-style-type: none"> ■ As above
Industry trends/ Demand/ Cross-border sales/ Average spent	Industry associations	<ul style="list-style-type: none"> ■ Although industry associations were able to identify some generic trends, in the vast majority of cases, they did not possess any data that went beyond information which was collected during desk research. ■ An exception was data provided by <i>Eurofinas</i> for the consumer credit sector. ■ <i>Business Europe</i> and <i>Eurocommerce</i> for electronics sector as well as <i>International Alliance of Dietary/Food Supplement Association</i> and <i>Food Supplements Europe</i> offered to request the data from their members. No completed responses were received. ■ Overall, industry associations did not possess and were sceptical about the availability of any comprehensive cross-border data.
Number of Infringements/ Complaints/ Industry trends/ Cross-border sales/ Average spend/ other	Grey literature/Industry reports	<ul style="list-style-type: none"> ■ A fairly good level of domestic data was obtained (except for the ticketing and food supplement sectors). However, there is a chronic lack of cross-border data. ■ An exception is recent publications by London Economics and Ipsos²² on functioning of the consumer credit market in Europe.

Step 0: Selection of Sectors and Member States

The first step, completed as part of the inception phase, was to select the consumer sectors and Member States for estimation of the caseload baseline.

²² London Economics and Ipsos, 2013. Available at:
http://ec.europa.eu/consumers/archive/rights/docs/consumer_credit_market_study_en.pdf

Consumer sectors were selected to be representative of different consumer purchasing behaviour in the terms of the average per capita²³ spending of consumers by sector, the e-commerce and cross-border shopping penetration by sector, and the future potential of cross-border shopping. Selection also took into account CPCs infringement statistics and ECC data on cross-border complaints to identify sector of increasing or potential concern. On this basis, **clothing and sports goods, electronic goods, financial services²⁴, tickets for sports/ entertainment and cultural events, and food supplements²⁵** were selected. The agreed sample is partially consistent with the website review and the Commission's sweeps carried out by Member States, from which the prevalence of irregularities can be measured. The exceptions are the food supplement sector, which is selected instead of the travel sector present in the website review and sweeps, because of the growing number of complaints from consumers and its increasing importance in the medical products and equipment sector²⁶, and the clothing and sports goods sector which was not subjected to a sweep.

To account for differences between the Member States which may affect the number of infringements, factors such as consumer expenditure, the legal and cultural context of the country, CPC relevance and consumer confidence were considered when selecting a representative number of eight Member States for analysis. These Member States were **Germany; United Kingdom; Spain; Hungary; France; Poland; Sweden; and Latvia**. Together, the sample is considered representative: it provides adequate coverage of the majority of EU consumers and thus, consumer conditions; it represents the geographic spread of Member States (with Hungary, Poland and Latvia representing new Member States); differing legal systems; and, business conduct in the EU.

The rest of this section describes the step-by-step approach undertaken to estimating the caseload baseline, summarised in Figure 1.3.

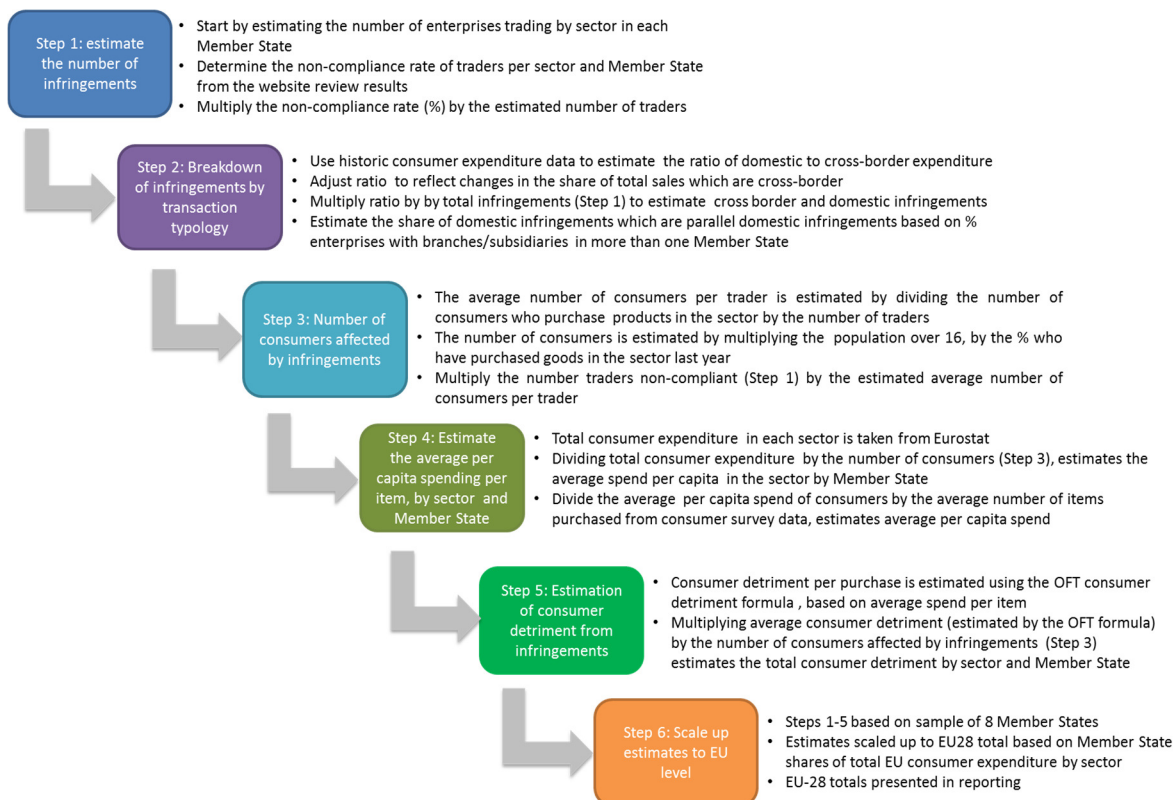
²³ Per capita is determined to be people of consumer age (i.e. above 16 years of age)

²⁴ The focus of financial services was consumer credit products (i.e. unsecured loans and credit cards).

²⁵ Food supplements are taken to include products which consumers use to complement their diets or to maintain health. This includes vitamins, herbal and dietary supplements. Specialist supplements can also be targeted at specific user groups or developed with specific properties in mind (i.e. sports supplements and products for gym users). Food supplements can be consumed orally in the form of pills, powders, liquids or intravenously by injection.

²⁶ See The European Consumer Centres Network 2012 Annual Report, at: http://ec.europa.eu/consumers/ecc/docs/report_ecc-net_2012_en.pdf

Figure 1.3 The step-by-step approach for estimating the CPC caseload baseline 2014-2025



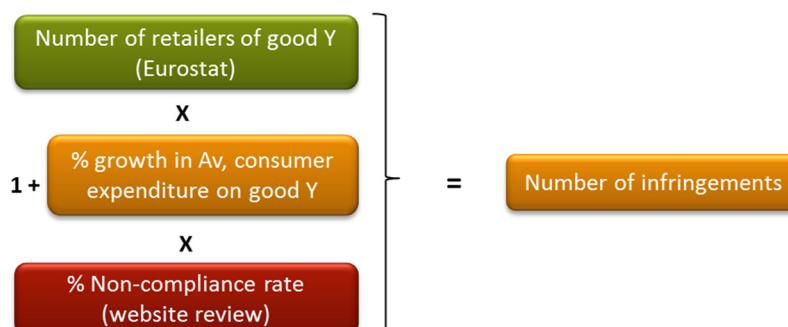
Source: ICF Analysis

Step 1: Estimating the number of infringements

The scale of infringements (covered by the CPC Regulation) has been modelled as a function of two key variables: the number of traders operating in a particular sector and the non-compliance rate (i.e. percentage of traders violating consumer protection laws, see the blue box below). It also takes into account trends in these two key variables. The approach to estimating the scale of infringements is depicted below in Figure 1.4.

Eurostat projections of Member State GDP growth are used for 2015 to 2025 to estimate growth in total final consumption by households, holding its share of GDP constant. As the share of final consumption accounted for by each sector is also known from Eurostat COICOP data, this is used to estimate growth in consumer expenditure by sector, holding the share of sector expenditure in final consumption constant. This growth rate is applied to the number of enterprises on the basis that as the economy expands the number enterprises increases proportionally. To account for the fact that many enterprises may just get larger as consumer expenditure increases or consolidate in a given sector, an adjustment factor is included.

Figure 1.4 Estimating the scale of infringements



Source: ICF Analysis.

Non-compliance rate

The findings from the website review conducted in the first part of the baseline (Section 2) are used to estimate the rate of non-compliance. As part of the research, website researchers considered infringements relating to a wide range of consumer rules including the contact information for the trader, product information, final price matching initial price, purchase information (such as delivery time and payment method information), information on the right to withdraw and other terms and conditions of purchasing. An indicator which aggregated all of these factors is a rating of “very poor” or “rather poor”. This was considered indicative of those infringements that would cause the most significant consumer detriment.

Measures of non-compliance from different sources are displayed in the table below. These sources include:

- Website review rating of “very poor”;
- Website review, aggregated ratings of “very poor” and “poor”;
- Website review using non-implementation rates for terms and conditions as a proxy for non-compliance;
- Website review using non-implementation rates relating to price information as a proxy for non-compliance;
- Non-compliance rates as identified by the CPC network’s Sweeps; and
- Website review calculation of the proportion of websites found to be missing one piece of information. The EU average is presented in the table.

The scenarios developed to estimate the baseline infringement caseload used the lowest and highest non-compliance rates obtained to estimate a lower and upper bound range of future infringement numbers. As the food supplement product sector was not covered by the website review, the results from the recreation and culture sector were used as a proxy, following consideration of the similarities in how the products are sold online and their market structure.

Sector	Website review – “very poor”	Website review – “very poor” + “rather poor”	Website review – terms and conditions information	Website review – price information	Commission Sweeps	Website review – information missing
Clothing and sportswear	3%	13%	10%	33%	N/A.	35%
Electronics	5%	20%	10%	26%	55%	36%
Recreation and culture tickets	8%	26%	17%	38%	59%	39%
Consumer credit	11%	33%	17%	N/A	69%	32%
Food supplement products	8%	26%	17%	38%	N/A	39%

Two baseline scenarios have been estimated²⁷. The first conservatively uses the rate obtained from the website review where the website was judged to be “very poor”, the **“lower bound scenario”**. The second scenario is based on a less conservative non-compliance rate obtained from the number of websites found to have one missing piece of information, the **“upper bound scenario”**.

²⁷ Unless otherwise stated, each scenario applies the same underlying assumptions.

To inform our choice of upper and lower bound estimates of non-compliance, the consultants relied on: i) the opinion of the external experts; and ii) rates characterising similar phenomena²⁸ as non-compliance rates among offline retailers (not covered by the website review) were unavailable. Table 1.5 presents the non-compliance rate of retailers selling age restricted products such as alcohol, tobacco, knives, and fireworks, based on Trading Standard’s test purchase inspections carried in Cardiff, UK. Although only indicative and not representative of the entire EU, the sanctions for non-compliance are similar to consumer protection legislation (warnings in first instance, followed by pecuniary fines and even criminal proceedings for persistent underage sales). Therefore, the consultant considers these results to be useful for consideration in determining upper and lower bounds in the analysis. Further, total non-compliance displays a downward trends from a total of 9.8% in 2010 and 7.5% in 2011. Other surveys estimate the non-compliance rate to be higher in relation to sunbed use, at around 6% nationally²⁹, although this hides significant differences by region with highs of 11% in some parts of the UK. In summary, the available data suggests a lower bound non-compliance rate of below 10% for most products is sensible for use in the analysis.

Table 1.5 Non-compliance of retailers selling age restricted products in Cardiff, UK (20012-2013)

Product	(% of test purchases non-compliant)
Alcohol	4.8%
Tobacco	8.2%
Sunbeds	0%
Knives and blades	3.8%
Fireworks	0%
Total	4.6%

Source: https://formerly.cardiff.gov.uk/objview.asp?object_id=25938

In reality, the true non-compliance rate is likely to be somewhere between the estimates of the two scenarios, hence the average is presented in the caseload baseline results (Section 3).

Step 2: Breakdown of infringements by transaction typology

Once the total number of infringements is estimated by sector and Member State, historic ratios of domestic to cross-border infringements from sweeps and the results from a short survey of national competent authorities are used to apportion infringements as either domestic or cross-border, noting that parallel infringements are a subset of domestic.

Acknowledging that over time, an increasing proportion of infringements are likely to be cross-border (and that parallel domestic infringements are also considered as cross-border infringements), reflecting growth in cross-border trade, a compound annum growth factor is included in the calculation. This is based on evidence of growing cross-border e-commerce penetration detailed in Annexes 3 and 4. The leading assumptions driving the division of infringement are presented in Table 1.6. Recent evidence on trends in cross-border retail sales are presented in the box below.

²⁸ The annexes to the European Commission’s Impact Assessment Guidelines, suggest that where values are unknown, guessing can be used by: i) use rates characterising similar phenomena; ii) employing triangulation (i.e. using several separate approaches / data sources to estimate a quantity and comparing the results). See pp.61, available at: http://ec.europa.eu/smart-regulation/impact/commission_guidelines/docs/iaq_2009_annex_en.pdf

²⁹ BMJ (2009): Legislation is needed to stop children using sunbeds, available at: <http://dx.doi.org/10.1136/bmj.b4643>

Table 1.6 Leading baseline assumptions on cross-border infringements

Assumption/sector	Clothing and footwear	Electronics	Culture and recreation	Financial services	Food supplements
Applicable to both scenarios					
% consumers making purchases cross-border	19%	17%	52%	4.9%	52%
% compound growth rate in consumers making purchases cross-border	3%	3%	2%	5%	5%
Domestic/Cross border ratio of infringements	80/20	65/35	76/24	95/5	70/30
Lower bound scenario					
% annual change in domestic to cross-border ratio	0.4%	0.4%	0.2%	0.2%	0.6%
Upper bound scenario					
% annual change in domestic to cross-border ratio	0.6%	0.6%	0.5%	0.5%	1%

Source: ICF Analysis (See Annexes 3 and 4 for evidence and rationale)

Recent evidence on EU trends in cross-border retail sales

Forrester³⁰ forecasts that online retail sales will continue to grow as a share of total retail sales in all European countries from 2013 to 2018 based on analysis of 17 European countries and 22 product categories. According to its latest forecasts, online sales as a share of total retail sales will increase from 12% in 2013 to 15% in 2018 in the UK (where the online share is highest); from 6% to 10% in France; 7% to 10% in Germany; 2% to 5% in Spain, and 2% to 4% in Italy.

Of these online sales, 14% are considered to be non-domestic business-to-consumer sales in 2014 according to research by the European Multi-channel and Online Trade Association³¹. This includes EU and non-EU cross border sales. The same research anticipates the share of online sales to increase to 20% by 2018. On the basis of this evidence, online cross-border sales in the UK account for around 2% of total retail sales in 2014, increasing to 3% by 2018. In Spain online cross-border sales as a share of total retail sales is estimated to increase from 0.003% to 1% over the same period.

The share of online and cross-border sales is however likely to vary widely by product sector, as this data relates to total aggregate consumer expenditure. Nevertheless, the level growth in cross-border trade as a share of total consumer trade is reflected in the assumptions presented in Table 1.6 and supports the approach taken in this study.

Parallel domestic infringements are a subset of domestic infringements as they concern consumers purchasing products in a domestic environment from traders who operate in multiple Member States through subsidiaries, branches, franchises or agents. A Eurobarometer study³² found that approximately 10% of enterprises had outlets or

³⁰ Forester Research Online Retail Forecast, 2013-2018, summary available here: <http://ecommercenews.eu/online-sales-in-europe-will-grow-to-e233-9bn-by-2018/>

³¹ <http://www.thepaypers.com/ecommerce/western-europe-cross-border-sales-to-double-by-2018-report/755903-25>

³² Flash Eurobarometer 300 on business attitudes towards cross-border trade and consumer protection. http://ec.europa.eu/consumers/archive/strategy/docs/retailers_eurobarometer_2011_en.pdf

subsidiaries in another EU country (4% in one other country, 2% in 2-3 other countries and 4% in 4+ countries)³³. This percentage is applied to domestic infringements and related estimates on the consumer detriment to provide an estimate of parallel caseloads and their financial impact on consumers.

Summing the parallel and cross-border caseloads provides an estimate of intra-Community infringements as defined by the CPC Regulation. Of note, as the average expenditure and population size of domestic consumers is larger than that of cross-border consumers, this has the effect that the number of consumers harmed by parallel infringements is proportionally higher than for cross-border infringements, all else being equal.

Step 3: Number of consumers affected by infringements

The number of consumers affected in a Member State and sector is estimated, as a function of the Member State population (sourced from Eurostat) and the number of enterprises (also sourced from Eurostat). This is represented as a ratio (i.e. 600 persons per enterprise in sector [...]). This ratio is then multiplied by the estimated number of domestic, parallel domestic and cross-border infringements estimated in the previous step. Figure 1.5 summarises the calculation method used.

Figure 1.5 Estimating the number of consumer affected by infringements.



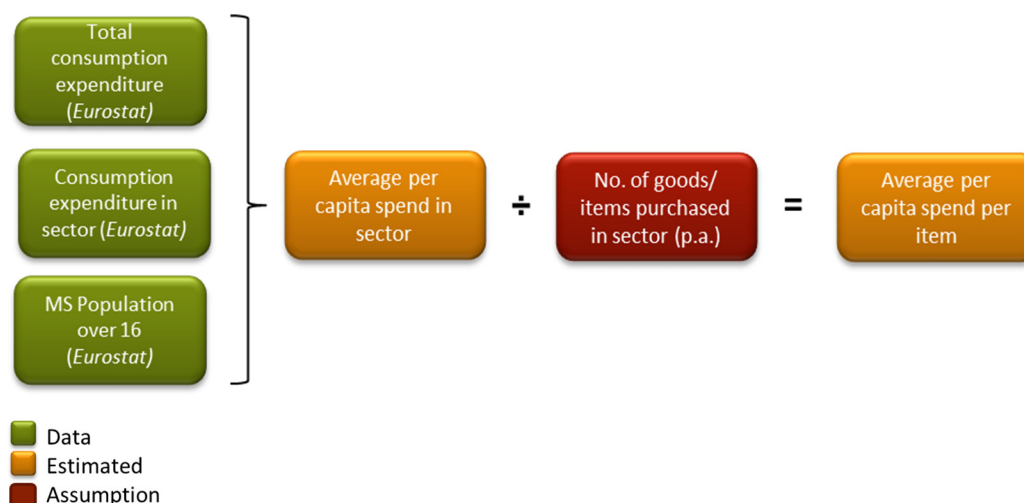
As not all consumers are likely to purchase a given product, this estimation approach may appear to be an overestimate of the true number of consumers affected. However, this is necessary as the following step calculates the average per capita spending of consumers in each sector, using average expenditure data which takes into account the fact that not all consumers purchase a given product.

Step 4: Estimating the average per capita expenditure of consumers

To calculate the average per capita expenditure per item (an input necessary to estimate the financial detriment), consumption and population statistics are used as inputs. This provides an average expenditure per capita within the relevant sector. Figure 1.6 provides a summary of the calculation approach.

³³ EU27 data was used and it was not possible to disaggregate by sector.

Figure 1.6 Estimating the average per capita spend of consumers per item



A revision was made to the above method to estimate the cross-border average per capita expenditure per item. To estimate the population of cross-border shoppers within a country, Eurobarometer findings relating to cross-border shopping levels combined with other assumptions on consumer purchasing behaviour³⁴ were made. The underlying principle is that consumers in all other Member States may make purchases from traders in a given Member State cross-border; hence the population is taken from all these other Member States, rather than the population of the Member State of trader which is the case for estimating domestic infringements.

Step 5: Estimation of consumer detriment from infringements

The next step of estimation involved assessing the potential scale of the detriment. This considered the number of consumers potentially affected as well as the financial detriment suffered as a result of the infringement.

When a consumer incurs a financial loss, for example €200 from being mis-sold an electronic good and has this amount refunded through redress, the actual financial detriment suffered by the consumer is only a proportion of the €200. In economic terms, by receiving and using the electronic good, the consumer has gained some utility from the purchase, which should be deducted from the refund as the utility is not considered consumer detriment. To account for this fact, the OFT's log formula, described in the box below is applied to the average per capita expenditure per item estimated in the previous step (i.e. what each consumer spends in a given sector and on average per trader) before multiplying by the number of consumer affected by the infringement to estimate total financial detriment.

The OFT log formula

The Office for Fair Trading (2008) research project: "*Consumer detriment: Assessing the frequency and impact of consumer problems with goods and services*" collected empirical data on the payment received when seeking redress and the actual financial detriment suffered by the consumer to establish a relationship between the two. The following log-linear formula was found to be the best fit for the data in the OFT's research.

$$\text{Log}_{10}(D) = 0.3354 + 0.6340 * \text{Log}_{10}(P)$$

³⁴ A detailed description of data, caveats and assumptions can be found in Annex 3 & 4. Calculations are found in Annex 2.

Where:

D = Average amount of detriment suffered by consumers who suffer a problem with a trader

P = Purchase price (the OFT actually uses the average payment made to consumers when making a complaint as a measure of the financial loss)

Since the OFT carried out its research there has been some criticism of the robustness of the methodology used. Detriment in this study is calculated as a function of the final selling price of the product and number of consumers affected by the infringement. We consider this an improvement on the original research which scaled up detriment based on the number of complaints and using a multiplier to account for those consumers affected by the infringement but chose not to complain. Using actual consumer expenditure data which differs by product and Member State without the need for additional assumptions on the multiplier, the consultants consider this to be a more robust approach.

Source: OFT (2008): Consumer detriment: Assessing the frequency and impact of consumer problems with goods and service, approach available in annex to:

http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.of.gov.uk/shared_of/about_of/oft1085.pdf

Step 6: Scale up estimates to EU level

Each part of the estimation approach outlined above was undertaken separately for the eight Member States and five product sectors selected in Step 0. The aggregate results were then extrapolated to EU totals, based on the eight Member State's share of total EU GDP, collected from Eurostat.

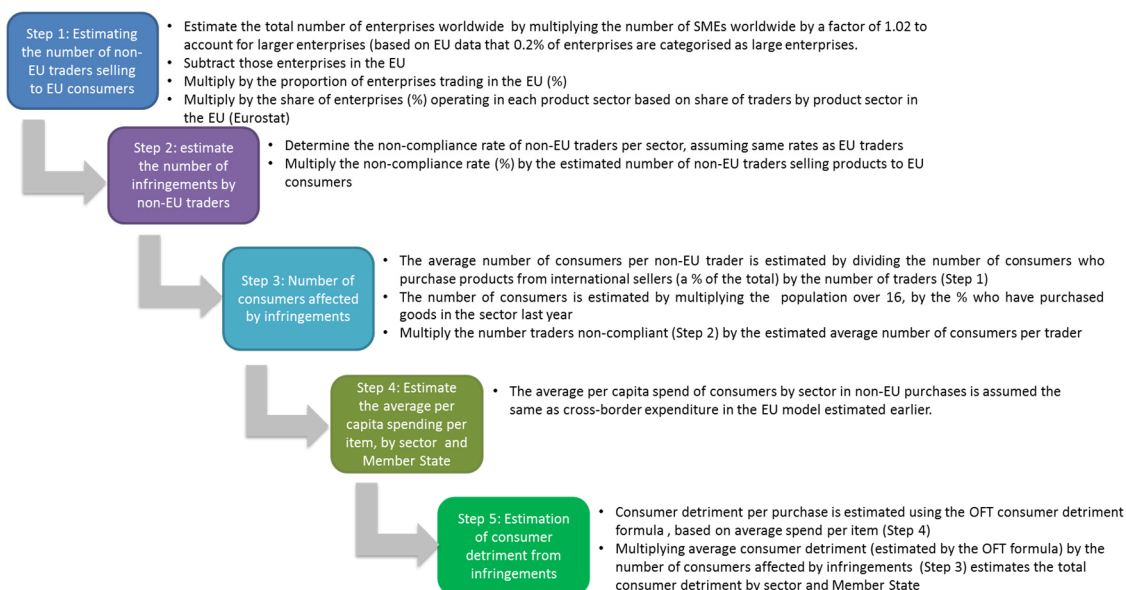
International infringements

The second model developed for this task estimates the baseline caseload of international infringements. The same methodological approach was followed, except for three changes:

- A new step (Step 1) is added to first estimate the number of the enterprises located non-EU countries which sell to EU consumers;
- Step 2 of the EU caseload model is removed as a breakdown by typology of infringement is no longer required as the model is concerned with just international infringements; and
- Step 6 of the EU caseload model is removed as the EU28 is treated as a single group of consumers purchasing goods and services from non-EU traders in the model.

The step-by-step approach is summarised in Figure 1.7 below.

Figure 1.7 Step-by-step approach to estimating international infringement caseloads



Source: ICF Analysis

Where feasible, the same assumptions and data sources have been used to estimate international infringements as for EU relevant infringements to ensure consistency. Where assumptions differ they are presented in Table 1.7 below for Steps 1-3. The remaining steps and assumptions are followed unchanged from the EU caseload estimation model. The non-compliance rates used for international infringements are the same as under the conservative “**lower bound scenario**”.

In Step 1 it is assumed that all large enterprises outside the EU sell to EU consumers, assuming the ratio of SMEs to larger enterprises worldwide is the same as in the EU³⁵. This means that 0.21% of non-EU enterprises are classified as large, selling to EU consumers. However, this does not include non-EU SMEs which may also trade in the EU. Realising that the majority of SMEs are likely to operate locally, we conservatively estimate that around 2% of all non-EU enterprises including SMEs sell to EU consumers in most sectors (3% for food supplements).

Table 1.7 Key assumptions estimating the scale of international infringements

Assumption/sector	Clothing and footwear	Electronics	Culture and recreation	Financial services	Food supplements
Step 1 Estimating the number of non-EU traders selling to EU consumers					
Number of SMEs worldwide	Micro, Small and Medium (MSME) estimates from IFC (2010) ³⁶				
% of all enterprises which are large	0.21% based Eurostat figures for the EU ³⁷				
% non-EU companies trading in the EU	2%	2%	2%	2%	3%

³⁵ http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Business_economy_-_size_class_analysis

³⁶

http://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/industries/financial+markets/msme+finance/sme+banking/msme-countryindicators-aboutdata

³⁷ http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Business_economy_-_size_class_analysis

Assumption/sector	Clothing and footwear	Electronics	Culture and recreation	Financial services	Food supplements
% annual increase in number of non-EU companies trading in the EU	2%	2%	2%	2%	2%
Step 2: Estimate the number of infringements by non-EU traders					
Non-compliance rate of non-EU traders	3%	5%	8%	11%	8%
Step 3 Number of consumers affected by infringements					
% of EU consumers making purchases outside the EU	10% ³⁸				
% annual growth in number of consumers making purchases outside the EU	+0.5% points				
% of EU consumers making purchases of product [...] from non-EU traders ³⁹	2%	0.25%	0.02%	0.1%	0.03%
Share of companies in EU economy selling product ⁴⁰ [...]	3%	1%	0.14%	0.04%	0.74%

1.3.3 Sensitivity analysis

A sensitivity analysis was undertaken to test the power of individual assumptions in the model by varying a single assumption and holding all others constant. The analysis also helps identify the most powerful assumptions in the model and tests the robustness of the results. This analysis was applied only to the EU infringement baseline.

The analysis tested the following assumptions:

- **The non-compliance rate.** Alternative rates of non-compliance rates are tested in the model based on sweeps and other results obtained from the website review.
- **Change in levels of cross-border trade.** The change in cross-border trade is assumed to increase by approximately 2%-5% each year in the model, depending on the sector concerned (See Table 1.6). This is in line with historical changes (as per Eurobarometer studies). In the sensitivity analysis, a no change option is considered where rates of cross-border shopping are assumed to remain constant in each Member State. The second option considers a situation where consumers in all Member States purchase cross-border to the same extent as the best performing Member State at present (the UK). These alternative assumptions are tested for their impact on the number infringements and financial detriment estimated by the model.
- **Changes to the ratio between cross-border and domestic infringements.** The ratio of domestic to cross-border infringements assumed in the model is provided in Table 1.6, including an in-built growth rate to account for the fact that consumers are increasingly likely to trade cross-border in the future and therefore encounter infringements of a

³⁸ EC (2013): Flash Eurobarometer 358 - Consumer attitudes towards cross-border trade and consumer protection, question 14, available at: http://ec.europa.eu/public_opinion/flash/fl_358_en.pdf

³⁹ Estimated based on desk based literature review of qualitative information

⁴⁰ Calculated from Eurostat sector data

cross-border nature. The sensitivity analysis looks at variations in this growth rate, including a no change assumption and 0.5% growth rate. .

A full breakdown of the results of the sensitivity analysis can be found in Annex 6.

Assumptions forecasting key variables

Many assumptions and data used in the model are sector specific and are detailed in Annexes 3 and 4. Other assumptions and data are common to all product sectors, including variables such as GDP, population and final consumption expenditure growth (the latter measured as a % of GDP). Details of the data sources and assumptions used are as follows::

- **GDP growth:** IMF forecasts up until 2019 are applied by Member State in the model. From 2020, the average growth rate for the period 2000-2013 is used, thus reflecting growth in the economy and a proportionate increase in consumer expenditure in the model.
- **Population growth:** Eurostat forecasts have been used from 2015 to 2025.
- **Final consumption expenditure as a % of GDP:** Based on the Eurostat data for the period 2000-2012 the average value for that period was extrapolated for the period 2013-2025 in the model.

1.3.4 Approach to mapping the regulatory baseline

From a regulatory perspective, differences in national legal systems, enforcement regimes and procedural rules, result in an uneven baseline situation between Member States and as such, the potential (incremental) impact of the proposed policy options is likely to vary by Member State.

To capture these differences in the impact assessment, the characteristics of each Member State's regulatory regime are mapped to highlight where differences are the most significant in terms of the 'gap' that may exist between Member States and the adaptability of each national system to respond to future changes. For example, some Member States may already have allocated additional powers to national authorities which go beyond the minimum established in Article 4(6) of the CPC Regulation. This would mean the gap and potential difficulty of introducing these new powers to these Member States would be reduced compared to Member States where these powers are not available. Revision to the allocation of national constitutional powers and the need to learn new powers would imply higher costs of implementation to be captured in the assessment.

In other situations, a Member State might be considered to operate a distinctly different regulatory framework to other Member States, reflected in scale of the 'gap'. However, as the Member State has greater enforcement resources and experience of handling cross-border infringement cases through CPC, it is better placed to adapt to changes introduced by the policy option, compared to other Member States with a smaller 'gap'. The scale of the gap, administrative resources and flexibility of each enforcement system, in addition to its institutional framework are therefore taken into account.

The approach identifies groups of Member States with commonalities which suggest that the impacts from policy change are likely to be of similar magnitude. This will inform later analysis and illustrate the uneven nature of the baseline.

This task was based on desk-research drawing primarily from evidence produced in the Commission's legal study⁴¹, the external evaluation of the CPC Regulation⁴², an OECD study on different consumer enforcement systems⁴³, Member States' web country consumer law

⁴¹ Commission Legal Study (2014): Study on enforcement authorities' powers and national procedural rules in the application of Regulation 2006/2004/EC on consumer protection cooperation

⁴² http://ec.europa.eu/consumers/enforcement/docs/cpc_regulation_inception_report_revised290212_en.pdf

⁴³ OECD (2006): Best practices for consumer policy: Report on the effectiveness of enforcement regimes, Directorate for Science, Technology and Industry – Committee on consumer policy, DSTI/CP(2006)21/FINAL, available at:

profiles posted on the DG SANCO website⁴⁴, Member States' CPC biennial reports, DG SANCO workshop reports (specifically on naming and sanctions), plus additional web searches of national legislation.

The factors considered in this mapping exercise and the sources of data for each are provided in Table 1.8.

Table 1.8 Summary of factors and information sources reviewed

Factor	Sources
Investigation and enforcement powers beyond minimum in Article 4(6) of the CPC Regulation	<ul style="list-style-type: none"> ■ SANCO legal study, ■ MS biennial reports, ■ SANCO workshop reports on sanctions/naming, ■ SANCO external evaluation of CPC ■ Extensive review of enforcement authority websites, documentation and national legislation
Type of enforcement system (admin, civil, criminal)	<ul style="list-style-type: none"> ■ MS web country profiles ■ SANCO legal study ■ Biennial reports ■ Web search of national legislation
Institutional set-up (Number of NCAs and number of amending legislation required to implement CPC)	<ul style="list-style-type: none"> ■ Biennial reports ■ SANCO external evaluation of CPC
Decentralised/centralised nature of enforcement regime	<ul style="list-style-type: none"> ■ MS web country profiles ■ Biennial reports
Administrative resources	<ul style="list-style-type: none"> ■ SANCO external evaluation of CPC ■ Biennial reports

1.4 Problems encountered and resolved

1.4.1 Website review

The website review encountered no specific problems, largely due to the efforts of the Consultant in piloting the review questionnaire (Annex 1) before refining the methodology and conducting the review.

Efforts were made to include a representative number⁴⁵ of websites selling cross-border to consumers in other Member States in the selected sample. This was based on the data obtained from web indices and directories from which the sample was extracted. While a check was made to ensure that the largest web retailers (by volume) in each Member State were captured in the sample, it is not possible to provide a breakdown by enterprise turnover size, as this information was not reported in the relevant directories.

1.4.1.1 Future caseload estimation of the CPC

The Consultant faced a number of problems in estimating the future CPC caseload, specifically relating to the availability and quality of data at the granular enough level to

http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0CCQQFjAB&url=http%3A%2F%2Fwww.oecd.org%2Fdataoecd%2F56%2F7%2F37863861.doc&ei=6a65U5C1Juuu7AaFqIHQAg&sg=AFQjCNE5yNcpZMK71_ErzOPqSvLAsME-Tg&bvm=bv.70138588,d.ZGU

⁴⁴ http://ec.europa.eu/consumers/archive/empowerment/cons_networks_en.htm

⁴⁵ To ensure representative sample of traders in each country and market sector, researchers identified websites through a four stage approach: (1) using relevant words to find websites; (2) using country-specific google searches; (3) use of price comparison websites for their respective countries; and, (4) using their own country-specific knowledge. An average of 18 websites were selected per sector, per Member State. Larger Member States were oversampled to make up for the variance in market sizes across the 28 Member States.

conduct the analysis. A short description of the issues and how they were addressed is provided as follows:

- **Sector classification:** while some sectors selected for analysis aligned perfectly with statistical classifications used by Eurostat, national statistical authorities and industry publications, for other sectors it was impossible to find consistent data on which to build the modelling approach on. In response, the sector definitions used were revised to make best use of the available data.
- **Granularity of the data:** to complete the modelling exercise, data at the level of the sector or Member State was often needed to reflect differences in consumer spending, online purchasing trends and cross-border sales volumes. In many cases this information could not be found in the literature. In response, consumer and trade associations were contacted for the data or to provide informed 'guesstimates'. Some gaps still remained for which assumptions had to be made and are the subject of sensitivity analysis.
- **Infringement volumes handled by competent authorities:** a leading information need was historical trend data on the number of domestic, cross-border EU and cross-border international infringements handled by competent authorities. Only limited responses to a short survey questionnaire provided any information on the breakdown of infringement cases which could be used to calibrate the model. No data was provided on international infringements.
- **Measuring consumer detriment:** limited studies have systematically attempted to quantify consumer detriment from enforcement action, developing the methods and assumptions to complete this task. The consultants have therefore been heavily reliant of the research of the OFT in this area. The robustness of the analysis would benefit from more work being carried out in this area, specifically in Member States other than the UK.

1.4.2 Regulatory baseline

In the absence of the resources to conduct primary evidence gathering, the mapping of the regulatory baseline was limited to literature based sources. While complete for the majority of Member States, it is acknowledged that legal systems are constantly evolving and as such some systems and procedures may have changed since the relevant literature was published.

1.5 Structure of this report

The remainder of this report is structured as follows:

- Section 2: summarises the findings of the website review;
- Section 3: presents the CPC caseload baseline 2014-2025, and
- Section 4: the regulatory baseline.

The following technical annexes are also provided:

- Annex 1: the questionnaire log form used for the website review;
- Annex 2: a detailed step-by-step calculation methodology for the caseload baseline;
- Annex 3: summarises the key variables used for caseload estimation;
- Annex 4: a list of the assumptions used in the caseload estimation by sector;
- Annex 5: presents the baseline estimations (upper and lower bound estimates);
- Annex 6: sensitivity analysis - caseload scenario estimations (2014-2025)
- Annex 7: a detailed question-by-question analysis of the website review;
- Annex 8: a summary of Member State enforcement systems ; and
- Annex 9: a mapping on Member state current investigation and enforcement powers, and
- Annex 10: a summary of the institutional framework of each Member State.

2 Website review

2.1 Introduction

This section summarises the results of the review of the e-commerce websites that Civic Consulting of CPEC conducted as part of this study. The website review took place in March 2014 and reviewed a total of 2,682 websites covering all EU28 Member States.

The headline results are first presented relevant for all websites, before summarising the results of each market sector in more detail in the following sub-sections. A more in-depth reporting of the results can be found in Annex 7.

2.2 Overview of results

The review involved screening websites for the following information:

- Provision of address, telephone number, email;
- Provision of product information;
- Presentation of the price including taxes as well as all additional freight, delivery or postal charges;
- Information on delivery and payment arrangements; and
- Information on the right to withdraw.

Not all aspects were relevant for all market sectors. This is reflected in the presentation of the results in Figure 2.1, which provides the results of the review by country and sector.

The table visualises the results through use of a colour coding of the percentage of surveyed websites on which indicated information was not available. While greenish colours indicate low percentages of websites lacking relevant information, reddish colours indicate increasing percentages of such websites. The colour 'bright red' indicates that more than 20% of surveyed websites in the specific sector and country do not provide the indicated information. The actual percentage of websites by consumer rule and Member State not providing the relevant information is provided for reference. An EU average is also provided for comparison.

The following conclusions are drawn from Figure 2.1:

- Both business address and telephone number contact information was provided frequently across all sectors. In contrast, the number of instances where more than 20% of websites did not provide an email address was much higher;
- Relevant product information was available in most sectors and countries, the exception being consumer credit, where in a large number of Member States (11 in total) more than 20% of surveyed websites did not provide relevant information (in this particular case: the Annual Percentage Rate of Charge; and an indication of the total cost of credit that a loan at a certain APR would incur). In a further seven Member States 12%-20% were found not provide this information;
- Researchers also looked for information on price and payment methods, and compared the initial advertised price with the last price displayed before it was necessary to enter payment details. For all of the four sectors where this comparison applied (i.e. all except consumer credit), there was a high rate of inconsistency between the initially stated price and final price the consumer was requested to pay; Information concerning the right to withdrawal was also absent in a significant number of cases: In the sector of electronic goods, in six countries⁴⁶ more than 20% of surveyed websites did not provide clearly worded information on their right to withdraw, in the sector of clothes and sports goods, this was the case in three countries⁴⁷

⁴⁶ Belgium, Cyprus, Greece, Croatia, Malta and Romania

⁴⁷ Bulgaria, Greece, and Croatia



Figure 2.1 Overview of results (Percentage of Surveyed websites on which indicated information was not available*)



	Clothes and sports goods										Electronic goods								Package travel					Recreation and culture (tickets for events)							Consumer credit										
	Address	Telephone	Email	Product information	Final price matches initial price	Information on delivery costs	Information on payment methods	Information on expected delivery time	Terms and conditions	Information on right to withdraw	Address	Telephone	Email	Product information	Final price matches initial price	Information on delivery costs	Information on payment methods	Information on expected delivery time	Terms and conditions	Information on right to withdraw	Address	Telephone	Email	Product information	Terms and conditions	Final price matches initial price	Address	Telephone	Email	Product information	Final price matches initial price	Information on delivery costs	Information on payment methods	Information on expected delivery time	Terms and conditions	Information on right to withdraw	Address	Telephone	Email	Terms and conditions	Product information
AT	0%	0%	5%	0%	29%	0%	0%	10%	5%	0%	0%	0%	0%	8%	0%	0%	33%	0%	4%	0%	0%	5%	0%	0%	57%	0%	0%	0%	0%	40%	0%	5%	0%	5%	0%	0%	13%	0%	6%	44%	
BE	0%	6%	19%	0%	38%	0%	0%	0%	0%	0%	0%	0%	32%	5%	27%	0%	0%	36%	0%	27%	0%	19%	63%	0%	6%	44%	0%	0%	27%	0%	40%	67%	7%	6%	13%	0%	0%	36%	18%	23%	
BG	13%	4%	13%	4%	78%	0%	4%	13%	13%	35%	13%	0%	8%	0%	42%	13%	13%	29%	21%	17%	5%	5%	0%	0%	32%	10%	25%	25%	25%	0%	25%	25%	17%	8%	17%	0%	0%	20%	0%	0%	
CY	14%	14%	0%	0%	0%	0%	0%	14%	0%	0%	0%	8%	25%	0%	25%	0%	0%	33%	25%	25%	0%	0%	0%	0%	40%	18%	0%	0%	0%	67%	33%	0%	67%	0%	0%	0%	20%	17%	20%		
CZ	0%	0%	0%	0%	24%	0%	0%	29%	0%	0%	0%	0%	8%	0%	8%	0%	0%	27%	0%	0%	0%	0%	6%	0%	6%	24%	0%	4%	4%	0%	17%	0%	0%	57%	0%	0%	10%	30%	14%		
DE	0%	0%	0%	0%	19%	0%	0%	27%	0%	0%	0%	4%	4%	8%	0%	0%	46%	4%	0%	0%	0%	0%	4%	0%	85%	0%	0%	0%	64%	0%	0%	4%	0%	0%	0%	0%	0%	0%	4%		
DK	0%	10%	5%	0%	29%	0%	0%	0%	0%	0%	0%	10%	0%	10%	0%	0%	10%	0%	0%	0%	0%	18%	0%	6%	65%	5%	0%	11%	0%	32%	11%	0%	16%	0%	0%	6%	6%	19%			
EE	6%	6%	0%	0%	38%	0%	0%	31%	38%	19%	4%	0%	4%	0%	24%	8%	8%	16%	36%	20%	0%	0%	0%	19%	19%	0%	0%	25%	13%	50%	63%	0%	0%	0%	0%	0%	0%	21%	42%		
EL	5%	0%	19%	0%	19%	10%	0%	10%	30%	29%	5%	9%	23%	0%	23%	0%	0%	5%	41%	50%	0%	0%	7%	0%	7%	47%	7%	0%	13%	0%	40%	20%	7%	27%	7%	0%	17%	17%	33%		
ES	4%	8%	33%	0%	29%	0%	0%	4%	12%	4%	4%	17%	17%	0%	58%	0%	0%	0%	0%	8%	0%	0%	24%	0%	14%	52%	5%	20%	20%	0%	30%	15%	0%	0%	5%	5%	27%	23%	50%		
FI	0%	13%	17%	0%	17%	0%	0%	0%	25%	0%	0%	14%	9%	5%	27%	0%	0%	0%	5%	5%	5%	0%	24%	0%	5%	57%	0%	5%	10%	0%	35%	45%	0%	30%	10%	0%	4%	21%	0%	8%	
FR	0%	0%	54%	0%	31%	4%	0%	4%	0%	4%	8%	12%	42%	4%	31%	4%	4%	15%	0%	4%	4%	0%	44%	0%	0%	96%	5%	19%	29%	0%	52%	33%	0%	0%	5%	0%	5%	81%	0%	0%	
HR	0%	0%	0%	0%	35%	18%	0%	18%	29%	47%	0%	0%	0%	0%	27%	0%	0%	13%	13%	60%	0%	0%	0%	0%	14%	0%	0%	0%	13%	0%	0%	27%	0%	0%	0%	5%	5%	0%	0%		
HU	10%	10%	0%	0%	48%	0%	5%	5%	5%	10%	0%	5%	5%	0%	19%	5%	5%	5%	0%	10%	5%	5%	0%	0%	9%	68%	0%	0%	6%	0%	59%	0%	0%	29%	0%	0%	7%	36%	0%	0%	
IE	0%	0%	5%	0%	15%	0%	0%	40%	20%	5%	0%	6%	22%	0%	33%	6%	6%	6%	6%	11%	0%	0%	5%	0%	5%	65%	5%	10%	20%	0%	55%	10%	0%	10%	10%	0%	0%	11%	21%	0%	
IT	0%	4%	21%	0%	50%	0%	0%	4%	4%	8%	0%	8%	29%	0%	71%	0%	0%	8%	4%	4%	0%	8%	0%	8%	75%	8%	23%	12%	0%	65%	4%	0%	22%	0%	0%	8%	16%	16%	28%		
LT	14%	0%	10%	0%	38%	5%	10%	10%	20%	0%	4%	0%	0%	8%	4%	4%	8%	33%	13%	11%	0%	6%	0%	72%	39%	8%	38%	0%	23%	38%	15%	31%	31%	0%	0%	5%	32%	11%			
LU	17%	0%	17%	0%	33%	0%	0%	17%	17%	0%	0%	33%	0%	0%	50%	0%	0%	50%	0%	0%	25%	0%	25%	0%	75%	0%	0%	0%	50%	50%	0%	25%	25%	14%	0%	29%	57%	29%			
LV	0%	5%	14%	0%	14%	0%	5%	9%	14%	14%	0%	0%	0%	4%	33%	0%	0%	13%	38%	13%	0%	0%	5%	5%	42%	16%	0%	27%	7%	0%	33%	7%	0%	0%	0%	0%	42%	25%			
MT	20%	10%	10%	0%	20%	0%	0%	30%	20%	20%	8%	0%	0%	0%	8%	17%	17%	33%	42%	42%	13%	0%	13%	0%	38%	13%	0%	13%	38%	13%	50%	50%	0%	0%	25%	25%	75%				
NL	0%	0%	8%	0%	40%	8%	0%	4%	0%	0%	0%	0%	28%	0%	12%	0%	0%	4%	0%	0%	0%	0%	20%	4%	0%	100%	8%	16%	16%	0%	60%	8%	4%	4%	0%	0%	18%	18%	23%		
PL	0%	0%	12%	0%	35%	0%	0%	8%	4%	0%	0%	4%	19%	0%	31%	0%	0%	4%	8%	12%	4%	0%	15%	0%	8%	31%	13%	13%	17%	0%	54%	17%	0%	0%	0%	0%	54%	23%	19%		
PT	0%	9%	35%	0%	52%	0%	0%	4%	22%	4%	9%	9%	4%	0%	52%	0%	0%	13%	17%	4%	9%	17%	39%	0%	13%	30%	5%	11%	11%	0%	47%	58%	0%	16%	21%	0%	5%	45%	55%	18%	
RO	10%	5%	5%	0%	30%	0%	0%	15%	0%	15%	17%	0%	11%	0%	44%	0%	0%	17%	11%	22%	10%	0%	15%	5%	43%	20%	7%	13%	7%	0%	40%	53%	0%	13%	0%	11%	6%	22%	11%	22%	
SE	0%	13%	4%	0%	26%	0%	0%	4%	0%	0%	0%	8%	12%	0%	20%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	88%	10%	0%	10%	0%	38%	5%	0%	5%	5%	0%	4%	12%	0%		
SI	0%	0%	9%	0%	82%	0%	0%	45%	10%	0%	0%	0%	17%	0%	11%	0%	0%	22%	0%	0%	0%	0%	0%	0%	12%	0%	0%	0%	17%	83%	0%	75%	67%	0%	0%	0%	12%	13%			
SK	0%	0%	8%	0%	33%	0%	4%	8%	4%	0%	0%	0%	5%	0%	5%	0%	0%	18%	0%	5%	0%	0%	0%	0%	14%	67%	0%	8%	0%	8%	31%	0%	15%	31%	5%	5%	21%	18%	16%		
UK	0%	4%	29%	0%	21%	0%	4%	0%	0%	4%	0%	0%	39%	0%	22%	0%	0%	9%	0%	9%	0%	5%	30%	0%	0%	70%	0%	11%	33%	0%	48%	19%	4%	7%	11%	0%	16%	8%	0%		
EU	4%	4%	13%	0%	33%	2%	1%	12%	10%	8%	3%	4%	14%	1%	26%	2%	2%	17%	10%	13%	4%	2%	13%	1%	13%	48%	4%	9%	11%	0%	38%	25%	3%	17%	13%	1%	2%	19%	17%	19%	

* For the category 'Final price matches initial price' this refers to the percentage of websites where prices did not match. For the category 'Information on right to withdraw', this refers to the percentage of websites for which the information was unclear or not provided. For the category 'Product information', this refers to the percentage of websites for which none of two specified pieces of information were provided (See Table 1.3 for more details). Source: Civic Consulting website review.

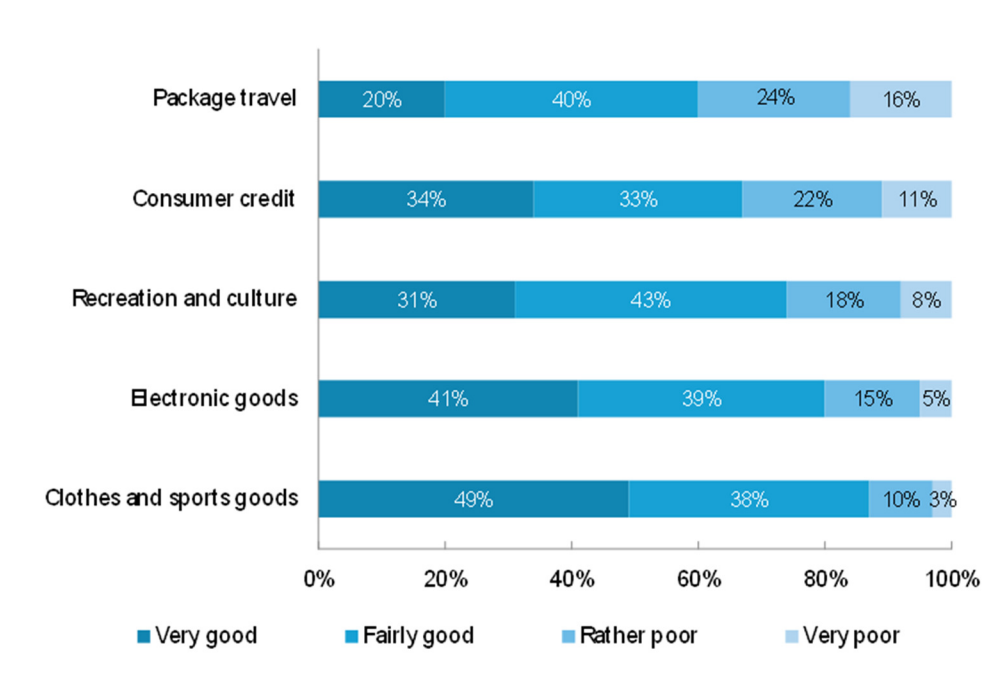
- Information on delivery times was also found to be absent in over 20% of websites selling electronic goods and tickets for entertainment events (where the e-ticket option to print the ticket was not available) in a significant number of Member States.
- Across all sectors, websites in Austria, Czech Republic, Germany, Denmark, Hungary, and Sweden were found to provide the most required information.

Another approach to reporting the results of the web review is to calculate the percentage of websites which failed to implement one rule, two rules, three rules, and so on. These results are presented in Figure 2.3 using the same colour coding as above. Websites not implementing three or more consumer rules were found to be the most prominent in the electronic goods, and recreation and culture sectors. On average across all EU28 Member States, the proportion of websites not implementing one rule ranged from 32% to 42%. In this respect, the best performing were consumer credit websites and the worst performing were package travel websites.

At the conclusion of each website review, researchers were also asked to provide their own subjective assessment of how well the website informed consumers about their rights. The researchers performing this task were all highly qualified, each holding a university degree or higher. Over a third (35%) of reviewed websites was rated as 'very good', and a similar proportion (39%) were seen as 'fairly good'. Under a fifth (17%) was seen as 'rather poor', while under a tenth (9%) were seen as 'very poor'. Overall, three-quarters (74%) of the reviewed websites were rated positively (i.e. either 'very good' or 'fairly good'), while the other quarter (26%) were seen negatively (i.e. either 'rather poor' or 'very poor').

Figure 2.2 presents the results by sector. Electronic goods and clothing/sports were assessed particularly positively by researchers (positive ratings of 80% and 87%, respectively). Consumer credit and event tickets received lower positive ratings (67% and 74%), and package travel was the lowest rated sector – however, with a 60% positive rating a majority of websites was still considered positively regarding this aspect.

Figure 2.2 Overall, in terms of informing consumers of their rights, how would you rate this website? - results by sector



Source: Civic Consulting website review, Question 76



Figure 2.3 Percentage of surveyed websites where one, two, or more pieces of information were missing



No. Rules	Clothes and sports goods				Electronic goods					Package travel				Recreation and culture (tickets for events)					Consumer credit		
	1	2	3	4	1	2	3	4	5	1	2	3	4	1	2	3	4	5	1	2	3
AT	33%	5%	0%	0%	38%	0%	0%	0%	0%	52%	5%	0%	0%	50%	0%	0%	0%	0%	31%	13%	0%
BE	25%	19%	0%	0%	41%	18%	14%	0%	0%	31%	38%	6%	0%	40%	47%	7%	0%	0%	41%	9%	0%
BG	35%	39%	9%	4%	38%	17%	8%	0%	4%	11%	5%	0%	0%	25%	42%	17%	0%	0%	20%	0%	0%
CY	0%	14%	0%	0%	42%	8%	8%	8%	0%	18%	0%	0%	0%	33%	33%	0%	0%	0%	40%	0%	0%
CZ	33%	10%	0%	0%	31%	4%	0%	0%	0%	29%	0%	0%	0%	13%	4%	0%	0%	0%	24%	0%	0%
DE	27%	8%	0%	0%	42%	8%	0%	0%	0%	69%	0%	0%	0%	60%	0%	0%	0%	0%	4%	0%	0%
DK	33%	5%	0%	0%	19%	5%	0%	0%	0%	53%	18%	0%	0%	47%	5%	0%	0%	0%	25%	0%	0%
EE	44%	19%	6%	0%	28%	4%	4%	8%	0%	19%	0%	0%	0%	25%	38%	0%	0%	0%	42%	0%	0%
EL	43%	14%	0%	5%	50%	9%	9%	5%	0%	40%	7%	0%	0%	33%	20%	7%	0%	0%	50%	0%	0%
ES	54%	8%	0%	0%	38%	13%	8%	0%	0%	57%	10%	0%	0%	50%	15%	5%	0%	0%	41%	14%	5%
FI	33%	4%	0%	0%	45%	0%	5%	0%	0%	67%	10%	0%	0%	75%	5%	0%	5%	0%	25%	4%	0%
FR	54%	15%	0%	0%	27%	19%	0%	8%	0%	48%	32%	4%	0%	48%	24%	10%	5%	0%	76%	5%	0%
HR	29%	18%	18%	0%	47%	27%	0%	0%	0%	14%	0%	0%	0%	13%	0%	0%	0%	0%	5%	0%	0%
HU	29%	29%	0%	0%	33%	10%	0%	0%	0%	59%	9%	0%	0%	53%	6%	0%	0%	0%	43%	0%	0%
IE	35%	15%	0%	0%	44%	11%	0%	6%	0%	60%	5%	0%	0%	40%	10%	10%	5%	0%	11%	0%	0%
IT	42%	13%	4%	0%	58%	25%	0%	0%	0%	63%	4%	4%	0%	35%	23%	4%	0%	0%	32%	4%	4%
LT	43%	14%	5%	0%	17%	8%	0%	0%	0%	44%	6%	0%	0%	31%	38%	15%	0%	0%	5%	5%	0%
LU	50%	17%	0%	0%	33%	50%	0%	0%	0%	75%	25%	0%	0%	25%	50%	0%	0%	0%	29%	0%	14%
LV	27%	9%	5%	0%	33%	13%	0%	0%	0%	16%	5%	0%	0%	60%	7%	0%	0%	0%	25%	0%	0%
MT	30%	10%	20%	0%	25%	17%	8%	0%	8%	13%	13%	0%	0%	25%	25%	25%	0%	0%	100%	0%	0%
NL	36%	4%	0%	0%	32%	4%	0%	0%	0%	64%	20%	0%	0%	36%	12%	4%	0%	4%	41%	0%	0%
PL	27%	4%	0%	0%	42%	4%	0%	0%	0%	23%	8%	0%	0%	46%	17%	4%	0%	0%	50%	4%	0%
PT	43%	26%	0%	0%	48%	13%	0%	0%	0%	26%	26%	0%	4%	53%	26%	16%	0%	0%	59%	5%	0%
RO	35%	15%	5%	0%	28%	33%	6%	0%	0%	30%	10%	0%	0%	40%	40%	0%	0%	0%	22%	11%	6%
SE	17%	13%	0%	0%	36%	0%	0%	0%	0%	75%	0%	0%	0%	48%	10%	0%	0%	0%	4%	0%	0%
SI	55%	27%	9%	0%	28%	11%	0%	0%	0%	12%	0%	0%	0%	33%	67%	0%	0%	0%	13%	0%	0%
SK	25%	13%	0%	0%	32%	0%	0%	0%	0%	67%	0%	0%	0%	23%	15%	8%	0%	0%	37%	5%	0%
UK	38%	8%	0%	0%	43%	9%	0%	4%	0%	45%	30%	0%	0%	22%	26%	0%	4%	0%	12%	0%	0%
EU	35%	14%	3%	0%	36%	12%	3%	1%	0%	42%	10%	1%	0%	39%	22%	5%	1%	0%	32%	3%	1%

Source: ICF Analysis

Table 2.1 presents the results of the CPC network's sweep actions⁴⁸, indicating that 32%-69% of websites, depending on the product sector, contained irregularities. Of these websites notified of the irregularities by national enforcement authorities, 61%-81% resolved their irregularities without further action being taken.

On the basis of the percentage of websites found to be missing at least one piece of information, the results of website review appear to be consistent with range reported by the sweeps. However, in practice the two exercises are not directly comparable due to differences in who conducts the investigation and how irregularities are reported.

Table 2.1 Summary of EU-wide website checks (sweeps) by national competent authorities

Online market (year of SWEEP)	Member States involved	Websites investigated	Websites with irregularities	Enforcement rate*
Airline tickets (2007)	15+1 EEA	447	32%	81%
Mobile phone content (2008)	27+2 EEA	554	54%	71%
Electronic goods (2009)	26+2 EEA	369	55%	71%
On-line ticket sales (2010)	27+2 EEA	414	59%	79%
Consumer credit (2011)	27+2 EEA	565	69%	75%
Digital content (2012)	27+2 EEA	330	52%	80%
Travel services (2013)	27+2 EEA	552	69%	62%

Source: COM (2014)439 final – Report on the functioning of Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)

*Enforcement rate indicates the degree of compliance following the enforcement phase of the sweep action: a proportion of compliant websites from the total number of websites that were reviewed.

A detailed summary of the results by sector are presented in the next chapters.

2.3 Electronic Goods

2.3.1 Identification

The overwhelming majority (97%) of the websites selling electronic goods examined presented a postal business address by which the company running the website could be identified. On the remaining 3% of websites, this information could not be found.

2.3.2 Contact details

A little under half (47%) of all websites contained all three types of contact details: an email address, a telephone number and a web contact form.⁴⁹ Half of all websites in our sample selling electronic goods (50%) contained two out of the three types. A very small minority (3%) only contained one contact type, while very few (less than 1%) contained none at all.

⁴⁸ A "sweep" is an EU-wide screening of websites to identify breaches of consumer law in a given on-line market and to subsequently ensure compliance through enforcement activities.

⁴⁹ Web contact forms were defined as webpages which allowed input of contact details (name, email address, etc.) as well as space for a message to the company. Therefore email sign-up forms were not included, nor were 'chat' functions which are often automated.

2.3.3 Product information

The vast majority (88%) of sampled websites selling electronic goods contained the required two key pieces of information for the example product in question.⁵⁰ Just over one in ten (11%) contained only one of the two pieces, while a small fraction (1%) contained neither.

2.3.4 Price information

Just under three-quarters (73%) of all the websites for electronic goods in our sample gave a final price to pay which matched the initial price offered for the tablet computer in question. This was based on a comparison of the price that was initially displayed on the product page, and the price that was displayed on the last page the researchers could access before they were required to provide payment details. One in four (26%) however was found to provide a final price to pay that was higher than the initial price offered. Only 1% of websites selling electronic goods actually presented a lower final price to pay than the initial price offered.

In terms of what makes up the final price to pay when buying the example tablet computer, extra costs comprising taxes and/or delivery costs were examined to see if they were made clear. The majority of websites reviewed selling electronic goods (70%) provided both pieces of information clearly, while over a quarter (28%) provided one of the two.

2.3.5 Purchase information

Researchers also searched for key information that helps consumers make purchases on the website. In terms of the two key pieces of information (about whether information on payment methods and expected delivery time were present and easy to find), the majority of websites selling electronic goods (83%) contained both pieces of information, while 16% contained just one. 1% of websites contained neither pieces of information.

Three out of every ten websites selling electronic goods (30%) sold products to other countries. A slightly higher proportion (39%) did not, while in another 31% of the websites, researchers could not find information one way or the other and therefore said it was unclear whether the website sold products in other countries.

2.3.6 Right to withdraw

More than three-quarters (77%) of the sampled websites selling electronic goods contained clearly worded information that was easy to find regarding the customer's right to withdraw (i.e. return the product within a minimum of seven days). 12% of websites were found to have clear information but researchers said it was difficult to find on the website. 4% were judged to only provide unclear information, while 7% of websites were found to have no information on this right.

2.3.7 Terms and Conditions

On average one out of every ten websites selling electronic goods reviewed (10%) did not contain terms and conditions, while 90% did. Of those reviewed websites which did contain terms and conditions, only Belgium, Cyprus and Latvia showed any variation in their language from the rest of the website.

Researchers also found that a fifth (19%) of websites selling electronic goods with terms and conditions had a print or download function which allows consumers to easily keep a copy of the terms and conditions. A further three-quarters (76%) had terms and conditions which could be printed easily through the browser function. Just over one twentieth (5%) of websites with terms and conditions did not provide any way to print easily.

⁵⁰ Whether there is information about the display resolution of the tablet computer screen; and whether there is information about the internal storage of the tablet computer, both of which are important for consumers making purchase decisions.

2.3.8 Researcher's overall experience of website

Researchers were overall more positive about websites selling electronic goods in terms of informing consumers of their rights than the total scores across all markets. Overall, four fifths of websites selling electronic goods (80%) in our sample were assessed positively in terms of informing consumers about their rights. On the other hand, one fifth (20%) of websites selling electronic goods were seen negatively by our researchers after the review was completed.

2.4 Clothes and sports goods

2.4.1 Identification

As with electronic goods, 97% of the websites selling clothes and sports goods examined presented a postal business address by which the company running the website could be identified. On the remaining 3% of websites, this information could not be found.

2.4.2 Contact details

More than half of reviewed websites (52%) contained all three types of contact details - the highest score across all five market sectors. 45% of reviewed websites selling clothes and sports goods contained two out of three types, while a small minority (3%) contained only one contact type. There were no websites that contained no contact details at all.

2.4.3 Product information

Researchers searched for two pieces of key information regarding a randomly chosen product from the pre-defined product category (sports shoes): whether there is information about the colour of the sports shoe that the researcher was purchasing; and whether there is information about the materials that make up the shoes. Nearly three-quarters (72%) of sampled websites selling clothes and sports goods contained both pieces of information for the example product in question. More than a quarter (28%) contained only one of the two pieces, while a small fraction (less than 1%) contained neither.

2.4.4 Price information

Two thirds (66%) of all the websites for clothes and sports goods in our sample gave a final price to pay which matched the initial price offered for the sports shoes in question. A third (32%) however were found to charge a final price to pay that was higher than the initial price offered. On the whole, this rise in price tended to be due to delivery/shipping costs which were not included in the initial price offer, or which were not specified when the initial price was indicated. Only 2% of websites selling clothes and sports goods actually presented a lower final price to pay than initially offered.

In terms of what makes up the final price to pay when buying the example sports shoes, extra costs such as taxes and delivery costs were examined to see if they were made clear. Half of the websites sampled selling clothes and sports goods (50%) contained both pieces of information. Fractionally less (49%) contained just one of the pieces of information while very few (less than 1%) contained neither pieces of information.

2.4.5 Purchase information

Researchers also searched for key information that helps consumers make purchases on the website. The details that were searched for in particular were whether information on payment methods is present, and whether it was easy to find, and whether information regarding expected delivery time was present, and whether it was easy to find. Researchers also looked for information on whether the websites shipped clothes and sports goods to other countries.

In terms of the two key pieces of information (about payment method and delivery time), the majority of websites selling clothes and sports goods in our sample (88%) contained both

pieces of information, while 12% contained just one. Less than 1% of websites sampled contained neither piece of information.

Nearly half of clothes and sports shoes websites in our sample (48%) sold products to other countries. Just under a third (31%) did not, while in another 21% of the websites sampled, researchers could not find information one way or the other and therefore said it was unclear whether the website sold products in other countries.

2.4.6 Right to withdraw

More than four fifths (82%) of the sampled websites selling clothes and sports goods contained clearly worded information that was easy to find regarding the customer's right to withdraw (i.e. return the product within a minimum of seven days). A further 10% of sampled websites were found to have clear information but researchers said it was difficult to find on the website. 2% were judged to only provide unclear information, while 6% of sampled websites were found to have no information on this right.

2.4.7 Terms and Conditions

On average one out of every ten (10%) websites selling clothes and sports goods reviewed did not contain terms and conditions, while 90% did.

Other aspects researched in the context of terms and conditions included their language, and whether it was possible to print or download them. Of the reviewed websites which did contain terms and conditions, only Greece and Lithuania showed any variation in their language from the rest of the website.

Researchers found that a tenth (11%) of reviewed websites selling clothes and sports goods with terms and conditions had a print or download function which allowed consumers to easily keep a copy of the terms and conditions. A further four fifths (81%) had terms and conditions which could be printed easily through the browser function. Less than one tenth (8%) of websites with terms and conditions did not provide any way to print easily.

2.4.8 Researcher's overall experience of website

Nearly half (49%) of all websites selling clothes and sports goods were rated by researchers as 'very good' and more than a third (38%) were seen as 'fairly good' in terms of informing consumers about their rights. 10% were seen as 'rather poor', while only 3% were seen as 'very poor'.

Websites selling clothes and sports goods were the most positively rated of all the sectors in this respect. Overall, more than four fifths of reviewed websites selling clothes and sports goods (87%) were viewed positively. On the other hand, just over one in ten (13%) of websites selling clothes and sports goods were seen negatively by our researchers after the review was completed.

2.5 Package Travel

2.5.1 Identification

The overwhelming majority (97%) of the package travel websites sampled presented a postal business address by which the company running the website could be identified. On 3% of websites, this information could not be found.

2.5.2 Contact details

Just more than two fifths (43%) of package travel websites contained all three types of contact details. More than half of all package travel websites (53%) contained two out of three types. A small minority (4%) only contained one contact type, while there were no websites which contained none at all.

2.5.3 Product information

Overall, the vast majority of sampled websites (93%) contained two pieces of key information for the example holiday in question. A further 6 % contained only one; while a tiny proportion (1%) did not contain either pieces of information.

2.5.4 Price information

On less than a quarter (23%) of package travel websites in our sample was the final price to pay stated for the holiday in question the same as the initial price offered. 44% of all package travel websites in our sample provided a higher final price to pay than initially offered, while 7% gave a lower final price to pay.

When it came to examining price issues in the package travel sector, researchers faced some difficulties. In certain Member States (e.g. Bulgaria, Croatia, Cyprus, Estonia, Romania and Slovenia) it was rarely possible to purchase travel packages online. While particularly prevalent in these countries, this issue affected 26 % of the total sample of package travel websites. However, of those that remained, in less than a quarter (23%) of package travel websites in the sample was the final price to pay stated for the holiday in question the same as the initial price offered. 44% of all package travel websites in our sample provided a higher final price to pay than initially offered, while 7% gave a lower final price to pay.

In terms of what makes up the final price to pay when buying the example package holiday, extra costs such as taxes and delivery costs for tickets and/or vouchers were examined to see if they were made clear. Only just over one in ten (13%) of reviewed package travel websites on which online purchase was possible contained both pieces of information, while 46% contained one of the two. 41% of reviewed package travel websites on which online purchase was possible contained neither pieces of information.

2.5.5 Purchase information

Researchers also searched for key information that helps consumers make purchases on the website. In terms of the two key pieces of information (about payment methods and delivery arrangements), just over half of sampled package travel websites on which online purchase was possible (51%) contained both pieces of information. Over a third (37%) contained just one of the pieces of information while 12% contained neither piece of information.

2.5.6 Terms and conditions

Slightly more than one out of every ten reviewed package travel websites (13%) did not contain terms and conditions, while 87% did. Of those of the reviewed websites which did contain terms and conditions, those in Cyprus, Denmark, Estonia and Greece showed variation in their language from the rest of the website.

Researchers found that two fifths (41%) of reviewed package travel websites with terms and conditions had a print or download function which allows consumers to easily keep a copy of the terms and conditions. A further half (54%) had terms and conditions which could be printed easily through the browser function. Just over one twentieth (4%) of websites with terms and conditions did not provide any way to print easily.

2.5.7 Researcher's overall experience of website

Researchers were overall more negative about sampled package travel websites than any of the other sectors, in terms of the informing consumers of their rights. One fifth (20%) of websites sampled were rated as 'very good', by far the lowest in any sector. Overall, two fifths of package travel websites (40%) in our sample were assessed negatively in terms of informing consumers about their rights. On the other hand, three fifths (60%) of package travel websites were seen positively by our researchers after the review was completed.

2.6 Recreation and Culture

2.6.1 Identification

The overwhelming majority (96%) of the recreation and culture websites examined presented a postal business address by which the company running the website could be identified. On 4% of websites sampled, this information could not be found.

2.6.2 Contact details

A third (33%) of reviewed recreation and culture websites contained all three types of contact details - the lowest score across all five market sectors. Three fifths (60%) of all recreation and culture websites in our sample contained two out of three types. Fewer than one in ten (7%) only contained one contact type, while no websites contained none at all.

2.6.3 Product information

Researchers searched for three pieces of key information regarding a ticket for a randomly chosen event: whether the date and time of the event are stated; whether the location of the event is stated; and whether there is information about seat category of the ticket (or whether it makes clear there is only one category of seat). The vast majority (90%) of recreation and culture websites sampled contained all three pieces of information for the example event in question. Just under one in ten (9%) contained two of the three pieces of information, while very few websites contained only one (1%) or none (less than 1%).

2.6.4 Price information

The majority (58%) of sampled websites offered a final price to pay that was identical to the initial price offered for the event ticket in question. Two fifths (41%) however were found to provide a final price to pay that was higher than the initial price offered.

This is largely due to widespread use of administration fees that are sometimes not specified when the initial price was indicated but only made clear once the exact date and time of event has been specified. In some cases, delivery costs for the tickets were added, and not specified with the initial price, therefore increasing the final price to pay. In 1% of sampled websites the final price to pay was actually lower than the initial price offered.

In terms of what makes up the final price to pay when buying the example event ticket, extra costs such as taxes and delivery costs for tickets were examined to see if they were made clear. Only a quarter (26%) of recreation and culture websites reviewed contained both pieces of information, while just under two fifths (58%) contained one of the pieces. A sizeable minority (16%) of the reviewed websites contained neither pieces of information.

2.6.5 Purchase information

Researchers also searched for key information that helps consumers make purchases on the website. In terms of the two key pieces of information (about the availability of information about payment methods and delivery arrangements, whether, for example, tickets will be delivered by post, e-mail or will be available for immediate download-print), the vast majority (89%) of sampled recreation and culture websites contained both pieces of information. Approximately one in ten websites (10%) contained just one of the pieces of information while very few (1%) contained neither pieces of information.

2.6.6 Right to reimbursement

Researchers were asked to examine how recreation and culture websites inform consumers about their rights where an event is postponed or cancelled. While the majority of sampled websites (60%) contained no information on their reimbursement policy or procedure, 40% of sampled websites did state that they employ a policy of full reimbursement for a cancelled or

postponed event.⁵¹ Less than 1% indicated that they provide partial reimbursement. Nevertheless, according to the consumer rules on which the websites are reviewed, the overwhelming majority of sampled websites (more than 99%) did not contain a misleading term regarding the consumer's right to reimbursement.

2.6.7 Terms and Conditions

Nearly one in every five (17%) recreation and culture websites reviewed did not contain terms and conditions, while 83% did. Of those of the reviewed websites which did contain terms and conditions, researchers in eight countries found that some were presented in a language that differed from the rest of the website⁵². Researchers found that 14% of reviewed recreation and culture websites with terms and conditions had a print or download function which allows consumers to easily keep a copy of the terms and conditions. A further three-quarters (78%) had terms and conditions which could be printed easily through the browser function. Just under one tenth (8%) of reviewed websites with terms and conditions did not provide any way to print easily.

2.6.8 Researcher's overall experience of website

Nearly a third (31%) of all recreation and culture websites in our sample were rated by researchers as 'very good' and more than two fifths (43%) were seen as 'fairly good' in terms of informing consumers of their rights. Just under one in five (18%) were seen as 'rather poor', while only 8% were viewed as 'very poor'.

Overall, just fewer than three quarters (74%) of recreation and culture websites in our sample were positively rated, while just over one quarter (26%) of reviewed recreation and culture websites were viewed negatively by researchers after the review was completed.

2.7 Consumer Credit

2.7.1 Identification

The overwhelming majority (99%) of the consumer credit websites examined presented a postal business address by which the company running the website could be identified. On 1% of websites, this information could not be found.

2.7.2 Contact details

Researchers were asked to search for three types of contact details: an email address, a telephone number and a web contact form. The results show that 43% of reviewed consumer credit websites contained all three types of contact details. The majority however (50%) contained two out of three types, while a small minority (6%) contained only one contact type. Less than 1% of consumer credit websites contained no contact details at all.

2.7.3 Product information

In order to be able to find the best loan, consumers wanting to take out credit need comparable information that is both simple to understand and easy to compare. We therefore asked researchers to search for two pieces of key information regarding consumer credit: the Annual Percentage Rate of Charge (APR); and an indication of the total cost of credit that a loan at a certain APR would incur.⁵³ Researchers searched for both these

⁵¹ Full reimbursement was taken to mean the full price of the ticket, but excluding all administration and delivery fees. Partial reimbursement was taken to mean less than the face value of the ticket. For example, if a ticket cost €10 and a €2 administration fee, then full reimbursement would be €10 (or more), while less than €10 would count as partial reimbursement.

⁵² This was found to be the case in Belgium, Denmark, Estonia, Finland, France, Italy, Spain and Sweden.

⁵³ These figures do not have to apply to the exact amount that the consumer wants to borrow; they need only be presented for an example loan. Therefore researchers were asked to search the website for these pieces of information, but not attempt to submit a request for credit.

pieces of information on consumer credit websites. Just under two thirds (63%) of the consumer credit websites in our sample contained both pieces of information, while a fifth (20%) contained just one. 16% did not contain either.

2.7.4 Terms and Conditions

On average, roughly one in six (17%) consumer credit websites from our sample did not contain terms and conditions, while 83% did. Other aspects researched in the context of terms and conditions included their language, and whether it was possible to print or download them. Of those reviewed websites which did contain terms and conditions, only two countries showed any variation in their language from the rest of the website, namely Austria and Hungary.

Researchers also found that nearly two thirds (65%) of reviewed consumer credit websites with terms and conditions had a print or download function which allowed consumers to easily keep a copy of the terms and conditions. A further third (31%) had terms and conditions which could be printed easily through the browser function. One twentieth (4%) of reviewed consumer credit websites with terms and conditions did not provide any way to print easily.

2.7.5 Researcher's overall experience of website

Consumer credit websites were rated more negatively by researchers than the total scores across all markets in terms of how well they inform consumers about their rights, although not as negatively as the package travel sector. One third (34%) of all consumer credit websites in our sample were rated by researchers as 'very good' and the same proportion (33%) were seen as 'fairly good'. A fifth (22%) was seen as 'rather poor', while more than a tenth (11%) was viewed as 'very poor'.

Overall, one third of reviewed consumer credit websites (33%) were seen negatively by our researchers after the review was completed. Conversely, two thirds (67%) were rated positively.

2.8 Summary of the results

The results confirm that information regarding the **price** is the most likely to be misrepresented when consumers make online purchases, as the final price quoted for payment was higher than the initial price provided in over 20% of websites reviewed, irrespective of the product sector. Information on the right to **reimbursement** was also found to be absent in over 20% of websites in the recreation and culture (ticket sales) sector. Information regarding the **product** was also found to be absent in a large number of websites in the consumer credit sector (16% contained neither information on the APR nor the total cost of the loan). In the clothing and sports goods sector, over a quarter of websites were found to provide only one of the two pieces of the product information searched for (colour and material of sports shoes). The product characteristic (i.e. colour) may be clear from the image of the product provided on the website, which may explain the high number of irregularities when searching for text information.

Although a subjective indicator, the researcher's overall experience with the website takes into account whether the information was clearly presented and whether the researcher was able to find the requested information easily. This indicator was negative (rated 'rather poor' or 'very poor') for more than 20% of websites reviewed in every sector, except in the clothing and sports goods sector.

3 Caseload scenarios (2014-2025)

3.1 Introduction

The 2012 external evaluation⁵⁴ concluded that the CPC network is not reaching its full potential, suggesting the current caseload of the CPC network is lower than it should be, based on the proportionate of trade and complaints received by EECs which are cross-border in dimensions. Therefore, the current CPC caseload does not fully reflect the total number of intra-Community infringements occurring presently, or which are expected to occur in the future.

The current caseload (presently around 120 enforcement requests per annum, as recorded in the CPC IT System) is not accurate and does not capture the true number of infringements which should be tackled by the CPC network. It is therefore necessary to quantify the number of infringements which could benefit from the CPC today and in the future to better understand the need for a cooperation framework in the EU. Estimation of the future caseload potential for the CPC network is also necessary so that the impact assessment fully captures the present and future enforcement situation in the EU, in terms of the caseload handled by Member State enforcement authorities under the CPC Regulation, as well as the financial detriment suffered by consumers. Only by quantifying the intra-Community challenge faced by enforcement authorities is it possible to assess the potential of the mutual assistance tools established in the CPC Regulation to make a positive contribution to reducing consumer detriment, improve consumer confidence and ultimately the functioning of the internal market.

This is done by complementing CPC case statistics with other infringement information gathered from enforcement authorities and taking into account trends in consumer expenditure, business organisation and technology. The baseline estimates evolutions in the domestic, EU cross-border and international (involving a non-EU component) infringements, including the consumer detriment. The baseline scenario also considers how different notions of intra-Community infringements may affect this caseload.

Scenario based quantification is undertaken based on evidence gathered from primary (stakeholder consultation and website review) and secondary sources (sector and consumer relevant literature, including gathered statistical data⁵⁵) as detailed in Section 1.

In order to gauge the full case potential of CPC, the study has developed forecasts of the potential scale of infringements (and the consumer detriment) occurring in the selected eight Member States and five product sectors over the period 2014-2025. These forecasts taking into account domestic, domestic parallel, cross-border and international infringements represent upper and lower bound estimates of potential need for enforcement measures in the five sectors of the study. Upper and lower bound estimations of infringements (and the consumer detriment) are presented. It is determined that the 'best guess' scenario will be somewhere between these two bounds, and thus an average of these two bounds are presented to represent the most likely outcome based on available information.

The aggregate results were then extrapolated to EU totals per product sector, based on the proportion of retailers represented in the eight Member States to total retailers across the EU (collected from Eurostat). For consumer detriment, the proportion of population represented in the selected eight Member States to total EU population was used for extrapolation.

⁵⁴ http://ec.europa.eu/consumers/enforcement/docs/cpc_regulation_inception_report_revised290212_en.pdf

⁵⁵ The data also includes ECC-NET complaint data.

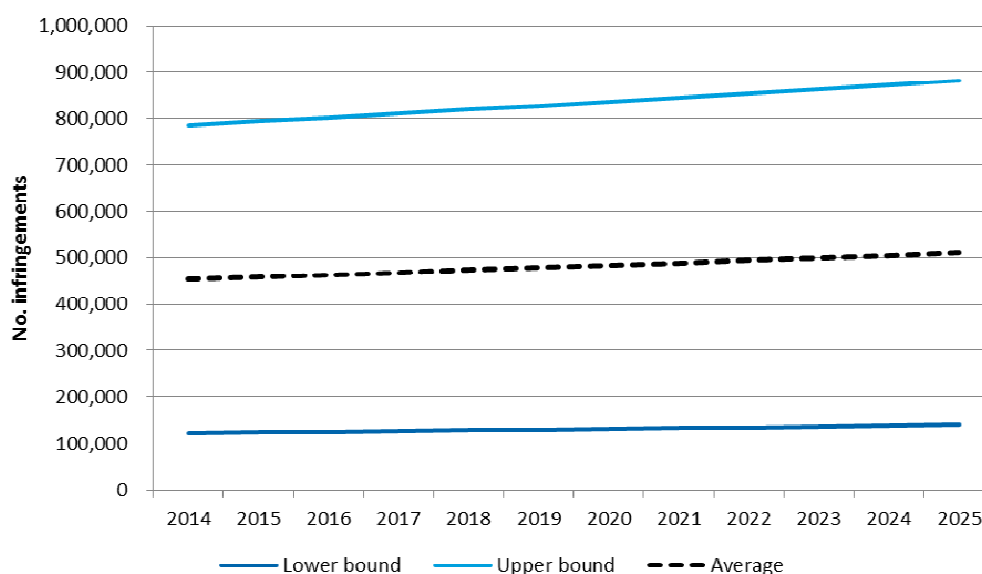
3.1.1 Key data used for estimation

Baseline estimates are calculated through a modelling exercise in which the methodology and assumptions have been scrutinised by an external expert panel⁵⁶ who was consulted in this study to ensure its completeness and robustness. The calculation method followed is provided in Annex 2 with key variables and data sources (Annex 3), and assumptions (Annex 4) to replicate the results if need be. The majority of the background data used in the model was gathered from publically available sources, such as Eurostat and national consumer authorities.

3.2 Headline estimates of the CPC baseline caseload

The total number of infringements in the baseline ranges from 123,000 infringements in the lower bound to 787,000 infringements in the upper bound (455,000 average) in 2014, increasing to 140,000 and 881,000 infringements respectively in 2025 (510,000 average), as shown in Figure 3.1. The results are driven by the assumed infringement rates of businesses, as other factors in the model such as a sector's share of total consumer expenditure or the rate of economic growth are considered to change marginally overtime.

Figure 3.1 Estimated total infringements by scenario (2014-2025)



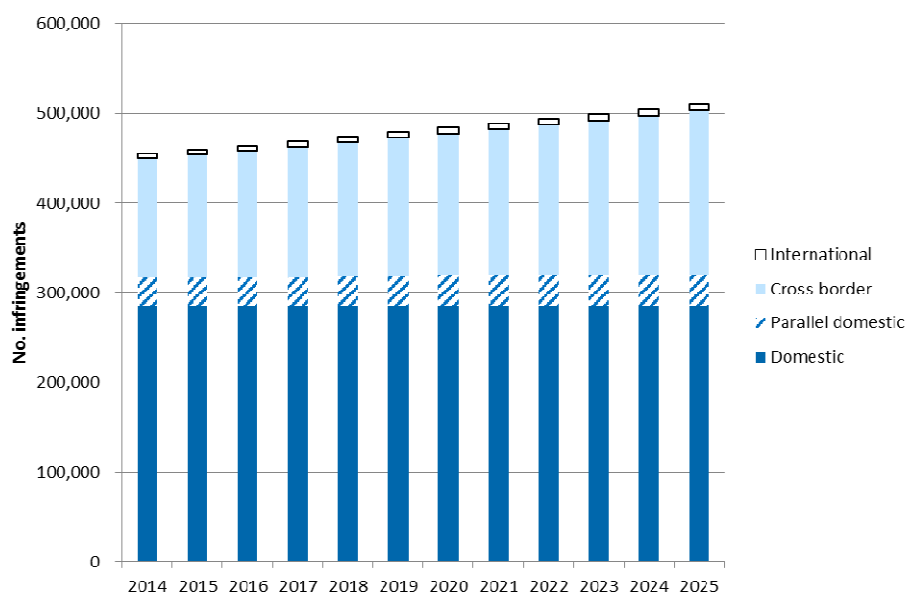
Source: ICF Analysis

The breakdown between typology of infringements is provided in Figure 3.2 for the average scenario, illustrating that an increasing proportion of infringements contain a cross-border dimension (i.e. they are parallel domestic, EU cross-border or international infringements). The percentage of infringements with a cross-border dimension is estimated to increase as a share of the total from 30% in 2014 to 36% in 2025, the largest and growing proportion of which are intra-Community infringements.

Total consumer detriment in the lower bound is estimate to increase from €4 billion in 2014 to €4.5 billion in 2025. Similarly the upper bound is estimated to increase from €18.9 billion to €20.3 billion over the same period. Our best guess average detriment is estimate to increase from €11.5 billion to € 12.4 billion (an eight per cent increase between 2014 and 2025), see Figure 3.3.

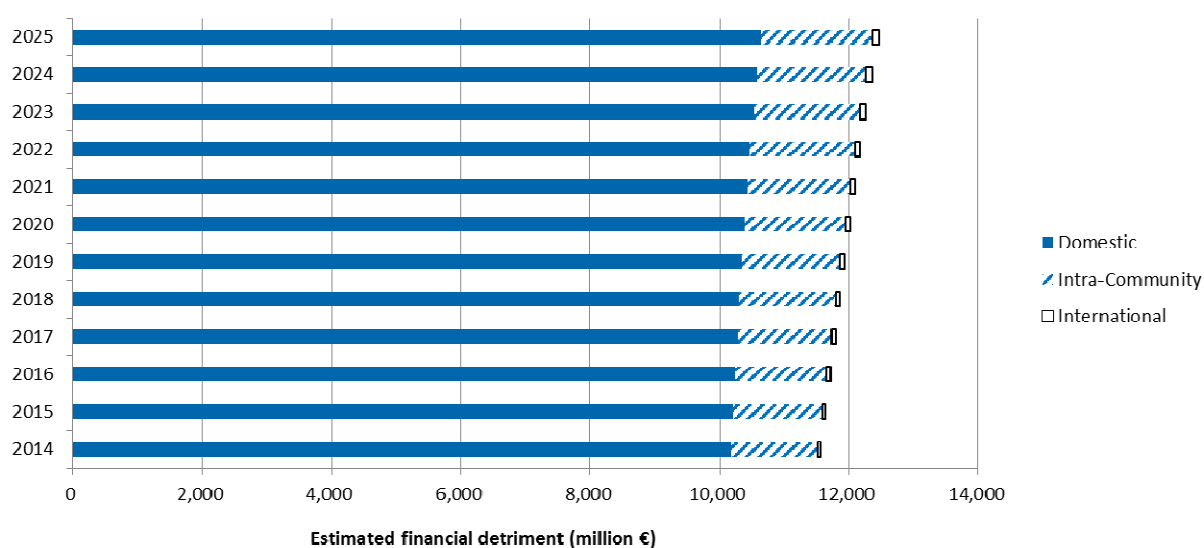
⁵⁶ Experts panels involved the input of Professor Geraint Howells – Expert in European and consumer law, Professor Stephen Davies – Expert in the evaluation of competition and consumer economics; Anabela de Brito and Jacques Pelkmans from the Centre for European Policy Studies (CEPS) - experts in EU consumer policy in the internal market

Figure 3.2 Estimated number of infringements in the average scenario by typology



Source: ICF Analysis

Figure 3.3 Estimated financial detriment in the average scenario by typology (million €)



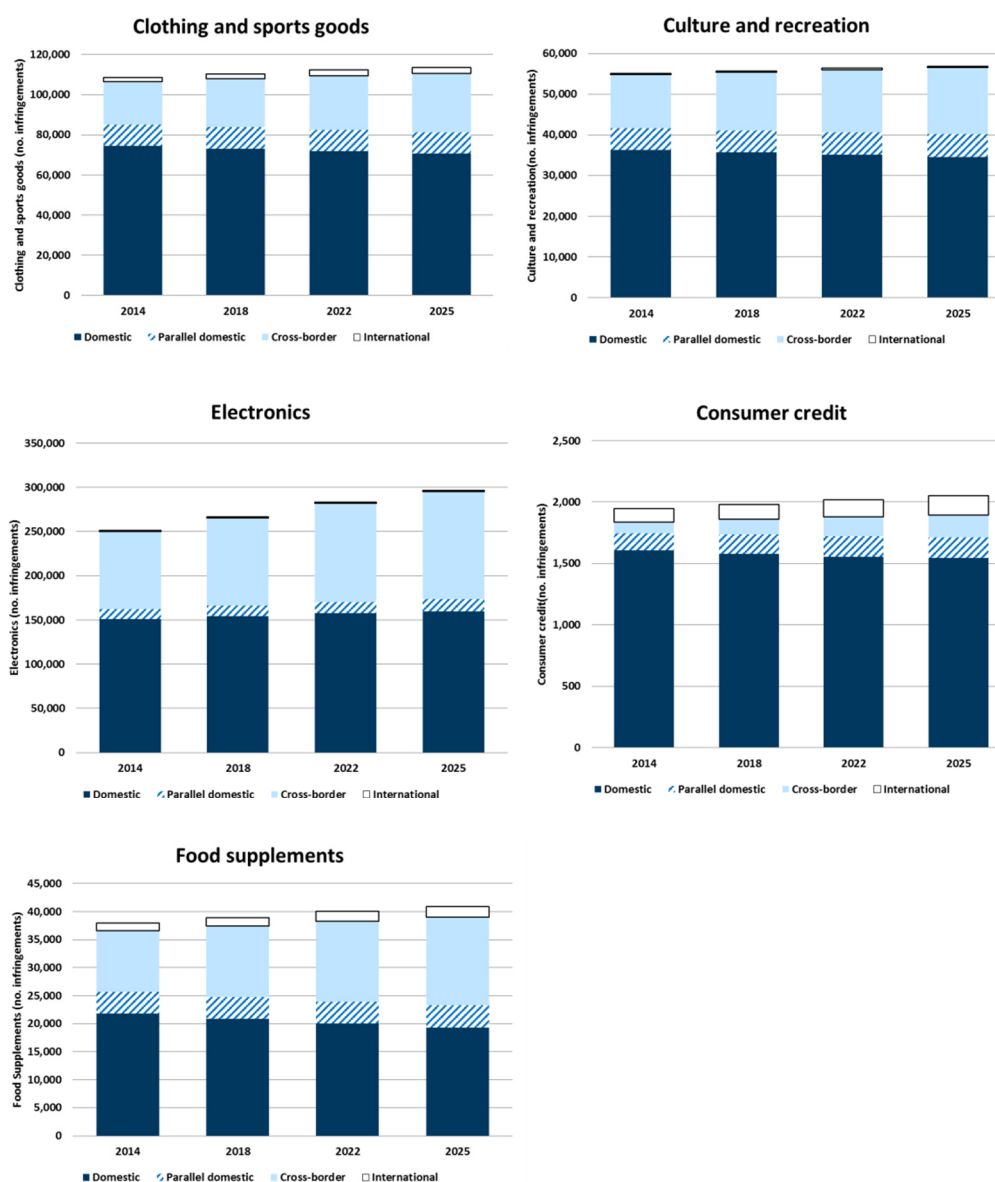
Source: ICF Analysis

Figure 3.4 shows the variation in the composition of estimated infringements in each of the five selected consumer sectors for which estimates were calculated. The results are consistent with data coming from ECCs on the number of complaints handled in these sectors per annum, specifically the increasing numbers which are cross-border relevant. This is particularly relevant to food supplements, as ECCs in both Ireland and Finland have highlighted infringements relating to this type of products are increasing. However, as these products are relatively low value (compared to electronics or consumer credit), the financial detriment is lower (in 2012 the average consumer detriment per product was €11 for food supplements and €52 for electronic products). However, the results indicate that consumer credit remains a primarily domestic sector characterised by limited cross-border transactions by consumers.

For both domestic and cross-border, a higher number of infringements can be seen in the food supplements, consumer credit and electronic goods sectors. This is a reflection of higher non-compliance rates within these sectors and evolving importance as a share of average consumer expenditure. For example, both food supplements and consumer credit sectors were characterised by high non-compliance rates (8%-11% for the lower bound scenario and 32%-42% for the upper bound) and electronics had a slightly lower non-compliance rate (5% for the lower bound and 36% for the upper bound). However, consumer electronics is a large sector and therefore inflates the number of estimated infringements.

The breakdown of infringements also reflects increases in e-commerce, often a driver of cross-border shopping and the relative penetration of consumer sectors into neighbouring geographic markets. For example, there is currently limited cross-border trade in consumer credit, in contrast to more developed markets such as consumer electronics and food supplement. These estimates generally reflect the trends in consumer shopping behaviour and complaints recorded by ECC-NET.

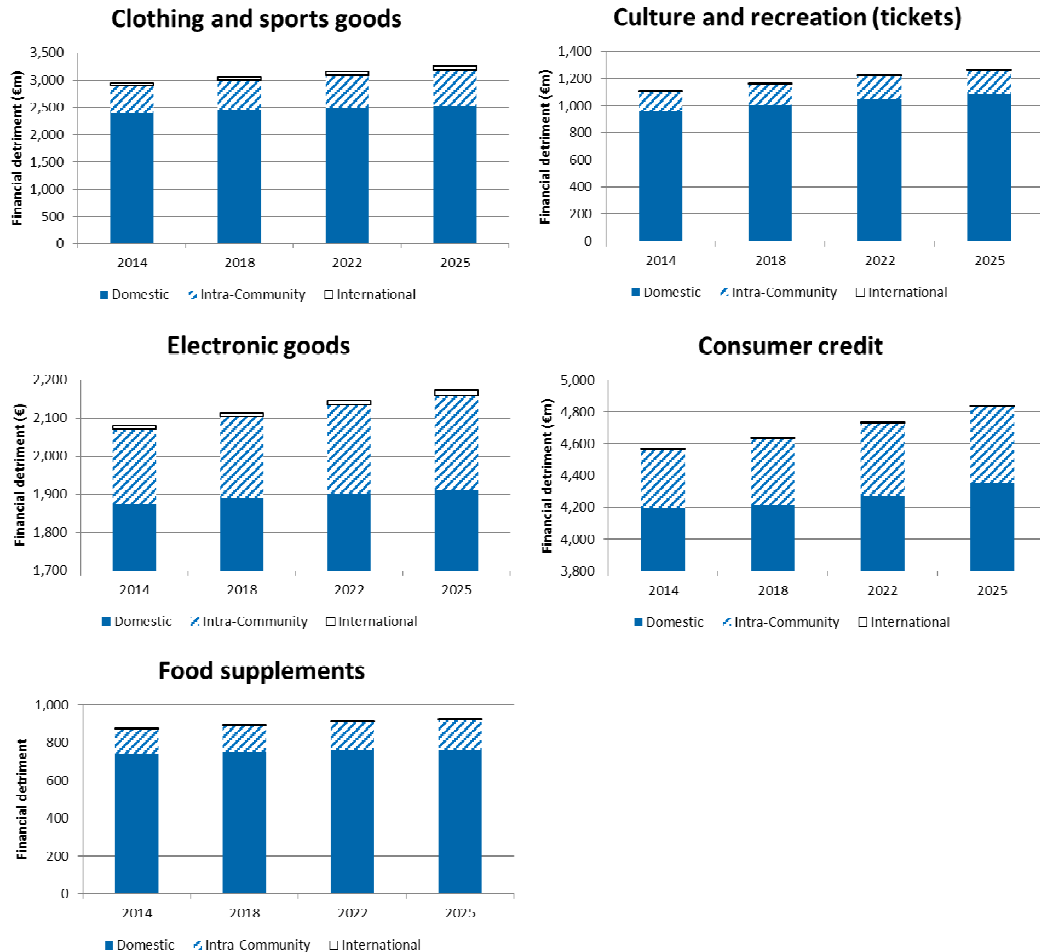
Figure 3.4 Estimated number of infringements by consumer sector



Source: ICF Analysis

The associated financial detriment suffered by consumers from the infringements in Figure 3.4 is estimated and provided in Figure 3.5.

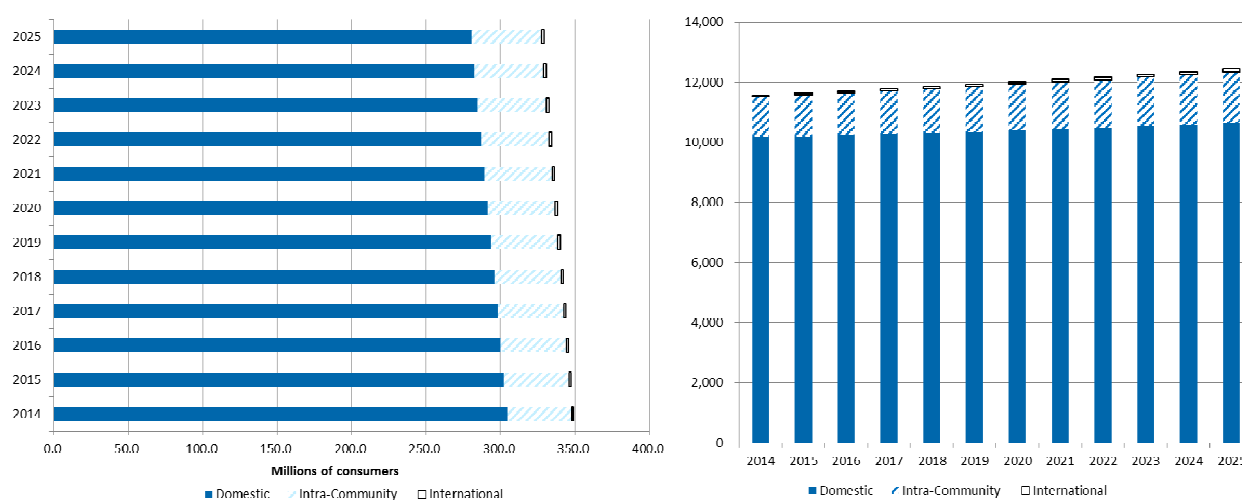
Figure 3.5 Estimated financial detriment by consumer sector (€ million)



Source: ICF Analysis

Returning to the total aggregate number of infringements estimated in the baseline, the number of consumers affected by the infringements and the associated financial detriment they are assumed to have suffered from the infringements is shown in Figure 3.6.

Figure 3.6 Estimated number of consumers affected and financial detriment in the baseline (average scenario)



Source: ICF Analysis

The most significant increases in financial detriment are associated with intra-Community infringements, the details by sector are presented in the following sub-sections.

3.3 Clothing and sports goods

3.3.1 Definition of the sector

Clothing and sports goods category encapsulates a wide range of products and thus a specific definition that could be applied at the EU level is not feasible. For the purpose of this exercise, it is understood that ‘clothing and sports goods’ category would include all types of clothes with most common examples being jeans, dresses, jackets and shirts including also various sports’ clothes as well as various type of sports’ equipment (e.g. sport bags, football balls, tennis rackets, etc.).

Eurostat offers the data⁵⁷ which broadly reflects above mentioned typology. More specifically, it provides the breakdown of final consumption expenditure into two components:

- Clothes (CP031);
- Footwear (CP032).

These two components reflect the scope of products that would be capture under this selected sector with the exception to some type of sports goods which do not fall under any of these two components. For example, sport shoes are part of CP032 and sport clothes are part of CP031, some particular goods like football balls, tennis rackets or similar, are not.

3.3.2 Estimated scale of infringements

Table 3.1 details the estimated evolution in domestic, cross-border and parallel infringements under the average scenario (that is, the average between the upper and lower bound scenarios discussed in section 1.3.2, see step 1).

⁵⁷ Eurostat, 2014. Final Consumption Expenditure of Households by Consumption Purpose. Available at: <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>

Table 3.1 Average Scenario: Scale of Infringements, 000's of infringements (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements:	106	107	107	107	108	108	109	109	109	110	110	111
<i>Of which:</i>												
Domestic	75	74	74	73	73	73	72	72	72	71	71	71
Cross-border	21	22	23	23	24	25	26	26	27	28	28	29
Parallel	10	11	11	11	11	11	11	11	11	11	11	11

Source: ICF Analysis. The range of estimations can be found in Annex 5.

The number of domestic infringements is estimated to slightly decrease from 74,000 in 2014 to 71,000 in 2025. This decline is offset by a forecasted increase in the number of cross-border infringements within this sector – increasing from 21,000 in 2014 to 29,000 in 2025 in line with expectations of increasing rates of cross-border shopping. The number of parallel infringements is estimated to remain relatively constant, as many larger clothing and sports goods retailers already have a presence in multiple Member States.

Nature of infringements in clothes and sports goods sector:

- The most common types of infringement for clothing and sports goods relate to product information (i.e. not providing price and other information) and also the final prices not matching the initial price advertised (irregularities were found in 28% of websites in the website review ;
- A 2008 survey on satisfaction shows that the majority of consumers in the EU-27 are relatively satisfied with their clothing and footwear retailers: on a scale of 1-10, with 1 being not at all satisfied and 10 being fully satisfied, an average of 8.3 was recorded in the EU-27⁵⁸. Hence infringements are not expected to be high or rapidly increasing given the maturity of the sector and its online presence in countries such as the UK.
- The same survey reported that the quality of goods received the highest number of complaints from consumers, which could be related to poor provision of production information.
- The absence of terms and conditions was also highlighted in the website review as source of infringements (although less common than those mentioned above).

Key Market/ industry trends:

- As of 2012, consumption expenditure of households on clothing and footwear was €382,483 million (or, 5.8% of final consumption expenditure);
- Across the EU (as of 2011) there were 548,442 enterprises retailing clothing and footwear;
- Average spend per capita across the EU is €903, although this varies significantly by Member State (for example domestically, in the UK per capita spending is €1,356 while in Poland it is €278);
- Consumption of clothing and footwear declined in the wake of the financial crisis (contracting by roughly €30 billion. It was only in 2012 that consumption levels returned to pre-2007 levels;
- In terms of future trends, it is expected that because of the rising cost of energy, food and other essentials over the next 20 years consumer spending on clothing and footwear may decrease as a share of total consumer expenditure. A study by Which? predicts clothing and footwear expenditure will fall from 5.8% of total consumption expenditure in 2013 to 5.5% in 2020⁵⁹ in the UK;
- There is strong development of cross-border e-shopping in this sector and it is predicted that this trend will continue⁶⁰. Many stores are strengthening their online presence and incorporating

⁵⁸ Retail satisfaction survey', IPSOS for the European Commission, August/September 2008

⁵⁹ Which? Consumer Insight, January 2013. 'Consumers in 2030: Forecasts and projections for life in 2030'. Available at: <http://www.forumforthefuture.org/sites/default/files/project/downloads/future2030-finalreport.pdf>

⁶⁰ The European Consumer Centres Network 2012 Annual Report. Available at: file:///C:/Users/30243/Downloads/Report_ECC-Net_2012.pdf

this into their sales strategies as reported in recent market intelligence suggesting that clothing and footwear shopping in Europe is the most popular online retail sector⁶¹.

3.3.3 Estimated scale of detriment

Tables 3.2 and 3.3 shows the number of consumers potentially harmed by the infringements taking place in the sector and potential financial losses resulting from these.

Table 3.2 Average Scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers:	68	67	67	67	67	67	66	66	66	66	66	65
<i>Of which:</i>												
Domestic	56.6	55.7	55.3	55.0	54.6	54.3	53.9	53.6	53.2	52.9	52.5	52.2
Cross-border	3.6	3.7	3.8	4.0	4.1	4.3	4.5	4.6	4.8	5.0	5.1	5.3
Parallel	7.4	8.0	8.0	8.0	8.0	7.9	7.9	7.9	7.9	7.9	7.9	7.9

Source: ICF Analysis. The range of estimations can be found in Annex 5.

From Table 3.2 in 2014, approximately 68 million consumers are estimated to be affected by infringements within the clothing and sports goods sectors. Of these, 56 million are domestic infringements, 4 million are cross-border infringements and 8 million are parallel infringements. Estimates for 2025 suggest the number of consumers affected domestically will decrease (to 52 million) whilst the number affected cross-border will increase (to 5 million). Consumers affected by parallel infringements will remain relatively stable at 8 million. Overall, there is a downward trend in the number of consumers potentially affected as the model takes into account a small decrease in the population for countries like Germany from Eurostat projections, and assumes a small increase in the number of retailers in this sector. The result is that the average number of persons per retailer is reduced, decreasing the number of consumers affected if that consumer commits and infringement.

Table 3.3 Average Scenario: Potential scale of financial detriment, € million, (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment:	2,902	2,925	2,948	2,972	2,996	3,019	3,045	3,071	3,097	3,124	3,152	3,179
<i>Of which:</i>												
Domestic	2,434	2,418	2,429	2,440	2,451	2,460	2,472	2,482	2,493	2,505	2,515	2,525
Cross-border	150	159	168	178	188	199	210	221	233	246	259	272
Parallel	317	347	350	354	357	360	364	367	371	374	378	381

Source: ICF Analysis. The range of estimations can be found in Annex 5.

Table 3.3 shows the potential financial losses consumers suffer as a result of the infringement. The estimated financial detriment both domestically and cross-border is estimated to increase over time. This is a reflection of an increase in the number of infringements as well as rising prices of goods (as a result of inflationary pressures and sectoral trends).

- Cross-border, financial detriment is estimated to increase from €150 million in 2014 to €272 million in 2025 – an increase of almost 80%;
- Domestically, the financial detriment as a result of domestic infringements, is estimated to increase by roughly €90 million from €2,434 million in 2014 to €2,525 million in 2025;

⁶¹ CBRE (2011): Fashion savvy consumers embrace online shopping, article available at: http://www.cbre.fr/portal/page/portal/emea_en/news_events/news_detail?p_id=8696&title=Fashion_savvy_consumers_embrace_online_shopping

- Financial detriment as a result of parallel infringements is also estimated to increase by approximately €64 million from €317 million in 2014 to €381 million in 2025.

Nature of detriment suffered by consumers

- According to ECC-Net report on cross border complaints⁶², clothing and footwear was 8th in a ranking of 'top areas of complaints' accounting for 4.5% of the total complaints ECC Net dealt with between 2010 and 2013;
- In 2009 online complaints from the clothing and footwear sector were found to account 6% of total complaints, an increase of 1% from the previous year when the total number of complaints was also lower⁶³.
- Higher levels of complaints in this sector were experienced in Eastern European countries (for example, 25% in Lithuania; 20% in Slovakia; 15% in Estonia, 14% in Latvia). In other EU-countries, the proportion of complaints made up by clothing and footwear averaged between 2% and 6%⁶⁴;
- The complaints predominantly related to no delivery, defective product/ service, product/ service not in conformity with order and supplementary charges.

3.4 Electronic goods

3.4.1 Definition of the sector

Consumer electronics refers to any device containing an electronic circuit board that is intended for everyday use by individuals, typically in entertainment, communication and office work. This includes televisions, cameras, digital cameras, PDAs, calculators, VCRs, DVDs, clocks, audio devices, headphones, camcorders, and many other home products⁶⁵.

Eurostat provides data⁶⁶ which broadly reflects above mentioned typology. More specifically, it provides the breakdown of final consumption expenditure into two components:

- CP082: Telephone and telefax equipment (including telephones);
- CP091: Audio-visual, photographic and information processing equipment⁶⁷.

As both components contain all major types of electronic products such as PCs/laptops, cameras, telephones and video cameras that constitute large share of consumption of electronics, the Eurostat categorisation has been used as guidance in the further research/data collection.

3.4.2 Estimated scale of infringements

Table 3.4 details the estimated evolution in the number of domestic, cross-border and parallel infringements under the average scenario⁶⁸. Overall, an increase from 250,000 infringements in 2014 to 294,000 infringements in 2025 can be seen.

⁶² http://ec.europa.eu/dgs/health_consumer/pressroom/docs/2013_ecc-net_report_en.pdf

⁶³ The European Online Marketplace: Consumer Complaints 2008 -2009, ECC-NET, available at: http://ec.europa.eu/consumers/ecc/docs/european_online_marketplace_complaints_2008_09_en.pdf

⁶⁴The European Consumer Centres Network 2012 Annual Report. Available at: http://ec.europa.eu/consumers/ecc/docs/report_ecc-net_2012_en.pdf

⁶⁵ Webopedia, 2014. Consumer electronics. Available at: http://www.webopedia.com/TERM/C/consumer_electronics.html

⁶⁶ Eurostat, 2014. Final Consumption Expenditure of Households by Consumption Purpose. Available at: <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>

⁶⁷ Eurostat Metadata, 2014. Available at : http://ec.europa.eu/eurostat/ramon/nomenclatures/index.cfm?TargetUrl=LST_NOM_DTL&StrNom=HICP_2000&StrLanguageCode=EN&IntPcKey=31805292&StrLayoutCode=EN

⁶⁸ The average scenario refers to the average between the upper and lower bound scenario. This is detailed in step 1 of section 1.3.2.

Overall, the number of infringements is forecasted to increase. A general upward trend can be seen in both domestic and cross-border/ parallel infringements, with increases of 9,000 and 33,000 infringements from 2014 to 2025 respectively.

Nature of infringements

- During the CPC sweep action regarding the electronics goods sector in 2009, a high level of non-compliance was identified. The infringements mainly related to advertising, consumers not being informed (or, being misinformed) about their “right to return”, misleading information about the total price and missing or incomplete contact details of the trader;
- The website review undertaken as part of this study also supports this, with key issues including discrepancies between the final price matching initial prices, contact details of seller, information on expected delivery time and information on the right to withdrawal.
- In 2007, 34% of complaints and disputes handled by the ECC-NET concerned audio-visual, photographic and information processing equipment. Issues of non-delivery of orders and defective products and cases for suspected fraud are the most significant complaints⁶⁹.

Key Market/ industry trends

- As of 2012, consumption of electronic goods at an EU level was over €114,470 million with over 188,000 enterprises retailing these goods;
- Electronics is a sector characterised by fast-paced innovation as consumer electronics become more sophisticated faster than other goods⁷⁰;
- The average expenditure for an individual product tends to be higher than in other sectors. This represents a higher risk for consumers and as such a purchasing decision involves more preparation from the consumer side before buying a product⁷¹;
- The retail market decreased for electronics around 2009 and has since been struggling with declining sales (particularly in Western Europe), although sales have increased in particular products (i.e. televisions, smartphones and tablets);
- The vast majority of electronics good sales occur in specialist retail stores, although the share of non-store retail (predominantly online sales via intermediaries/online platforms) increased rapidly from 2004 onwards⁷².

⁶⁹ http://ec.europa.eu/consumers/ecc/docs/european_online_marketplace_complaints_2007_08_en.pdf

⁷⁰ PC Magcom. Consumer Electronics. Available at: <http://www.pcmag.com/encyclopedia/term/40255/consumer-electronics>

⁷¹ European Commission. ‘Functioning of the market for electric and electronic consumer goods’. February 2012. *Report based on findings from a study by GfK Retail and technology and Ecorys.*

⁷² European Commission. ‘Functioning of the market for electric and electronic consumer goods’. February 2012. *Report based on findings from a study by GfK Retail and technology and Ecorys.*

Table 3.4 Average Scenario: Scale of Infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements:	250	254	257	261	265	269	273	278	282	286	290	295
<i>Of which:</i>												
Domestic	151	152	153	153	154	155	156	157	158	158	159	160
Cross-border	87	90	93	96	99	102	105	108	111	115	118	122
Parallel	11	12	12	12	12	12	12	13	13	13	13	13

Source: ICF Analysis. The range of estimations can be found in Annex 5.

3.4.3 Estimated scale of detriment

Tables 3.5 and 3.6 shows the number of consumers potentially affected by the infringements taking place within the electronic goods sector and the potential financial losses resulting from these.

Table 3.5 Average Scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers:	49	49	48	48	48	47	47	47	46	46	46	45
<i>Of which:</i>												
Domestic	44.8	44.4	44.0	43.7	43.3	42.9	42.6	42.2	41.8	41.5	41.1	40.8
Cross-border	0.9	1.0	1.0	1.0	1.1	1.1	1.1	1.1	1.2	1.2	1.2	1.3
Parallel	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4

Source: ICF Analysis. The range of estimations can be found in Annex 5.

As it can be seen from Table 3.5, in 2014 approximately 50 million consumers were affected by infringements and this is expected to fall slightly to 45 million in 2025.

Table 3.6 Average Scenario: Potential scale of financial detriment, € million, (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment:	2,072	2,080	2,088	2,096	2,103	2,111	2,119	2,127	2,134	2,142	2,150	2,159
<i>Of which:</i>												
Domestic	1,874	1,878	1,882	1,886	1,889	1,892	1,895	1,898	1,901	1,903	1,906	1,909
Cross-border	55	58	60	63	66	69	72	75	79	82	86	90
Parallel	143	144	146	147	149	150	152	153	155	157	158	160

Source: ICF Analysis. The range of estimations can be found in Annex 5.

Table 3.6 shows the potential financial losses consumers suffer as a result of the infringements. The estimated financial detriment both domestically and cross-border is expected to increase from €1,874 million (in 2014) to €1,909 million (in 2025) domestically and from €198 million (2014) to €250 million (2025) cross-border/ parallel. This reflects an increasing number of infringements and expected positive sectoral trends towards cross-border shopping, as well as an increasing price of electronic goods.

Nature of detriment suffered by consumers

- The high value of electrical products such as TVs, tablets, computers and phones is a driver of high levels of consumer detriment.
- Online fraud in the sector is also a major source of detriment, highlighted by EEC-Net statistics, where the consumer does not receive the good ordered;
- The majority of complaints in relation to goods in this sector relate to quality, with the goods purchased not being fit for purpose or being damaged;

- Other common types of problems refer to delivery and repair of the goods (particularly under the legal guarantee)⁷³.
- Commercial guarantees, insurances or credit agreements associated with electronic good purchases are also a source of potential further detriment.

3.5 Consumer credit

3.5.1 Definition of the sector

Consumer credit is '*money, goods or services provided to an individual in lieu of payment*'.⁷⁴ To define the consumer credit more narrowly in order to establish the scope of this research, this study follows the approach undertaken in the recent London Economics and IPSOS study⁷⁵ on consumer credit market. According to the study, the definition of the consumer credit does not include:

- Consumer credit below the threshold of €200 and above €75,000;
- All credit agreements with the purpose to acquire or retain property rights in land or in an existing or projected building (including mortgage);
- All credit agreements which are secured either by a mortgage or by another comparable security commonly used in a Member State on immovable property or secured by a right related to an immovable property;
- Credit secured by movable property owned by the borrower where the security is being kept in the safekeeping of the lender;
- Leasing and hire purchase with a possibility but no obligation to buy at the end of the contract;
- Special loans granted to a restricted public under a statutory provision with a general interest purpose and at a lower interest rate than those prevailing on the market, such as, for example, student loans in some countries;
- Credit agreements in the form of an overdraft facility and where the credit has to be repaid within one month;
- Credit agreements where the credit is granted free of interest and without any other charges and credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable; and,
- Credit agreements which are the outcome of a settlement reached in court or before another statutory authority.

The definition of consumer credit used in this study captures all consumer credit not covered by the above.

3.5.2 Estimated scale of infringements

Table 3.7 details the estimated average number of infringements at a domestic, cross-border and parallel level. These are overall expected to increase from 1,847 in 2014 to 1,948 in 2025.

⁷³ Consumer Satisfaction Survey, for the European Commission by IPSOS ; "Household electrical equipment" market report; 2009.

⁷⁴ Eurofinas, 2014. Available at: <http://www.eurofinas.org/index.php?page=about-us>

⁷⁵ London Economics, 2013. Study on the functioning of the consumer credit market in the Europe. Available at: http://ec.europa.eu/consumers/rights/docs/consumer_credit_market_study_en.pdf

Table 3.7 Average Scenario: Scale of Infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements:	1.8	1.8	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9
<i>Of which:</i>												
Domestic	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.5	1.5
Cross-border	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2
Parallel	0.1	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2

Source: ICF Analysis. The range of estimations can be found in Annex 5.

Domestically, infringements are expected to slightly decrease – from 1,610 in 2014 to 1,550. This decrease is offset by significant increases in infringements cross-border (from 91 to 183 from 2014 to 2025) and also by parallel infringements (from 142 in 2014 to 169 in 2025), reflecting forecasted developments and change in attitudes towards cross-border consumer credit transactions.

Nature of infringements

- Financial services accounted for roughly 4% of CPC alerts, information and enforcement requests between 2007 and 2013⁷⁶;
- The website review undertaken as part of this study indicates that common issues relating to financial services related predominantly to product information (i.e. not providing information on APR and the total cost of the product) and poor provision of terms and conditions;
- Some other cases whereby action has been taken relate to the right to withdrawal. For example, there have been some instances of charging fees to cover the screening cost when withdrawal is exercised. In addition, automatic cancellation of other service contracts linked to the withdrawal is another complaint made.

Key Market/ industry trends

- The financial services market expanded very rapidly in the EU27 prior to the financial crisis. Since 2007 growth has been significantly slower with households aiming to reduce their debt and lenders tightening their lending criteria⁷⁷;
- As of 2012, roughly €181,376 million was spent on financial services (approximating to €428 per capita). There exists significant variation across Member States;
- There is currently low confidence in the financial services, with the latest Consumer Market Scoreboard ranking it as 19th in terms of how well the market works for consumers⁷⁸;
- Future trends in financial services include apprehension regarding high unemployment holding back consumer lending. A 2013 study predicts consumer-lending growth of 1.2% in 2014, with some countries seeing a slower return to growth⁷⁹;

⁷⁶ FIN-NET activity report 2010. Financial Dispute Resolution Network. Available at: http://ec.europa.eu/internal_market/fin-net/docs/activity/2010_en.pdf

⁷⁷ London Economics. 2013. 'Study on the functioning of the consumer credit market in Europe: Final Report'. Available at: http://ec.europa.eu/consumers/archive/rights/docs/consumer_credit_market_study_en.pdf

⁷⁸ http://ec.europa.eu/consumers/archive/consumer_research/editions/docs/9th_edition_scoreboard_en.pdf

⁷⁹ Eurofinas (2014): European Consumer Credit Market on Steady Growth Path in Q2 2014 – press release, available at: <http://www.eurofinas.org/uploads/documents/press/pr-140915-Q2%202014%20Survey%20Results.pdf>

- Demand and supply of the financial services market is still largely national, with cross-border accounting for less than 2% of the total credit market;
- A Eurobarometer study found when it comes to cross-border transactions, consumers engaged predominantly with current bank accounts. Credit cards, shares and other insurance products were rarely used, with loans and other investments not taken up⁸⁰;
- The main reason for making cross-border purchases of financial services is connections with other EU countries (i.e. ownership of foreign property). It is also suggested, in regards to financial services, purchases are made more out of necessity rather than any perceived inherent benefits (e.g. superior returns and tax efficiency)⁸¹;
- Industry experts point to an increasing trend in the use of distance selling channels via the Internet⁸²;
- However, barriers to growth in cross-border purchases of financial services do exist. A Eurobarometer survey found that the greatest barriers included language problems (37%), fraud risk (30%), incomprehensible or insufficient information (29%) and extra costs involved (24%)⁸³. Differences in regulatory systems are also seen as a barrier.

3.5.3 Estimated scale of detriment

Table 3.8 shows the number of consumers potentially affected by the infringements taking place in the sector and potential financial losses resulting from these (detailed in Table 3.9).

Table 3.8 Average Scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers:	87	87	87	87	86	86	86	86	85	85	85	85
<i>Of which:</i>												
Domestic	80	79	79	79	78	78	78	77	77	77	76	76
Cross-border	0.0	0.0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Parallel	7	8	8	8	8	8	8	8	8	8	8	8

Source: ICF Analysis. The range of estimations can be found in Annex 5.

Table 3.9 Average Scenario: Potential scale of financial detriment, € million, (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment:	4,567	4,596	4,605	4,630	4,638	4,655	4,688	4,713	4,733	4,769	4,797	4,836
<i>Of which:</i>												
Domestic	4,194	4,196	4,196	4,213	4,214	4,222	4,242	4,256	4,270	4,299	4,320	4,353
Cross-border	2	2	3	3	4	4	4	5	5	6	6	7
Parallel	370	398	406	414	420	429	441	452	457	464	470	476

Source: ICF Analysis. The range of estimations can be found in Annex 5.

⁸⁰ Eurobarometer (2008): Consumer attitudes towards cross-border trade and consumer protection – flash 299, available at: http://ec.europa.eu/public_opinion/flash/fl_299_en.pdf

⁸¹ Nuttall, S., Chaimowitz, Z. & Cogswell, J. 2010. 'Consumer Appetite for Cross-border Shopping in Financial Services: A Report Prepared for the FSA'. Available at: <http://www.fca.org.uk/static/fca/documents/yougov-report.pdf>

⁸² GHK, 2009. Establishment of a Benchmark on the Economic Impact of the Consumer Credit Directive on the Functioning of the Internal Market in this Sector and on the Level of Consumer Protection. Available at: http://ec.europa.eu/consumers/rights/docs/ccd_benchmarking_study_en.pdf

⁸³ Communication from the Commission to the Council and the European Parliament: Review of the Distance Marketing of Consumer Financial Services Directive (2002/65/EC). 2009. Available at: http://ec.europa.eu/consumers/archive/rights/docs/com_review_distance_mark_cfsd_en.pdf

In 2014 approximately 80 million consumers will be affected domestically by infringements in consumer credit and it is expected this will slightly shrink in 2025 to 76 million. In contrast, the number affected by cross-border infringements is estimated to increase from 41,000 in 2014 to 117,000 in 2025. Similarly, parallel infringements are estimated to increase from 7 million in 2014 to just over 8 million in 2025.

The potential financial losses caused by these infringements are detailed in Table 3.9, and an upward trend can be seen at a domestic, cross-border and parallel level. The trend is most significant for cross-border infringements, with a tripling of the detriment from 2014 to 2025 (from €2.2 million to €6.7 million). This is however a small proportion of domestic detriment which is estimated to reach over €4.3 billion by 2025.

Nature of detriment suffered by consumers

- FIN-NET helps to settle cross-border financial disputes between consumers and financial services providers. The number of cases has increased from 1,041 in 2007 to 1,854 in 2011⁸⁴. Of these, approximately 60% were in regards to the banking sector and 17% in regards to investment (the remainder was not classified);
- Previous cases, as reported by FIN-NET, included non-payment or non-action regarding insurance cover held in another Member State, cases of fraud not being resolved by provider in another Member State, unfair fees for cross-border transactions and not receiving funds transferred cross-border.

3.6 Food supplement products

3.6.1 Definition of the sector

Food supplements are concentrated sources of nutrients or other substances with nutritional or physiological effect whose purpose is to supplement the normal diet⁸⁵. Under the food supplements Directive (Directive 2002/46/EC) food supplements' are defined as foodstuffs that are meant to supplement the normal diet and which are concentrated sources of nutrients or other substances with a nutritional or physiological effect, alone or in combination, marketed in dose form, namely forms such as capsules, pastilles, tablets, pills and other similar forms, sachets of powder, ampoules of liquids, drop dispensing bottles, and other similar forms of liquids and powders designed to be taken in measured small unit quantities, where nutrients could be vitamins, minerals, herbal extracts and other ingredients⁸⁶.

3.6.2 Estimated scale of infringements

Table 3.10 provides detail on the number of infringements estimated for the food supplement sector at a domestic, cross-border and parallel level from 2014 to 2025. During this period, the numbers of infringements within the sector are expected to increase from 36,617 to 38,943.

⁸⁴ FIN-NET online. 2011, available at: http://webcache.googleusercontent.com/search?q=cache:e6dFuA-iiNkJ:www.eu2013.lt/uploads/documents/Prezentacijos/Presentation%2520Vilnius%2520131003_Dally.ppt+&cd=10&hl=en&ct=clnk&gl=uk

⁸⁵ European Commission, 2014. DG Health and Consumer. Available at: http://ec.europa.eu/food/food/labellingnutrition/supplements/index_en.htm

⁸⁶ <http://www.ehpm.org/regulatory-issues/the-food-supplement-directive.html>

Table 3.10 Average Scenario: Scale of Infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements:	36.6	36.7	36.9	37.1	37.4	37.6	37.8	38.0	38.3	38.5	38.7	38.9
<i>Of which:</i>												
Domestic	21.8	21.5	21.3	21.1	20.9	20.7	20.5	20.2	20.0	19.8	19.6	19.3
Cross-border	11.0	11.4	11.8	12.2	12.6	13.0	13.5	13.9	14.3	14.8	15.2	15.7
Parallel	3.8	3.8	3.8	3.9	3.9	3.9	3.9	3.9	3.9	3.9	3.9	3.9

Source: ICF Analysis. The range of estimations can be found in Annex 5.

Increases in cross-border infringements (from 10,985 in 2014 to 15,673 in 2025) offset the expected slight decline in domestic infringements (from 21,808 in 2014 to 19,324 in 2025). Food supplements is a sector where cross-border trade is expected to increase significantly (even current purchasing habits indicate cross-border trade as important). This trend encapsulates this, alongside the growth of the sector as a whole (particularly in Eastern Europe).

Nature of infringements

- ICF Consultation with stakeholders indicates that EU-level infringement concerns around food supplements predominantly relate to misleading or aggressive commercial practices⁸⁷;
- The consultation also revealed that very few infringements dealt with relate to food supplements (with between 1% to 3% of cases at a domestic level and far less than 1% at an EU level)⁸⁸. Although low in number it was recognised that complaints have been increasing over time. Evidence of an increase trend can be found in Ireland⁸⁹ among other Member States.
- *“The problems with negative contractual links, particularly in the health sector, persist. Consumers find themselves bound by an agreement, most frequently a subscription to receive health products such as vitamins, which they never accepted. Many of these cases have a cross-border element”* (Biennial report 2012, Sweden).

Key Market/ industry trends

- The food supplements sector is prone to innovation and increasing popularity with consumers. However overall the European market is not growing strongly, recording a 2.7% growth on previous year and valued at roughly €400 million in 2012⁹⁰;
- However significant differences exist across countries. Data for Western Europe indicate a decline for the period 2008 to 2012⁹¹ (a drop of approximately €0.2 billion. In comparison, data for Eastern and Central Europe shows very strong growth figures (for example, in Romania the sector grew by 24% in 2011). The increasing disposable income in these countries is directly associated to this surge in demand as well as a growing concern about health lifestyle and illness prevention⁹²;

⁸⁷ Consumer Rights authority in Lithuania.

⁸⁸ Only one Member State was able to provide information in regards to cases relating to food supplements. This Member State recorded only 8 cases relating to food supplements at an EU-level (corresponding to 0.1% of total cases dealt with).

⁸⁹ <http://www.eccireland.ie/ecc-ireland-warns-consumers-to-beware-free-trial-scams-this-january/>

⁹⁰ UK Vitamin and Supplement Market Research – September 2012. ‘Some questions answered in the ‘UK Vitamin and Supplement Market Research Report’. Available at: <http://store.mintel.com/vitamins-and-supplements-uk-september-2012>

⁹¹ One exception was in Italy where an increase was realised from 2008 to 2010, although a contraction of \$US 14 million was felt from 2010 to 2012.

⁹² US Commercial service. 2011. ‘EU Regulations on Food Supplements, Health foods, herbal medicines’.

- Food supplements are ideally suited for online sales and are stable, light, high-value and popular with consumers⁹³. As a result, online sales are on the rise with cross-border online retail also increasing;
- Driving cross-border trade is the possibility to overcome national rules and local administration practices – factors which have traditionally hampered sales domestically;
- Legislative initiatives have challenged the sector over the previous years, the industry has continued to innovate and grow⁹⁴.

3.6.3 Estimated scale of detriment

Table 3.11 and 3.12 shows the number of consumers affected by infringements over time, alongside the potential scale of the financial detriment.

Table 3.11 Average Scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers:	69	68	68	67	66	65	64	64	63	62	61	60
<i>Of which:</i>												
Domestic	59	58	57	56	56	55	54	53	52	52	51	50
Cross-border	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Parallel	10.3	10.3	10.3	10.3	10.3	10.3	10.3	10.2	10.2	10.2	10.2	10.2

Source: ICF Analysis. The range of estimations can be found in Annex 5.

Table 3.12 Average Scenario: Potential scale of financial detriment, € million, (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment:	871	876	881	886	891	896	900	905	909	913	917	921
<i>Of which:</i>												
Domestic	740	742	745	748	751	753	755	756	758	760	761	762
Cross-border	1	2	2	2	2	2	2	2	3	3	3	3
Parallel	130	132	134	137	139	141	143	146	148	151	153	156

Source: ICF Analysis. The range of estimations can be found in Annex 5.

As Table 3.11 details, in 2014 approximately 59 million consumers were affected by infringements in the food supplement sector domestically in 2014. It is expected this will slightly decrease to approximately 50 million in 2025. In comparison, the number affected at a cross-border level is expected to almost double, from 114,000 in 2014 to 218,000 in 2025. The number of consumers affected by parallel infringements is expected to remain relatively constant (at around 10 million).

The estimated financial detriment suffered by these consumers shows an upward trend within all types of infringement, although most dramatically within the cross-border segment (where it jumps from €1.45 million in 2014 to €3.35 million in 2025).

⁹³ NUTRA ingredients.com. 2012. 'Who is regulating EU cyber supplement sales?'. Available at: www.nutraingredients.com/content/view/print/634053

⁹⁴ Shaw, C. August 2014. 'UK vitamins and supplements market adjusts following waves of new EU legislation'. Available at: <https://uk.finance.yahoo.com/news/uk-vitamins-supplements-market-adjusts-00000891.html>

Nature of detriment suffered by consumers

- Other than the financial loss associated with not receiving food supplement products or the product not performing as it should, there are health risks associated from purchasing from rogue traders who may operate online and cross-border.

3.7 Tickets for sport/entertainment and cultural events

3.7.1 Definition of the sector

The definition of the market for tickets/entertainment and cultural events follows event-based market definition. Thus, distribution channels of the tickets are less relevant than capturing different types of events and level of ticket sales/expenditure within them. In this research, two main types of events will be considered:

- Sport: including football, rugby, tennis, volleyball, and motorsport;
- Entertainment and Culture: including theatre, opera, museum, cinema, music concerts, and music festivals.

Yet, due to the scarcity of relevant research and very limited operationalization of any strict definition, the definition has been applied as guidance rather than strict framework.

3.7.2 Estimated scale of infringements

Table 3.13 details the estimated evolution in domestic, cross-border and parallel infringements under the average scenario⁹⁵. Overall, an upward trend in the number of infringements within the tickets for sport/ entertainment and cultural events sector can be seen, increasing from 55,000 in 2014 to 56,500 in 2025. This slight increase reflects expectations of consumer spending within the sector.

A significant upward time trend can be seen for cross-border infringements (increasing from 13,163 in 2014 to 16,351 in 2025, reflecting the expected increases in cross-border trade), whilst a relatively stable trend can be seen domestically (domestic infringements are estimated to slightly fall from 36,266 in 2014 to 34,577 in 2025). Alongside this, parallel infringements are estimated to slightly increase from 5,428 to 5,579 which reflects expectations that electronic ticket traders will expand operations across other Member States.

Table 3.13 Average Scenario: Scale of Infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements:	54.9	55.0	54.9	55.0	55.4	55.5	55.7	55.8	56.0	56.2	56.3	56.5
<i>Of which:</i>												
Domestic	36.3	36.1	35.8	35.6	35.6	35.5	35.3	35.2	35.1	34.9	34.7	34.6
Cross-border	13.2	13.4	13.7	13.9	14.3	14.6	14.9	15.2	15.5	15.8	16.0	16.4
Parallel	5.4	5.4	5.4	5.4	5.5	5.5	5.5	5.5	5.5	5.5	5.6	5.6

Source: ICF Analysis. The range of estimations can be found in Annex 5.

⁹⁵ The average scenario refers to the average between the upper and lower bound scenario. This is detailed in step 1 of section 1.3.2.

Nature of infringements

- The area of ticket sales had a number of high-profile cases of infringements, such as discriminatory ticket practices (territorial restrictions) and credit card exclusivity at events⁹⁶, though limited data is available on recent trends.
- Secondary ticketing has also become more prominent with the rise of the Internet, however with this comes the potential for greater risk for consumer detriment.
- A sweep undertaken by the CPC network in 2011 detected a high number of irregularities (initially only 40% were found to be compliant although the compliance rate increased to 90% following the enforcement phase of the sweep action)⁹⁷.
- The main issues identified in the sweep action concerned missing, incomplete or misleading price information, such as hidden taxes or handling charges.
- Other issues concerned unfair terms and conditions related to ticket delivery or refunds and missing, incomplete or misleading information about the trader (incl. contact details).

Key Market/ industry trends

- Consumers predominantly use online channels to see what's on and compare prices and offers for sport, entertainment and cultural events. A survey in 2009 showed that 35% of EU consumers who had shopped online had used it to buy a ticket for a sporting or cultural event⁹⁸.
- The sport, entertainment and cultural events sector still has a relatively robust performance, despite the economic crisis.
- The market is somewhat cyclical in nature, particularly for sporting tickets⁹⁹.

3.7.3 Estimated scale of detriment

Table 3.14 shows the number of consumers potentially affected by the infringements taking place in the sector and potential financial losses resulting from these in Table 3.15.

Table 3.14 Average Scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers:	75	75	74	74	74	74	73	73	73	72	72	72
<i>Of which:</i>												
Domestic	65.2	64.9	64.6	64.3	64.0	63.6	63.3	62.9	62.6	62.3	61.9	61.6
Cross-border	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Parallel	9.8	9.8	9.8	9.8	9.8	9.8	9.8	9.8	9.8	9.8	9.9	9.9

Source: ICF Analysis. The range of estimations can be found in Annex 5.

⁹⁶ <http://ec.europa.eu/competition/sectors/sports/decisions.html#ticketsales>

⁹⁷ http://ec.europa.eu/consumers/enforcement/sweep/online_ticket_sales/index_en.htm

⁹⁸ <http://www.eubusiness.com/topics/consumer/sweep-2010.1>

⁹⁹ http://www.atkearney.com/paper/-/asset_publisher/dVxv4Hz2h8bS/content/the-sports-market/10192

Table 3.15 Average Scenario: Potential scale of financial detriment, € million, (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment:	1,102	1,116	1,131	1,144	1,159	1,173	1,187	1,202	1,217	1,232	1,248	1,264
<i>Of which:</i>												
Domestic	957	969	981	992	1,004	1,015	1,026	1,038	1,051	1,063	1,074	1,087
Cross-border	1	1	1	1	2	2	2	2	2	2	2	2
Parallel	143	146	149	151	154	157	159	162	165	168	172	175

Source: ICF Analysis. The range of estimations can be found in Annex 5.

As it can be seen from Table 3.14, the total number of consumers affected slightly falls from 75 million in 2014 to just under 72 million in 2025. Within this trend, a slight decline in domestic consumers affected can be seen offset by a significant increase in the number of consumers affected by cross-border infringements. Consumers affected by parallel infringements remain relatively stable (increasing by just over 100,000 consumers).

Table 3.15 details the financial detriment suffered by affected consumers as a result of domestic, cross-border and parallel infringements.

An upward trend is present in regards to the financial detriment for all infringements (cross-border, domestic and parallel). This reflects both the rising spend in this sector as well as increases in the number of infringements.

- Financial detriment as a result of domestic infringements is estimated to increase from €957 million in 2014 to €1,087 million in 2025.
- Cross-border financial detriment is estimated to increase from €1.3 million in 2014 to €1.9 million in 2025. This encapsulates forecasted increases in cross-border purchases.
- Financial detriment from parallel infringements is also estimated to increase by €32 million, from €143 million in 2014 to €175 million in 2025.

Nature of detriment suffered by consumers

- A 2009 European Consumer Centre's report suggested that 30% of the complaints about online shopping which they handled concerned recreation and cultural services¹⁰⁰. A similar proportion is anticipated to occur today.
- Financial losses suffered by consumers include not receiving tickets in time, not receiving refunds and payment of hidden taxes or other charges.

3.8 International infringements

International infringements relate to non-compliance amongst non-EU traders, affecting EU consumers. The headline figures are provided in Table 3.16 (they are estimated using different data sources, but maintaining a consistent methodology as for infringements within the EU). The key findings are:

- In the clothing and footwear sector, the number of international infringements is estimated to increase from around 2,200 to 3,100 from 2014 to 2025. By comparison, this is approximately 6% of estimated intra-Community infringements over the same period. Consumer detriment is estimated to increase from €40m to nearly €80m over the same period. It is known that there is a clear tendency for cross-border shoppers to spend more money than shoppers who only shop within their own country online¹⁰¹. This is

¹⁰⁰ ECC-NET (2009): The European Online Marketplace: Consumer Complaints 2008 – 2009, available at: http://ec.europa.eu/consumers/ecc/docs/european_online_marketplace_complaints_2008_09_en.pdf

¹⁰¹ EAHC (2011): Consumer market study on the functioning of e-commerce and Internet marketing and selling techniques in the retail of goods, available at:

also the case for consumers making international purchases as many do so to find specific products not available in the EU or cheaper products.

- Infringements relating to electronic goods are estimated to increase from 1,200 in 2014 to 1,700 in 2025 affecting between 116,000 and 178,000 consumers. The associated consumer detriment is estimated at €7-€14 million.
- The consumer credit sector is estimated to produce a relatively low number of international infringements (107 in 2014) affecting a much larger number of consumers (46,000) and resulting in considerable detriment (€2.8 million). The overall trend is positive, with 154 infringements and €5.5 million of estimated detriment by 2025.
- Due to the low value of the products and/or the low volume of cross-border trade (except for large sporting events), the detriment suffered by consumers in ticketing and food supplements is low (€0.1 million and €0.2 million respectively in 2014), each doubling by 2025. With many sporting events occurring in the EU-28 (i.e. Champions league football, French Open and Wimbledon tennis, motorsport) international ticket sale are driven by large sporting/entertainment events which occur every four years (i.e. Olympics, World Cup), therefore the low numbers of international infringement are consistent with this hypothesis.

Table 3.16 Estimated caseload and consumer detriment of International infringements

		2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Clothing and sport goods	<i>Total number of infringements</i>	2,193	2,266	2,342	2,420	2,500	2,583	2,669	2,758	2,850	2,944	3,042	3,143
	<i>Number of consumers potentially affected, in 000's</i>	930	974	1,018	1,063	1,107	1,152	1,196	1,241	1,286	1,332	1,377	1,424
	<i>Potential scale of financial detriment, in million €</i>	40	43	46	49	52	55	59	62	66	70	74	78
Electronics	<i>Total number of infringements</i>	1,195	1,234	1,275	1,318	1,362	1,407	1,454	1,502	1,552	1,604	1,657	1,712
	<i>Number of consumers potentially affected, in 000's</i>	116	121	127	132	138	144	149	155	160	166	172	178
	<i>Potential scale of financial detriment, in million €</i>	7	7	8	9	9	10	10	11	12	12	13	14
Consumer credit	<i>Total number of infringements</i>	107	111	114	118	122	126	130	135	139	144	149	154
	<i>Number of consumers potentially</i>	46	48	50	53	55	57	59	62	64	67	69	71

		2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
	<i>affected, in 1000'</i>												
	<i>Potential scale of financial detriment, in million EUR</i>	2.8	3.0	3.2	3.4	3.6	3.9	4.1	4.4	4.6	4.9	5.2	5.5
Food supplements	<i>Total number of infringements</i>	1,353	1,398	1,444	1,492	1,542	1,593	1,646	1,701	1,757	1,816	1,876	1,938
	<i>Number of consumers potentially affected, in 1000'</i>	13	14	15	16	16	17	18	19	19	20	21	21
	<i>Potential scale of financial detriment, in million EUR</i>	0.2	0.2	0.2	0.2	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.4
Tickets for events	<i>Total number of infringements</i>	268	276	286	295	305	315	326	336	348	359	371	384
	<i>Number of consumers potentially affected, in 1000'</i>	9	10	10	11	11	12	12	12	13	13	14	14
	<i>Potential scale of financial detriment, in million EUR</i>	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.3

4 Regulatory Baseline

4.1 Introduction

The mapping of the regulatory landscape of each Member State is the third component of the general baseline. As the legal systems, enforcement regimes and procedural rules of Member States have evolved in different ways, the (regulatory) baseline is inherently uneven. The implication of this is that the (incremental) impact of the proposed policy options will vary by Member State. To reliably and consistently compare policy options it is necessary to capture these differences in the baseline.

Impacts are likely to differ for two reasons. Firstly, some Member States will be located closer to the desired policy frontier than others. Secondly, the adaptability of enforcement systems will vary between Member States. National legislative changes proposed by the policy options will be easier to implement in some Member States and more difficult in others.

The identified factors affecting the scale of adjustment and/or the adaptability of Member State enforcement systems include:

- The type of enforcement system;
- The investigation and enforcement powers already available to the enforcement authorities;
- The institutional set-up at the Member State level; and
- The administrative capacity and resources of enforcement authorities.

Each factor is described in detail below. Based on this a mapping of all 28 Member States was conducted to establish the regulatory baseline.

4.1.1 Factor 1: Type of public enforcement system

Under **enforcement** of rights we understand “the activity of making certain that the laws of the EU are obeyed”.

Enforcement may take place through different means (such as civil law, administrative law, criminal law) and through different bodies (administrative authorities, courts, penal authorities, individuals and associations). The outcome of enforcement may either be binding (court judgment or order) or non-binding (e.g. finding of an ADR body).

Usually a variety of enforcement tools coexist in each Member State depending on its legal traditions, legal system and political choices.

The CPC Regulation and hence the present study focuses on **public** enforcement regimes. **Public enforcement** comprises an enforcement action in public interest that is usually taken by public authorities and/or courts with a primary purpose to cease the infringement and to punish the infringer for violation of laws protecting such public interest. The primary purpose of public enforcement (as opposed to private enforcement) is therefore not an individual redress (restitution of damage to a consumer). The CPC Regulation in this context uses the term enforcement action to protect “collective interests of consumers”.

In **private enforcement** consumers act individually or collectively to initiate enforcement through civil courts or similarly, consumer associations initiate such action. The primary purpose of the action is redress. Also, traders may take other traders to court for violation of consumer laws (in the context of protection against unfair competition). We note that private enforcement contributes to the realisation of consumer rights and in some Member States (e.g. Germany or Austria) may even be a prominent channel for enforcement of consumer law. This is also recognised by the OECD¹⁰² that in this context points to two enforcement means: private enforcement and ADR. In Alternative Dispute Resolution (ADR) consumer

¹⁰² OECD (2006) Report on the effectiveness of enforcement regimes, See Table 1: Table 1. Classification of approaches to sanctions and enforcement, for a summary page 14.

and trader seek an out of court settlement of the dispute through negotiation. The difference between private enforcement and ADR is that the outcome of ADR may not be legally binding or may not constitute an execution title. Following the implementation of the Online Dispute Resolution Regulation 524/2014¹⁰³ and ADR Directive 2013/11/EU¹⁰⁴ (due by July 2015) it is anticipated that these mechanisms may play a more prominent role in future consumer rights enforcement in the EU. They however remain beyond the scope of this study.

The variations and differences in the choice of enforcement regimes and means among Member States are reflected in the current CPC Regulation. For instance, when a national competent authority is requested by another Member State's competent authority to take enforcement measures under Article 8 of the CPC Regulation, **it acts within the framework of its national procedural rules**. This implies that depending on the country's enforcement regime, provisions of national law on civil, administrative or criminal proceedings may apply to such requests with differing implications in terms of admissible evidence, procedural safeguards, legal deadlines, etc.

The Commission's 2014 legal study¹⁰⁵ identifies three main types of public enforcement regimes existing in the Member States:

- **Self-managed administrative proceedings:** the national competent authority starts and conducts the investigation, declares in a decision that an infringement was committed and imposes an administrative sanction;
- **Civil proceedings:** the national competent authority starts and conducts the investigation; based on the investigation's outcome it requests a civil court to issue an injunction or a cease and desist order, and
- **Criminal proceedings:** the national competent authority starts and conducts the investigation and, where the infringement constitutes a criminal offence or where the trader refuses to comply with a previous court or administrative decision (cease and desist order), refers the case to the prosecutor/investigating judge for action under criminal law. Criminal sanctions may include imprisonment, ban of activities for a specified period of time or financial sanctions.

Implications of this factor – type of enforcement regime

The three enforcement regimes described above are not mutually exclusive. The Commission's 2014 legal study shows that all three public enforcement regimes may coexist in one Member State.

In terms of impact assessment of policy options the more enforcement regimes co-exist in parallel in a Member State the stronger is likely to be the possible impact of changes to the CPC Regulation in that Member State. A stronger impact of possible changes to the CPC Regulation may also be expected in enforcement regimes involving courts (civil proceedings regime) because multiple actors (competent authority and the courts) will have to cope with the possible changes. Conversely, it can be expected that in Member States with a predominant enforcement regime based on self-managed administrative proceedings possible changes of CPC Regulation would lead to less important impact.

Impact of the coexistence of different enforcement regimes on the CPC cooperation

The differences among Member States as regards the type(s) of enforcement regimes available can inhibit CPC enforcement cooperation, cause delays or create gaps in enforcement. For example, differing standards for establishing evidence may lead to

¹⁰³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:165:0001:0012:EN:PDF>

¹⁰⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:165:0063:0079:EN:PDF>

¹⁰⁵ Study on enforcement authorities' powers and national procedural rules in the application of Regulation 2006/2004/EC on consumer protection cooperation (Final Report of July 2014).

problems and delays when responding to CPC mutual assistance requests. This may result in:

- evidence provided by the applicant authority to the requested authority being insufficient to follow up a CPC request in another Member State;
- the applicant authority uses significant resources in collecting evidence, which the requested authority does not require to take an action; and
- evidence collected by the requested authority is inadmissible in another Member State due to its form.

These disparities cause delays in request handling and reduce the efficiency of enforcement.

Further difficulties have been noted where the applicant and requested authority apply different enforcement regimes. For example, when the applicant authority requests enforcement based on evidence obtained from consumers in its Member State, the standard and/or burden of proof applied may be insufficient for the requested authority to undertake criminal proceedings specified in its national law. Not accustomed to the use of criminal proceedings to cease such an offence, the applicant authority may find it difficult to obtain sufficient evidence allowing the requested authority to cease the infringement.

These differences in enforcement regimes are likely to be the most problematic when enforcement action is required in multiple Member States concurrently, as authorities applying different proceedings may reach different conclusions and do so in very different time horizon.

Examples of the barriers to mutual assistance cooperation generated by differences in enforcement regime are summarised in the box below (source: Commission 2014 legal study).

Examples of problems arising from differences in enforcement regimes

Each authority will apply its national procedural rules when handling mutual assistance requests and therefore the following practical issues may arise in dealing with Intra-Community infringements in different enforcement systems:

- **Burden/standard of proof:** The CPC Regulation requires that sufficient information must be provided, but there is no unique standard for this due to different enforcement proceedings (administrative, civil and criminal) in different Member States. The burden/standard of proof is particularly high when enforcement is carried out through criminal proceedings and may be difficult to meet due to the fact that the majority of the infringement proceedings are based on consumer complaints; and especially for the infringement committed through electronic means, the evidence may not be available¹⁰⁶. This may be exacerbated by the investigation powers – which are usually tailored to the required standard of proof – granted to the competent authorities in the context of different national enforcement systems where the burden of proof is lower. Ultimately, due to the differences in enforcement systems, one authority may not be able to collect evidence that meets the burden/standard of proof in another Member State.
- **Linguistic barriers:** Linguistic barriers appear to be an obstacle especially where the enforcement orders are issued in civil proceedings or criminal proceedings and the civil / criminal court asks for translation of the documents concerned. The CPC Regulation specifies that information can be exchanged in the official language of the requesting or applicant authority; however there are cases where courts have not accepted evidence provided in a language different to their own.
- **Statute of limitations**, where it exists, may prevent enforcement action especially where civil proceedings are required as there are divergences in the length and effects of statute of limitations among the Member States. Administrative authorities may not be aware of these differences when requesting another authority to initiate proceedings. In this way the statute of limitations may create a potential obstacle to effective functioning of the CPC mutual assistance mechanism.

Sources:

Summary based on issues highlighted by the Commission Legal Study (2014) - Study on the enforcement authorities powers and national procedural rules in the application of Regulation 2006/2004/EC on consumer protection cooperation

Competent authority responses to a survey issued as part of the Commission 2014 Legal Study

4.1.2 Factor 2: The investigation and enforcement powers currently available to competent authorities

Article 4(6) of the Regulation stipulates the following minimum powers which must be available to competent authorities:

Minimum investigation powers:

- to have access to any relevant document, in any form, related to the intra-Community infringement;
- to require the supply by any person of relevant information related to the intra-Community infringement; and
- to carry out necessary on-site inspections.

Minimum enforcement powers:

¹⁰⁶ The Commission Legal Study (2014) suggests that inconsistencies on the standard of proof may be overcome through the reference to the extensive jurisprudence of EU courts, which have clarified that the authority needs to only gather information which is sufficiently complete to enable it to meet the relevant standard of proof. Moreover, some Member States have inverted the burden of proof for the national competent authorities. The results of their investigation are considered to be correct until the contrary is proven (rebuttable presumption of correctness). A similar rule (rebuttable presumption of correctness of the applicant authority's investigation results), introduced at the EU level, may help to overcome the procedural hurdles linked to the burden/standard of proof.

- to request in writing that the seller or supplier concerned cease the intra-Community infringement;
- to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking;
- to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions; and
- to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.

Additionally Article 8(2) of the CPC Regulation states that to respond to an enforcement request from another Member State:

"[...], the requested authority shall exercise the powers set out under Article 4(6) and any additional powers granted to it under national law. The requested authority shall determine, if necessary with the assistance of other public authorities, the enforcement measures to be taken to bring about the cessation or prohibition of the intra-Community infringement in a proportionate, efficient and effective way."

In light of this, it is important to ascertain the additional powers granted under national law which are available to competent authorities to fulfil their obligations and which are likely to vary by Member States. These variations also contribute to an uneven regulatory baseline.

Where competent authorities currently possess additional investigation and enforcement powers to the minimum ones set in Article 4(6) of the CPC Regulation, any such additional powers introduced by the proposed policy options can be expected to have minor implications for these Member States. For Member States without these additional powers, the proposed policy options are likely to generate administrative costs (e.g. familiarisation and training costs, cost of exercising the power). It is therefore important to take into account differences in the enforcement 'toolkit' of each Member State to fully understand the baseline situation.

Moreover, the scale of impact of any change is likely to be dependent on the other factors, such as the degree of centralisation of an enforcement system. For example, in a decentralised national enforcement system with a high number of competent authorities, implementation costs may well be greater compared to a more centralised systems, as training costs are replicated with each decentralised regional authority. Equally, where regional authorities have constitutional autonomy, the administrative costs of making legislative changes in each region are likely to be greater than for a single centralised authority with nation-wide reach.

On the other hand, adaptability may be greater at regional level, making implementation of the proposed policy options timelier and less resource intensive. It should also be born in mind that although a competent authority has additional powers, it may not currently use them, in which case some cost is still likely to be incurred if following the review of the CPC Regulation that power is introduced as a minimum power and must be used. This is difficult to capture in the baseline, as it is difficult to ascertain to what extent each additional power is used at present by competent authorities.

4.1.3 Factor 3: Institutional framework for CPC implementation in the Member State

According to Article 4(1) of the CPC Regulation:

"Each Member State shall designate the competent authorities and a single liaison office responsible for the application of this Regulation".

There is no limit on the number of competent authorities each Member State may designate, so the CPC Regulation accommodates different national institutional frameworks. Further, Article 4(2) states that:

“Each Member State may, if necessary in order to fulfil its obligations under this Regulation, designate other public authorities. They may also designate bodies having a legitimate interest in the cessation or prohibition of intra-Community infringements in accordance with Article 8(3)”.

Article 4(4) adds:

“The competent authorities may exercise the powers referred to in paragraph 3 in conformity with national law either:

(a) directly under their own authority or under the supervision of the judicial authorities; or

(b) by application to courts competent to grant the necessary decision, including, where appropriate, by appeal, if the application to grant the necessary decision is not successful.”

This adds to the complexity of national institutional frameworks implementing the CPC Regulation as some designated authorities can have direct enforcement powers, while others may have limited delegated powers, or must refer to national courts to exercise those powers.

The number and type of enforcement authorities involved in enforcing consumer protection legislation listed in the CPC Regulation annex varies widely by Member State. Whether the authority is a competition authority, consumer protection authority or a sectorial authority has implications for the priorities of each authority, the nature of cooperation with other authorities, and the technical expertise and experience each has in handling consumer protection cases.

In some cases, the authority responsible for consumer and competition enforcement is the same entity (e.g. in the Netherlands, Italy, and Poland), allowing resources and case-handling knowledge to be shared. Where the proposed policy option introduces new powers for consumer protection enforcement, with which the entity is already familiar due to its analogous competencies in e.g. competition law, the implementation costs of the policy option are likely to be lower and adaption easier. However, in the case of authorities with wide competencies and limited resources, some areas may be prioritised over others to the advantage/disadvantage of consumer enforcement.

Differences in the distribution of powers are also relevant. While it may make sense for the authority responsible for the enforcement of the E-commerce Directive to be also responsible for data protection legislation enforcement, as both relate to infringements on the Internet, the technical skills necessary to handle consumer protection issues under each legislative act may be different. For example, criminal proceedings are common for data protection infringements whereas case officers handling E-commerce violations may have more experience in administrative proceedings. Privacy and consumer protection can also involve different evidence sources and technical knowledge. Differences in enforcement quality and prioritisation of enforcement areas can often emerge in these circumstances.

Furthermore, institutional/competence rules may prevent action where the infringement takes place outside the territorial jurisdiction of the authority¹⁰⁷. Lack of precedent or experience with cross-border cases can also be an obstacle to efficient and effective cooperation for applicant and requested authorities.

4.1.4 Factor 4: the administrative capacity and resources of enforcement authorities

While each national enforcement authority has powers to take an investigation and/or enforcement action to cease an infringement, as specified in Article 4(6) of the CPC Regulation, it must also have the administrative capacity and resources to exercise those powers to be effective, as set out in Article 4(7) of CPC Regulation:

“Member States shall ensure that competent authorities have adequate resources necessary for the application of this Regulation”.

¹⁰⁷ CPEC (2012): External evaluation of the CPC Regulation, page 12 available at: http://ec.europa.eu/consumers/enforcement/docs/cpc_regulation_inception_report_revised290212_en.pdf

However, the level of “adequate resources” is not defined and is likely to vary across competent authorities depending on the consumer legislation each is responsible for, the volume of CPC mutual assistance requests each handles per annum, and the degree to which some resources can be shared with other functions of the authority.

Facing limited resources, Member State authorities may prioritise the handling of domestic infringements over intra-Community cases. It is therefore important to consider both the total resources of the Member State's authority and the share devoted to CPC relevant cases in the baseline.

Administrative resources should be considered when assessing the ability of Member States to implement the proposed policy options (i.e. drafting legislation, guidance and providing training). Enforcement resources should also be considered where the policy option requires the implementation of a new power (i.e. exercising the power could involve a greater workload).

Each of the above factors is now examined and mapped by Member State.

4.2 Mapping of national public enforcement systems

4.2.1 Three basic types of public enforcement systems

The nature of the proceedings has consequences in terms of the investigation powers of the authority, the type of evidence admitted as well as the weight of evidence needed to prove the case (standard of proof), procedural safeguards and the rights of the infringing trader, statutory deadlines and statutory limitations, and the type of enforcement powers.

The mapping of national public enforcement regimes shows that three basic types of proceedings are used in Member States to enforce consumer law: (i) civil proceedings; (ii) administrative proceedings; and (iii) criminal proceedings.

In **civil proceedings** the national competent authority starts and conducts the investigation; based on its outcome it requests a civil court (or in some Member States a criminal court) to issue an injunction or a cease and desist order. The burden of proof in the court proceedings is borne by the competent authority. The proceedings are usually of an adversarial nature. The usual standard of proof is the “preponderance of evidence”. Civil courts mostly do not impose pecuniary sanctions. In some Member States they may order compensation of consumers or a pecuniary payment to public purse or to a designated body (e.g. consumer organisation), the purpose of which is the restitution of illicitly obtained gains (e.g. profit seizure/penalty payments) from the infringement rather than a sanction.

In **administrative proceedings**, the competent authority will investigate, assess and weigh the evidence, before adopting a decision. Administrative proceedings are characterised by a margin of appreciation (autonomy) of the national competent authority to assess the case and to take a decision within the limits set in the law. The standard of proof is higher than in civil proceedings, but lower than in criminal proceedings. Where the decision of the authority is contested (an appeal is made), this is done at civil or specialised administrative courts (judicial review of administrative decisions). In administrative proceedings competent authorities may impose administrative sanctions, mostly of pecuniary nature (fines or penalty payments). Some administrative authorities may have the power to order compensation of consumers, but this appears to be rather rare. Consumers usually have to claim compensation in separate proceedings before civil courts. The administrative decision may be protected by presumption of correctness and may be used in civil proceedings as a basis to claim compensation.

In **criminal proceedings**, the competent authority has strong investigation powers. At the same time, it bears a high burden of proof and is limited by procedural safeguards that protect the “accused”. A court decides whether an infringement has occurred and imposes a sanction. Proceedings are of adversarial nature, the burden of proof is on the side of the prosecution and the standard of evidence is that of “beyond reasonable doubt”. The possible sanctions are more severe than in administrative proceedings (may include pecuniary

sanctions, prison terms, ban of activities or expropriation of profits and proceeds from criminal activity). Courts in some Member States may order compensation of victims in criminal proceedings. Criminal proceedings are exceptional and limited to large scale fraud or data protection cases.

In some Member States public enforcement of consumer law is limited to infringements covered by the CPC Regulation. It is up to a consumer or a consumer association to seek redress in civil courts for purely domestic infringements. **Private enforcement of consumer law** in these Member States supplements public enforcement. For these reasons we include it in the mapping.

A mapping of each Member State's enforcement system is provided at the end of this chapter in Figure 4.2. The mapping is based on the Member States' biennial reports, DG JUST web country profiles and the Commission's 2014 legal study, supplemented by the contractor's research and analysis. The main findings concerning these enforcement models are:

- About half of Member States rely primarily on public enforcement in the form of **administrative proceedings** (although this does not preclude the parallel possibility of civil or criminal proceedings). This includes Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Spain;
- Member States relying primarily on **civil proceedings** for public enforcement (although this does not preclude the possibility of parallel administrative and criminal proceedings) are Denmark, Greece, Croatia, Luxembourg, Sweden, and the UK;
- Member States relying primarily on **private enforcement** for domestic and some cross-border infringements are Austria and Germany. In these jurisdictions it is up to the consumers (aided by voluntary or publicly funded consumer associations) to enforce their consumer rights in national courts, besides, in the CPC context, the public authorities may delegate in line with Article 8(3) of the CPC Regulation enforcement to these private entities. The Czech Republic also relies on private enforcement for all violations of the UCTD where the Trade Inspectorate has no competence to act;
- In Belgium¹⁰⁸, France¹⁰⁹ and the United Kingdom¹¹⁰ **criminal proceedings** are used to sanction violations of consumer legislation. In these Member States the enforcement of the law on unfair commercial practices has traditionally been done through criminal sanctions. In Austria¹¹¹, Finland¹¹², Hungary¹¹³, Denmark¹¹⁴ and Slovakia criminal proceedings can be initiated in data protection cases and/or in cases related to deception and/or fraud respectively. However, use of the criminal proceedings is less prominent than in the preceding three Member States.

Each of these systems has its limitations in terms of effectiveness and efficiency (see the box below). Differences and discrepancies in enforcement regimes (and procedural laws) inhibit trust, mutual understanding and cooperation among Member States. Delays often

¹⁰⁸ Imprisonment from 1 month to 5 years.

¹⁰⁹ Up to 5 years imprisonment.

¹¹⁰ Up to 3 months imprisonment if convicted by the magistrate's court or up to 2 years imprisonment if convicted in by the crown court.

¹¹¹ Imprisonment of up to 3 years is possible for bid rigging and fraud cases brought before the Federal Cartel Attorney by consumer associations as a private enforcement action. The CPC biennial report of Austria also provides a reference to the use of criminal proceedings in unlawful advertising cases (See: http://ec.europa.eu/consumers/enforcement/cross-border_enforcement_cooperation/docs/cpc_biennial_2013_at_en.pdf)

¹¹² Up to 1 year imprisonment (Chapter 30 of the Finnish Criminal Code), specifically related to misleading advertising/marketing, data protection and offences concerning the consumer credit.

¹¹³ Chapter XLII. of the Criminal Code.

¹¹⁴ For severe or repeat violations of the rules on advertising in the Danish Medicines Act (Section 104), violations are punishable by fine or imprisonment for a maximum of four months,

lead to gaps in enforcement. The external evaluation¹¹⁵ found that 58% of the consulted stakeholders rated divergence in the national procedural laws as a major barrier to efficient and effective CPC cooperation. Procedural fragmentation includes differences in the type of authority or nature of proceedings, timeframes, procedural safeguards, application of different standards leading to variations in the quality of mutual assistance requests, and jurisdictional rules, which prevent action being taken where the infringement takes place outside the local territory of the authority. A summary of Member State enforcement systems is provided in Table 4.1.

Table 4.1 Type of enforcement system and degree of centralisation by Member State

Characteristic	Type of public enforcement				Private enforcement
	Decentralised	Administrative	Civil	Criminal	
Member States	AT, BE, DE, ES, RO, UK	BG, CY, CZ, EE, ES, FI, FR, HU, IE, IT, LT, LV, MT, NL, PL, PT, RO, SK, SL	AT, BE, DK, EL, HR, LU, NL, SE, UK	AT, BE, DK, FI, FR, HU, UK	AT, CZ, DE

¹¹⁵ http://ec.europa.eu/consumers/enforcement/docs/cpc_regulation_inception_report_revised290212_en.pdf

Example 1: Public enforcement: impact of the separation of investigation, decision making and sanctioning on CPC cooperation

Historically, the Directorate-General for Competition, Consumer Affairs and Fraud Prevention (DGCCRF) of the Ministry of Economic Affairs and Finance in France has had extensive powers to investigate and cease infringements. However, it could not impose sanctions. Sanctions could only be imposed by courts. A similar situation existed in Belgium. This reduced the deterrent effect of enforcement on traders because of the lengthy and costly proceedings and the delay in imposing a sanction. In April 2014, the French and Belgian competent authorities received new administrative powers, including the possibility to impose pecuniary sanctions. This contributed to a more efficient and effective enforcement in these countries.

In Germany, Spain, Croatia, Luxembourg and in the UK the competent authorities must apply to courts to impose certain sanctions, although each has power to impose some pecuniary sanction.

Public enforcement in the form of administrative proceedings without the possibility to impose sanctions also leads to confusion and delays in the context of the CPC cooperation. It also reduces the deterrent effect of the CPC enforcement mechanism. In addition, lack of information about the progress of the proceedings before courts is a source of concern for the applicant authority requesting enforcement assistance under Article 8 of the CPC Regulation.

Example 2: Private enforcement does not address effectively cases affecting large numbers of consumers

In countries where enforcement systems rely on private enforcement, a large number of out of court dispute settlement arrangements exist and consumers are often actively complaining (i.e. Austria, Germany, Denmark, and Sweden). This is recognized as a positive effect of these systems.

Yet, the effectiveness of these systems may be limited where large numbers of consumers are affected by an infringement. Each case brought by consumers must be individually assessed by the competent body before taking an action. This is time consuming and costly where many consumers are affected. This may reduce the deterrent effect of such systems and be inefficient in terms of resources.

In cases involving large numbers of consumers, public enforcement systems appear to be more effective as they allow to stop the infringement without having to deal with the individual case of each consumer concerned (action taken on the basis of "harm to the collective interests of consumers").

In such circumstances public enforcement could be more efficient and effective by investigating and deciding on such cases in one go and imposing a sanction and, where possible and needed, a compensation for all consumers.

Sources:

Commission 2014 Legal Study: Study on the enforcement authorities powers and national procedural rules in the application of Regulation 2006/2004/EC on consumer protection cooperation

OECD (2006) Best practices for consumer policy: Report on the effectiveness of enforcement regimes

4.2.2 Impact of territorial decentralisation on an enforcement system

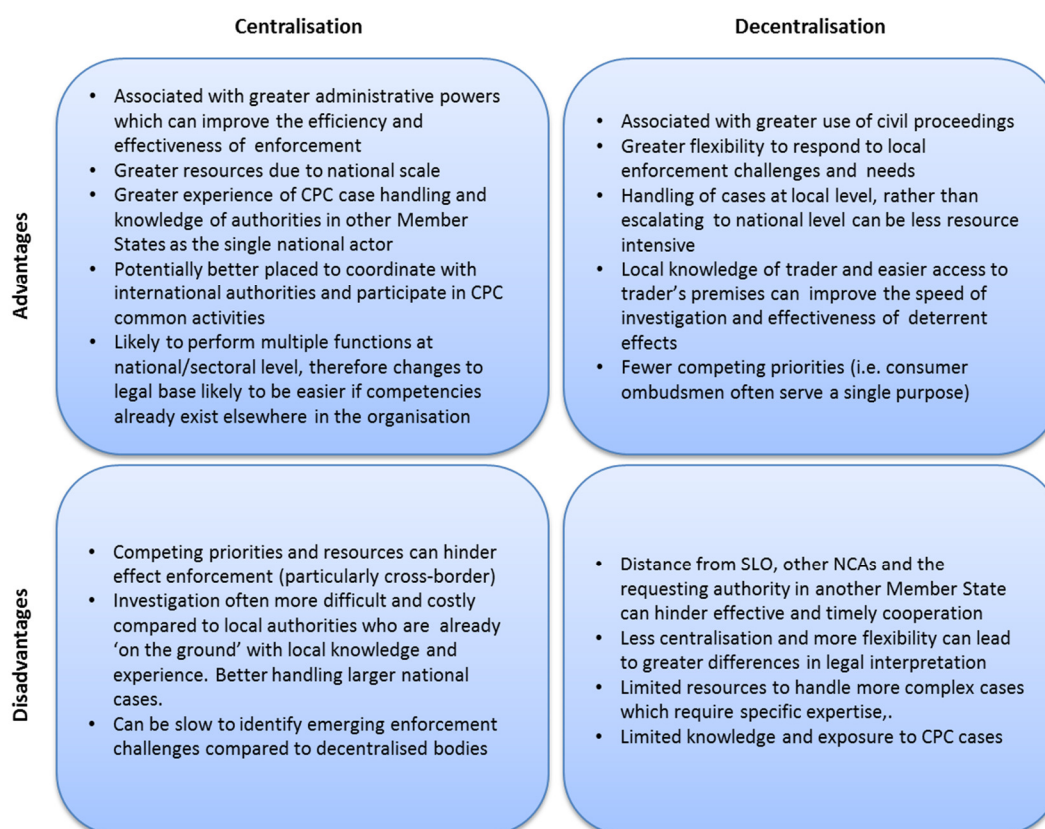
Whether an enforcement system in a respective Member State is centralised or decentralised plays an important role. It impacts the ability of the applicant authority and the SLO to identify quickly the correct entity competent to tackle an infringement, the efficiency of communication and cooperation, as well as the need for competence dispute resolution (i.e. to determine which authority should carry out investigation and enforcement actions).

The advantages and disadvantages of territorial decentralisation are summarised in Figure 4.1. They are based on the external evaluation of the CPC network and the findings of the Commission 2014 legal study. In short, large centralised authorities require substantial resources to function and can be located further away from the infringing trader. Equally, the centralised authority may have competencies, which are not solely consumer protection related (e.g. competition and product safety). Consequently, consumer protection might have

a lower priority compared to other competencies, the result of which is less resources and a slower response to infringements. However, centralised authorities generally possess greater administrative powers than decentralised authorities. This reduces their reliance on courts for decisions and shortens the time taken to cease an infringement and impose a sanction.

In contrast, decentralised authorities typically benefit from local knowledge of trade's' business practices, and they are able to conduct site visits at a short notice as they are located closer to the trader and generally operate more flexibility to respond to the enforcement needs within its jurisdiction. For example, local authorities often engage with local consumer associations and trade associations, which a centralised authority might find more difficult. However, in such setting cross-border and national case-handling involving multiple authorities can be more complex and take longer to conclude. In the first instance, the SLO contacted by the applicant authority from the other Member State may not know which local authority to contact.

Figure 4.1 Advantages and disadvantages of centralised and decentralised enforcement systems



Source: ICF Analysis

Investigation of online infringements can be affected by the degree of centralisation of an enforcement system. A centralised authority may be better technically equipped to handle such cases and may benefit from a more extensive know how. For example, a centralised authority may be better placed to investigate websites as they have the technical know-how to collect evidence and respond quickly to short term infringements. Decentralised authorities may have more limited IT forensic expertise and experience.

The majority of Member States rely on systems of centralised enforcement, with very limited competences for regional or local authorities. Decentralised systems exist in federal states, such as Spain (see box below) and Germany. In other Member States, such as the UK, investigation is delegated to local trading standards authorities, as is enforcement for most

cases involving local traders. All other infringements are investigated by the Competition and Markets Authority (CMA)¹¹⁶.

Territorial decentralisation of public enforcement – example of Spain

The Spanish public enforcement system is highly decentralised. Each independent local authority is competent to tackle infringements within its territory. In case of multiple competent authorities, the local authority of the place where the company has the premises or the head office is competent to act. This is not a codified rule but a practice between authorities allowing them to resolve competence disputes.

The local authority of the place where the company has its premises may carry out inspections and impose the sanctions. However this is contrary to the principle of territoriality as recognised by the Spanish consumer law, according to which the competence primarily depends on the location of the infringement (i.e. where the consumer is located). Only an agreement between the authorities may redistribute the competence¹¹⁷.

As of April 2014, Agencia Española del Consumo, Seguridad Alimentaria y Nutrición (AECOSAN) replaced the "Instituto Nacional del Consumo" (INC) as the body that promotes and guarantees consumers' rights.

In parallel each autonomous community has its own regulation to protect consumers and it is authorised to sanction traders that violate these regulations. Similar to national legislation and authorities, autonomous communities have also passed general laws to protect consumers and users, and created regional administrative structures for consumer protection to resolve the problem of competence.

Such fragmentation of enforcement among many competent authorities may lead from the CPC perspective to difficulties in the identification of the competent authority, frequent competence disputes delaying enforcement and reducing its deterrent effect and lack of transparency for consumers and businesses concerned.

Source: Commission Legal Study (2014) Study on the enforcement authorities powers and national procedural rules in the application of Regulation 2006/2004/EC on consumer protection cooperation

Highly decentralised enforcement systems may bring about additional challenges in the context of the CPC mutual assistance mechanism as summarised in the box below (source: Commission's 2014 legal study).

¹¹⁶ CMA (2014): Guidance on the CMA's approach to use of its consumer powers, pp. 9-10 available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/288624/CMA7_Consumer_Protection_guidance.pdf

¹¹⁷ Análisis de las modificaciones introducidas por la Ley 44/2006, de Mejora de la Protección de los Consumidores y Usuarios, a la Ley General de Consumidores y Usuarios incluidas en el texto refundido de la Ley General para la Defensa de Consumidores y Usuarios aprobado por Real Decreto legislativo 1/2007, <http://consumo-inc.gob.es/informes/informes/AnalisisTextoRefundido.pdf>

Handling intra-Community infringements in a decentralised system

Decentralised systems can generate the following issues when handling Intra-Community infringements:

- **Allocation of competence among national competent authorities:** The CPC Regulation does not specify which national competent authority should take the lead in tackling an intra-Community infringement. The distribution of powers at a national level may lead to complex situations where it is unclear who is ultimately responsible. The national competent authority of the place where the infringer resides is usually better placed to obtain infringement cessation, but in cross-border cases, if the place where the trader resides differs from where the act or omission took place or where the evidence is, a coordinated action of various authorities is preferable.
- **Applicable law:** the question of applicable law (both jurisdiction and substantive law) is prominent in court proceedings; however issues with respect to administrative decisions have also arisen. Some authorities assess intra-Community infringements against their national law which has implemented the EU Directives, while others make reference to the legislation of the requesting Member State or, in a neutral way, to the CPC Regulation and EU Directives. In centralised authorities, often with greater intra-Community experience, this is considered less of a problem. However, where regional differences in law go hand in hand with decentralised authorities with little prior intra-Community knowledge, the complexity of cases increases, making it more difficult to determine which law should be applicable in specific situations.

Sources:

Summary based on issues highlighted by the Commission Legal Study (2014): Study on enforcement authorities' powers and national procedural rules in the application of Regulation 2006/2004/EC on consumer protection cooperation. Competent authority responses to a survey issued as part of this study

4.2.3 Impact of horizontal distribution of competences on an enforcement system

Horizontal distribution of competences is also relevant as the more sectorial authorities are present in a Member State, the greater is the risk that their competencies may overlap, or that more than a single authority is competent to handle a particular type of infringement. This makes it more difficult to identify the competent authority in the CPC context.

In Italy, the Competition Authority (AGCM) is the only competent authority, with the exception of infringements that concern specific sectors, such as telecommunications. To avoid confusion and duplication of enforcement, the AGCM must for initiation of proceedings obtain the opinion of the sectorial authority concerned.

In Spain, under Article 47 (3) of Royal Legislative Decree No 1/2007, the authorities are also competent for enforcing consumer protection pursuant to sectorial legislation when the infringement is classified as a consumer offence. The legislation authorises the authority to tackle the infringement even when the offence is not expressly regulated by consumer protection legislation.

On the other hand, the advantage of a wide horizontal distribution of competencies is that sectorial technical and legal expertise is systematically developed, which can improve the effectiveness and efficiency of CPC mutual assistance mechanisms. Overlaps may be advantageous in that they allow the infringement to be tackled by the authority best placed to do so in terms of capacity and expertise. Table A7.1 in Annex 7 provides a detailed mapping of the Member State enforcement systems and nature of its composition, summarised at the end of this chapter in the final mapping (Figure 4.2)

4.3 Investigation and enforcement powers currently available to competent authorities

4.3.1 Minimum investigation and enforcement powers under Article 4(6) of the CPC Regulation

The CPC Regulation provides that all competent authorities must have minimum investigation and enforcement powers to effectively carry out their tasks under this Regulation. The exercise of these powers is done in accordance with national procedural rules. Article 4(6) of the Regulation stipulates these minimum powers, summarised as follows:

Minimum investigation powers:

- to have access to any relevant document, in any form, related to the intra-Community infringement;
- to require the supply by any person of relevant information related to the intra-Community infringement; and
- to carry out necessary on-site inspections.

Minimum enforcement powers:

- to request in writing that the seller or supplier concerned cease the intra-Community infringement;
- to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking;
- to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions; and
- to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.

A more in-depth assessment of national implementation of these provisions in seven Member States was carried out in the Commission's 2014 legal study. This study found that most Member States have implemented the powers set in Article 4(6) of the CPC Regulation into national law.

The Commission 2014 legal study however identified in these Member States three differences with implications for CPC mutual assistance cooperation:

- The request to cease an infringement was interpreted by some Member States, like Italy, as equivalent to moral suasion or informal contact with the infringer;
- Competent authorities in the Czech Republic and Slovakia cannot accept or propose undertakings and
- There are considerable differences in the implementation of cease and desist orders.

No substantial differences were identified between in how these powers were applied to domestic and intra-Community infringements in the Member States. The exception is Germany, where the enforcement powers provided by the CPC Regulation are only available for Intra-Community infringements, whilst domestic infringements are dealt with by consumer associations within the context of private enforcement.

The power to cease or prohibit an infringement is in practice interpreted by the Member States as the ability to issue a cease and desist order. In line with the Injunction Directive, cease and desist orders are usually obtained in civil court proceedings. The practice however differs across the Member States. For example¹¹⁸:

¹¹⁸ Commission 2014 *Study on the enforcement authorities powers and national procedural rules in the application of Regulation 2006/2004/EC on consumer protection cooperation*

- In the Czech Republic, Italy and Latvia such orders are issued in administrative proceedings by the competent authority in the form of an order to cease or remove the unfair act or omission;
- In France the national competent authority may either issue an administrative order or refer the case to a civil court to obtain a judicial cease and desist order; and
- In Germany the national competent authority may either issue a cease and desist order or designate a private enforcement body that will obtain such order in civil courts.

Further, in the Member States with criminal proceedings (such as Belgium, France, and the UK), cease and desist orders are an alternative to a criminal prosecution. The public prosecutor must be informed of the intention of the competent authority to proceed with a cease and desist order. In Belgium where both proceedings (cease and desist order and criminal proceedings) are initiated at the same time, it is explicitly provided that the cease and desist order takes precedence over the criminal proceeding. The criminal proceedings are suspended until the commercial court decides. The decision of the Presiding Judge of the Commercial Court is binding on the criminal court, which cannot decide whether the infringement occurred, but only on the existence of the elements that qualify it as a criminal offence.

In France, the cease and desist order is considered unsuitable to tackle serious infringements, notably aggressive and fraudulent practices. This is because the practice must be evaluated in relation to the victim and on a case-by-case basis. This is one reason why competent authorities in France make use of administrative, civil and criminal proceedings in consumer enforcement, as the choice of proceedings is adapted to the differences in the severity and type of infringement.

The different uses of a cease and desist orders have implications for the weight and type of evidence required and whether administrative, civil or criminal proceedings are followed, it may create obstacles for CPC mutual assistance cooperation.

Lesser differences can be found as regards implementation of the minimum investigation powers (Article 4(6) of the CPC Regulation). While each Member State has implemented provisions into national law, investigation powers are often limited to on-site inspection within the business hours of the trader's premises and inspectors are not permitted to enter private dwellings. More 'enhanced' provisions in this respect include¹¹⁹:

- Authorised officials in Latvia are allowed to visit any buildings, premises, territories and other places unhindered, including private dwellings.
- In Belgium inspectors can carry out inspections in private dwellings subject to judicial warrant and take other officials with them to inspect the premises, having the power obtain information in several means necessary, including taking photographs and questioning relevant persons.
- In Poland the inspecting party, during investigation may be assisted by the officials of the state inspection authorities or the police.
- In Slovakia invited visitors, in addition to the inspectors, may also conduct the inspection.
- In the UK extensive powers of inspection are granted when a warrant has been issued. This includes entering any premises mentioned in the warrant and obtaining information in several means necessary, including private dwellings.
- In France authorised officials may conduct inspections at any premises and seize documents and any information in the context of investigations requested by the European Commission, the Minister for Economic Affairs or the Competition Authority's general rapporteur on the basis of a proposal from the rapporteur or judicial authorisation given by the judge.
- Officials may enter private dwellings in Italy following a court order.
- The presence of a police officer at inspections by authority representatives is required in Finland and Italy.

¹¹⁹ Commission Legal Study (2014): Study on enforcement authorities' powers and national procedural rules in the application of Regulation 2006/2004/EC on consumer protection cooperation

These provisions demonstrate that although Article 4(6) establishes minimum powers for all competent authorities, differences still remain which can be a source of inefficiency when handling CPC mutual assistance requests, because e.g. the quality of evidence collected can vary depending on how the evidence was obtained and by whom.

Differences in interpretation of “payments” in Article 4(6)(g) of the CPC Regulation

Some of the consumer legislation listed in the annex to the CPC Regulation, such as Article 13 of the Unfair Commercial Practices Directive clearly obliges the Member States to introduce sanctions for infringements of the national law which transposes the respective EU instrument. Article 20 of Directive 2000/31/EC (E-commerce Directive) adopts the same language as Article 13 of the UCPD.

“Member States shall lay down penalties for infringements of national provisions adopted in application of this Directive and shall take all necessary measures to ensure that these are enforced. These penalties must be effective, proportionate and dissuasive”

Article 4(6)(g) of the CPC Regulation however refers to "payments" with respect to non-compliance with an enforcement decision. The purpose of such payment is not stipulated in the CPC Regulation. The CPC Regulation also does not indicate whether this payment should take the form of a pecuniary sanction or whether it should serve the purpose of restitution of an illicit gain from an illegal activity.

In theory, such "payment" may aim to sanction, compensate, or recover the illicit profit from the infringer. A sanction is typical more focused on deterrence while compensation and recovery payments refer to restoration (i.e. to remedy the violation). These aims are very different, resulting in a wide variation in the payment demanded from the infringer as highlighted by the provisions in the consumer legislation. In reality all these aims may be accomplished by the authority through different instruments. Below are some examples of the instruments used by the competent authorities.

The Hungarian Competition Authority has published detailed guidelines on calculating penalties in consumer protection cases, using a three step process. Firstly, the basis for the penalty is established based on the cost of the communication (advertising) concerned, or if, for any reason, this is not appropriate, a certain percentage (normally 5%) of the income realised from the sale of goods/services, during the period of concern. In the second step, various other circumstances are considered which may increase or decrease the penalty (i.e. the detriment suffered by consumer or the severity of the infringement). Lastly, the authority checks whether the established penalty is likely to have the appropriate deterrence effect. Thus the authority ensures that the fine has the effect of a sanction and ensures at least partial recovery of the gain from illegal activity.

In the UK the CMA adopted the OFT's guideline on "Consumer protection from unfair trading". The Guideline contains a set of targets for the authority's enforcement actions. These are, to:

- change the behaviour of the offender;
- eliminate any financial gain or benefit from non-compliance;
- be responsive and consider what is appropriate for the particular offender and regulatory issue;
- be proportionate to the nature of the offence and the harm caused;
- restore the harm caused by the regulatory non-compliance, where appropriate, and
- deter further non-compliance.

There is also a provision in the Polish Unfair Competition Act regarding payments that may be ordered by a court for the breach of consumer protection laws. According to Article 18.1 of the Act it is possible to order the "adjudication of an adequate amount of money to the determined social goal connected with support for the Polish culture or related to the protection of national heritage – where the act of unfair competition has been deliberate".

Differences of this type can mean that payments considered as adequate in one Member State are considered an insufficient deterrent in other Member States. This may encourage authorities to seek alternative approaches to enforcement to protect the consumer's interests (outside the scope of the CPC Regulation) or give rise to disputes among Member States as to the effectiveness of enforcement action taken by the requested authority.

4.3.2 Additional investigation and enforcement powers available under national law

Article 8(2) of the CPC Regulation provides that the competent authorities can also use other powers conferred on them by national law to fulfil their tasks under the CPC Regulation.

This section maps the additional investigation and enforcement powers currently available in the national law of the Member States which go beyond the minimum powers. We highlight the similarities and differences across the Member States. A summary of investigation and enforcement powers is provided in Tables 4.1 and 4.2 respectively.

The additional powers considered are:

Investigation powers:

- The power for authorities to conduct test purchases; and
- The power to conduct mystery shopping;

Other powers considered include the power to request information from other authorities (e.g. tax authorities, police, customs) and/or from third parties (e.g. banks, domain registers, providers of payment services) to track down the flow of money, bank accounts' information or owners of websites. In carrying out desk-based research on the investigation powers of Member States, we were unable to identify any provisions which enable competent authorities to request information from other authorities or third parties. Partnerships were observed between different authorities such as the Consumer Protection Partnership¹²⁰ established in the UK with the aim (among others) to “develop joined up communications and intelligence sharing strategies”. The Partnership includes the National Trading Standards Board, Trading Standards Scotland, the Department for Enterprise, Trade and Investment Northern Ireland, the Office of Fair Trading (and subsequently the CMA), Consumer Futures (a consumer advocacy group), the Financial Conduct Authority, the Trading Standards Institute, Consumer Council for Northern Ireland, and the Citizens Advice Service.

Mystery shopping may involve measuring the quality of service, gathering information about a product or assessing compliance without necessarily purchasing the product. The identity of the shopper is not known to the trader and/or the authority conducts the exercise under another identity. It is also possible to conduct mystery shopping at distance (i.e. reviewing internet websites, checking terms and conditions on consumer credit agreements) as well as in person..

Test purchases require an actual purchasing of the product to assess compliance. For example, the authority must take a taxi ride to know whether the meter used and the fare charged is compliant with national law. For test purchases the identity of the shopper is usually known to the trader.

The below table is based on national legislation establishing national competent authorities, Member States' biennial reports, the Commission' legal study and press releases indicating the powers used in specific enforcement cases. Where reference to a specific power could not be found, a negative result was recorded. Further details are available in Annex 8.

In addition, it should be noted that in some Member States there may be practical or budgetary obstacles not allowing the competent authorities to use this power in practice. For

¹²⁰ BIS, 'Consumer Protection Partnership – Priorities Report 2013-14' available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/252730/bis-13-1267-consumer-protection-partnership-future-priorities.pdf accessed 31.12.2014 p. 4

instance, in some Member States, budgetary and financial rules may be obstructing the use of these powers because of strict rules about the return the funds used for test purchases within very short deadlines to state budget. In other Member States national authorities may not be able to act under other identities, which may be essential for effective investigation of infringements in the context of social networks/media and similar digital instruments.

Table 4.2 Mapping of Member States' selected additional investigation powers

Member State	Investigation powers available under national law	
	Power to make test purchases	Power to conduct mystery shopping
AT		
BE		
BG		
CY		
CZ		
DE		
DK		
EE		
ES		
FI		
FR		
GR		
HR		
HU		
IE		
IT		
LT		
LU		
LV		
MT		
NL		
PL		
PT		
RO		
SE		
SK		
SL		
UK		

Key: ■ Yes, authorities do have the relevant power □ No, authorities do not have the relevant power

Source ICF Analysis

Differences in the additional investigation powers of Member States

The following can be noted on the basis of Table 4.1:

- Approximately half of Member States have the power to conduct test purchases. An equal proportion of Member States are also found to have the power to conduct mystery shopping, though in some cases the use of these powers may be limited due to budgetary and other obstacles¹²¹;
- Bulgaria, Czech Republic, Denmark, Spain, Finland, France, Hungary, Latvia, the Netherlands, Romania, Slovakia, Slovenia and the UK have both additional powers;
- Austria, Belgium, Greece, Luxembourg, Malta, and Sweden have neither additional power; and
- Cyprus, Germany (for medical products only), Estonia, Croatia, Ireland, Lithuania, Poland and Portugal have one of the two examined investigation powers.

Summary of difficulties with the current investigation powers

There are differences between Member States in terms of the weight of evidence required, with the powers to obtain evidence nationally adjusted to this need. However, these needs are not currently adjusted on in the context of the CPC mutual assistance mechanism, which can cause problems when evidence is gathered in one Member State and used in another Member State.

For example, in some Member States (e.g. in the Czech Republic, Italy, Latvia and Germany) the national competent authority adopts a decision concerning the intra-Community infringement. However, in Belgium, France and the United Kingdom, where the infringer may be prosecuted for criminal offences, the national competent authority carries out investigations to inform the prosecutor and hence the type and weight of evidence required is quite different.

In a cross-border context the differences in national systems (from the perspective of investigation) can bring difficulties in pursuing potential cross-border infringement cases. The national competent authorities have mentioned that what evidence is regarded as sufficient to trigger *investigations* and/or *enforcement measures* can vary according to the request. These factors reduce effectiveness of action against intra-Community infringements.

Enforcement powers:

- The power to name infringing traders;
- The power to close down an infringing website;
- The power to remove the trader's licences or professional membership to a trade body;
- The power to impose interim measures, such as: i) to freeze assets; or ii) to temporarily withdraw a trade license/place a ban on activity/suspend a website;
- The power to order consumer compensation/_to adopt measures to facilitate redress for consumers;
- The power to impose pecuniary sanctions; and
- The power to undertake settlement procedures with the infringing traders.

We have also considered the power to request restitution of illicitly obtained gains (e.g. profit seizure/penalty payments) in addition to ordering consumer compensation. However, we have found that requesting restitution of illicitly obtained profits is not specified (separately) in the national legislation. Member State legislation specifies the sanctions for breaching of consumer protection laws (i.e. as a fixed maximum, range or ratio of the revenues of the trader concerned).

A "settlement" is reached when a solution to a legal dispute is agreed upon among the parties as opposed to being decided (e.g. by a judge). In this context settlement procedure refers to the power of the authority to reach an extrajudicial agreement whereby the trader admits responsibility for an infringement and accepts penalty for the infringement, thereby avoiding the full procedure which might be more costly and time-consuming (for both parties)

¹²¹ E.g. Slovakia, - authorities have the power to make test purchases, but they do not use this power in practice because of budgetary constraints.

and result in a more severe sanction for the infringer. For this reason, settlement procedures are used to avoid full criminal prosecution¹²² in France, Belgium and the UK. A settlement differs from "undertakings" procedure (already available through Article 4(6) of the CPC Regulation) in that in the former the trader admits responsibility and accepts a sanction whilst in the latter the trader agrees to change/terminate a conduct and/or to take other measures (e.g. to compensate consumers) without admitting responsibility for an infringement. Where a case is closed with trader's undertakings the authority does not impose a sanction.

The below table is based on national legislation establishing national competent authorities, Member States' biennial reports, the Commission's legal study, and press releases indicating the powers used in specific enforcement cases. Where reference to a specific power could not be found, a negative result was recorded. Further details are available in Annex 8.

Table 4.3 Mapping of Member State additional enforcement powers

Member State	Enforcement powers based on national law						
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an	Power to order consumer compensation	Settlement procedure
AT							
BE							
BG							
CY							
CZ							
DE							
DK							
EE							
ES							
FI							
FR							
GR							
HR							
HU							
IE							
IT							
LT							
LU							
LV							
MT							

¹²² OECD, Best Practices for consumer policy: report on the effectiveness of enforcement regimes, DSTI/CP(2006) of 20 December 2006.

Member State	Enforcement powers based on national law						
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an	Power to order consumer compensation	Settlement procedure
NL							
PL							
PT							
RO							
SE							
SK							
SL							
UK							

Key: ■ Yes, authorities do have the relevant power □ No authorities do not have the relevant power

Source ICF Analysis

Differences in the additional enforcement powers of Member States

According to Table 4.3, the competent authorities in the Member States have the following additional enforcement powers:

- Authorities in Belgium, France, Netherlands, Sweden and the UK are found to have the power to undertake settlement procedures¹²³;
- Naming of infringing traders is permitted in the majority of Member States; the exceptions are the Czech Republic, Germany, France, Croatia, and Portugal;
- About half of Member States including Bulgaria, Czech Republic, Denmark, Spain, Finland, France, Greece, Croatia, Hungary, Italy, Lithuania, Latvia, Malta, Romania, Slovakia, Slovenia and the UK have the power to withdraw the trade license of an infringer or place a temporary ban on activity as an interim measure;
- Cyprus, Denmark, Estonia, Spain, Finland, Italy, Luxembourg, Latvia, Poland, Portugal, Sweden and the UK have the power to take down websites;
- Estonia, Spain, Italy, Latvia, Portugal and the UK have the power to order compensation of the consumer. In addition, Italy and Portugal the power to assign the proceeds from any imposed penalty to finance consumer associations and education projects;
- Authorities in Austria, Bulgaria, Cyprus, the Czech Republic, Germany, Estonia, Spain, Finland, France, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Latvia, Malta Portugal and the UK have the power to withdraw a trader’s license (not as an interim measure), and
- Authorities in Romania and the UK are the only Member States found to have the power to freeze assets;

¹²³ Belgium and France were found to have introduced this power in the Commission’s legal study. Additional research found that authorities in the Netherlands (<http://www.collectiveredress.org/collective-redress/alternativemechanisms/collectivesettlements>), Sweden (<http://www.collectiveredress.org/collective-redress/alternative-ombudsman-sweden>) and the UK (<http://services.parliament.uk/bills/2013-14/consumerrights.html>) appear to also have the power to negotiate extrajudicial agreements, as an alternative to initiating civil proceedings.

The power to impose, coordinate and monitor “EU-wide” type pecuniary sanctions (commensurate to the overall infringement) is currently not available in any Member State. However, the general power to impose pecuniary sanctions is available in all Member States for domestic infringements, except in Austria and Germany.

In addition, the power to require traders to adopt measures to facilitate redress for consumers is only available for the CPC authorities only in Estonia, Spain, Portugal, Romania and the UK.

Summary of difficulties with current enforcement powers

While all Member States have the power to cease and/or prohibit intra-Community infringements, the effectiveness and the speed at which this can be done differs widely depending on national procedures and choice of enforcement action.

The Commission’s 2014 legal study highlighted that undertakings to cease the intra-Community infringement are used infrequently by the Member States assessed (Czech Republic and Slovakia even do not have this minimum power) Also the implementation of this procedure and practices across Member States greatly differ. This is despite requiring fewer resources to implement compared to other approaches and the ability to cease the infringement within a fix timescale. Where the authority is required to go to court to cease the infringement, inevitably, there is a risk of delay and going to court likely to require greater resources to prepare the case and to gather evidence, than administrative proceedings. Criminal proceedings are considered to be the most resource intensive due to a greater weight of evidence required.

The legal study also highlights that a consistent application of prior warnings, acceptance and enforcement of voluntary undertakings, and settlement procedures is lacking. This leads to inefficiencies in many cases. A more uniform approach to such proceedings is recommended, also to avoid forum shopping. For example, a dishonest trader may choose to settle in a Member State with the longest judicial proceedings and where differences in procedures when handling intra-Community infringements are greatest to avoid cessation of its activities or at least to obtain lower sanctions.

Current approach to parallel domestic infringements

The CPC Regulation establishes only a minimum framework for cooperation and does not define a common procedure for Intra-community infringements addressed through the CPC mutual assistance mechanism. The different proceedings in the Member States and the different national procedural rules lead to delays in responding to requests and in some cases even prevent effective enforcement.

Specifically in relation to cases of parallel domestic infringements where the transactions between trader and consumer are domestic, yet the presence of the trader and the infringement occurs in multiple Member States, in practice there is no defined procedure which Member States should follow to ensure that the same enforcement action is taken. In theory, Member State could adopt an Article 9 procedure, however, parallel domestic infringements are not recognised by authorities as EU-relevant infringements. An example of the difficulties encountered when authorities with different enforcement procedures encounter parallel domestic infringements in multiple Member States is illustrated in the box below.

Divergence in sanctions among Member States - The Apple Case (2011)

The Italian Competition Authority launched an investigation against Apple for possible breaches of the rules on unfair commercial practices with respect to the misleading information provided to consumers about legal guarantees regarding the conformity of consumer goods, and about offered commercial guarantees.

The Italian Competition Authority said Apple had failed to inform consumers of their legal right to two years' legal guarantee, recognising instead only a one-year guarantee.

In its final decision, the Italian Competition Authority imposed fine of € 900,000, and ordered the trader to cease the infringement. Moreover, Apple was obliged to publish an extract of the decision on their websites¹²⁴.

The same commercial practice was targeted by competent authorities in other Member States. For instance, in Spain the regional authorities of Madrid imposed a fine of €47,000. Yet, the Slovenian authority concluded that the commercial practice did not infringe consumer law¹²⁵.

Differences in powers to impose sanctions

On cessation of the infringement, competent authorities impose a sanction or may request that a sanction is imposed on the infringer. The type and severity of sanction depends on the legal qualification of the infringement. Pecuniary and non-pecuniary sanctions can be distinguished.

Non-pecuniary sanctions include:

- Withdrawal of an operating/trade licence (available to most competent authorities) or closing down a website which takes away the ability of the infringer to trade for the future;
- Imprisonment term (only available to a limited number of competent authorities, e.g. in Austria, Belgium, Denmark, France, Finland, Hungary, Slovakia and the UK with criminal proceedings),
- Confiscation of illicit gains from illegal activity. For example the new Hungarian Criminal Code (Act C 2012) enables the confiscation of financial gains arising out of all criminal activities (Sec 74). This applies to all crimes against consumer rights listed in the Act (Chapter XLII). Similar powers exist in the UK for criminal proceedings relating to fraud. It is unclear whether this applies in other Member States, but is likely to be limited to where criminal proceedings can be adopted in consumer cases, and.
- Public naming of the infringer: some competent authorities publish their decisions (often at the expense of the perpetrator). However, in some Member States publicity measures can be authorised only if they contribute to the cessation of the infringement or its effects (e.g. Belgium and UK). In Germany, for example, consumer associations should refrain from publication if a trader makes comparable public announcement. Consequently, the use of the power to name infringers is limited to a few competent authorities in Member States.

Pecuniary sanctions are more often imposed because of non-compliance with consumer laws. They include:

- lump sum fines (i.e. the law either sets an exact amount of the fine for a specific offence or sets a range within which the authority may impose a fine);
- turnover based fines (i.e. the fine is calculated based on the national or global annual turnover of the infringer), and
- periodic penalty payments (i.e. a payment for each day the infringement continues or until the infringement ceases). Periodic penalty payments are also used to secure compliance with investigative measures (e.g. to produce a document, submit to an inspections, etc.).

Fines are usually an income of the national budget. In some Member States the national authorities may decide to assign all or part of the proceeds from fines to consumer

¹²⁴ European commission, Unfair Commercial Practices website. Available at : <https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.cases.showCase&caseID=354&articleID=>

¹²⁵ BEUC, 2014. *Additional response to the consultation on the review of Consumer Protection Cooperation (CPC) Regulation*.

associations or for other non-for profit activities. Fines are not used for compensation of consumers; their function is retributive and deterrent. Different methods exist for setting of fines. In some Member States the national authorities take into account among others the illicit profits gained from the illegal authority.

Pecuniary sanctions may be available as a penalty for the infringement and/or to ensure compliance with investigative or enforcement measures.

Mapping of possible sanctions is provided in Table 4.4, which considers in detail (See Annex 8 Table A8.3): i) which authority can impose a sanction; and ii) which sanctions are available to the authorities.

The key findings of the mapping of pecuniary sanctions in Table 4.3 are the following:

- All competent authorities in the Member States have powers to impose lump sum fines, including those which must request courts to impose those fines;
- Authorities in Cyprus, Spain, Hungary, Poland and the UK can impose turnover based fines; Competition authorities and sectorial regulators are most likely to have the power to impose turnover based fines;
- Authorities in Cyprus, Spain, Poland and Netherlands can apply periodic penalty payments;
- Where authorities must request a court to impose a sanction (Croatia, Luxembourg and the UK), the maximum amount of the sanction is typically higher than in enforcement regimes based primarily on administrative proceedings (Estonia, Latvia, Lithuania, Poland, and Romania);
- In private enforcement systems and/or where consumer associations have an enforcement role, the level of the sanction is typically decided by a court (Denmark, Finland, Sweden and Germany) and can vary widely depending on the violation and type of court;
- Violations of unfair commercial practices legislation incur higher fines in many Member States (i.e. France, UK and Italy). In France and the UK the fine is set by the court following civil proceedings;
- Aviation authorities can impose some of the highest fines on behalf of consumers under air passenger rights legislation (Belgium, Cyprus, Greece, and Lithuania); and
- Sanctions vary significantly depending on the violation of consumer law concerned (see Cyprus, Czech Republic, Spain, and the Netherlands).

Table 4.4 Summary mapping of Member State availability of pecuniary sanctions

Member State	Availability of pecuniary sanctions			Min-max sanction (€)
	Lump sum payments	Turnover based fines	Periodic payments	
AT				Up to €8,000-€36,000 per case
BE				€500-€100,000 (up to €1,000,000 for boarding denial under 261/2004/EC)
BG				€153 - €12,779 (300BGN – 25,000BGN)
CY				€8,543 or 10% turnover under 261/2004/EC Up to €40,000 (medical products) + €340 per day €8,543 – E-commerce €170,860 or 5% turnover – consumer credit €256,000 for other legislation
CZ				Up to €36,000, €108,000, €180,000, or €1.8m depending on violation Up to €400,000 (data protection) Up to €80,000 (medical products)
DE				Up to €10,000 administrative fine

Member State	Availability of pecuniary sanctions			Min-max sanction (€)
	Lump sum payments	Turnover based fines	Periodic payments	
				Penalty payment of up to €250,000 can be claimed by private enforcement bodies on subsequent violations following undertaking
DK				Information not available
EE				Up to €640 per infringement, increases to €3,200 for UCP Up to 9,600 other infringements
ES				Up to €3,000 for minor infringement €3,000-€30,000 for more serious offences, €30,000-€60,000 for the most serious infringements
FI				Information not available
FR				Up to €500 for natural person and €7,500 for legal entity administrative fine Up to €150,000 for all other offences
GR				€500-€1,000,000 €500-€3,000 per passenger under 261/2004/EC
HR				€6,500-€13,000 misleading advertising €260-€1,300 natural person (all other offences) €400-€3,900 trader (all other offences)
HU				€50,000-1% of net turnover in previous year
IE				€5,000-€150,000 €500,000-€5,000,000
IT				€5,000-€500,000 for UCP
LT				€300-€9,000 for UCP and air passenger rights
LU				€251-€50,000 in case of non-compliance with court decision
LV				Up to €14,200
MT				€466-€46,000 depending on violation
NL				Up to €78,000 per infringement, (€450,000 for UCP) in most cases €30,000-€150,000 (medical products)
PL				€50-€1,900 depending on violation 10% of revenue in single accounting year
PT				Information not available
RO				€465- €14,000
SE				Rarely exceed €5,000
SK				Up to €66,400 Up to €166,000 €166,000
SL				Up to €3,000-€40,000 depending on if individual/sole trader or legal entity
UK				Up to €5,000 for most offences (statutory) €6,000 UCP 10% of turnover – consumer credit

Key: Yes, authorities apply the sanction No, authorities do not apply the sanction

Source: ICF Analysis

Advantages and disadvantages of different sanctions

When protecting the economic interests of consumers, as opposed to the safety of consumers (where injury or illness can result from the infringement), non-pecuniary sanctions can be disproportionate where they exceed the harm to the consumer.

To be effective and efficient, the penalty should not exceed what is necessary to sanction the infringer and achieve adequate deterrence. Application of non-pecuniary sanctions (i.e. closing of a website or withdrawal of a license) which removes the ability of the infringer to trade may however be proportionate in cases involving fraud or very serious and widespread violations of consumer rights. Pecuniary sanctions are more frequently applied in the Member States. Periodic payments often have the greatest deterrent effect as they have a potential to be imposed continuously depending on the behaviour of the trader.

When applying pecuniary sanctions, lump sum penalties have the benefit of transparency and predictability, as the infringer knows beforehand the penalty for the infringement. However, they may not always be proportional to the detriment caused by the infringement. For these reasons maximum fines can differ depending on whether the infringer is a natural person (individual) or a legal entity (corporate) as in Croatia, France and Slovenia. A turnover based fine is the most proportionate to trader's size and ability to cause harm by definition, typically calculated on the basis of the trader's annual turnover in that Member State in its last financial year.

4.4 CPC institutional framework in the Member States

Member States have an obligation to designate a public authority responsible for the application of the CPC Regulation; however the details were left to the Member States themselves. These authorities could be administrative or judicial or both. The diversity of institutional designs across the EU stems from diverse institutional and legal traditions.

Competent authorities across Member States include:

- Partially or fully independent Consumer Protection Agency/bodies with the competence to protect the economic interests and/or safety of consumers. Located within government ministries as agencies/offices (i.e. Economic Affairs) or as independent authorities, each is publicly funded; typically, each has strong administrative powers and can be involved in policy making. Consumer Protection bodies feature prominently in majority of Member States (Belgium, Bulgaria, Estonia, Croatia, Lithuania, Latvia, Malta and Romania).
- Competition authorities are primarily concerned with enforcing EU and national competition law. With powers and procedures analogous to consumer protection enforcement, competition authorities are often responsible for enforcement of unfair commercial practices legislation. Funding can be entirely publicly sourced or can come from sanctions and any licensing activities the authority might undertake. Joint competition and consumer authorities exist in Austria, Cyprus, Italy, Hungary, the Netherlands, Poland, Portugal and the UK.
- Market/trade inspection services are partly or fully publicly funded organisations established at national or local level charged with inspection and market surveillance. They may be part of trade ministries or other state institutions. Competent authorities in the Czech Republic and Slovakia are part of trade ministries. In the UK, trading standards authorities are delegated investigation and enforcement powers.
- Consumer associations and sectorial ombudsmen represent consumers and are often partly publicly funded. They are a feature of private and public enforcement systems particularly in the Scandinavian countries (Austria, Denmark, Sweden, Finland and Germany). They also exist in Poland at the regional level to support enforcement. Acting on behalf of consumers, rather than as agents of, their enforcement powers can be

rather limited. They often rely on local courts to adopt decisions and impose sanctions. In Finland, the market court has a major role in this respect.

- Sectorial regulatory bodies are public authorities with specific competences in particular areas such as financial services, aviation, data protection, electronic communications, energy, and pharmaceutical products. They have strong administrative powers contingent on the typical violations in that sector.

Annex 9 contains the mapping of the competent authorities under the CPC Regulation in each Member State. The results indicate that:

- Enforcement of majority of consumer law covered by the CPC Regulation is done by specialised consumer protection authorities or agencies within government ministries;
- Many consumer protection authorities have competences in other policy areas (i.e. consumer safety or competition policy);
- Sectorial regulators are involved for product/industry specific issues (electronic communications, transport, financial services, data protection) ; and
- In Italy, Estonia, Cyprus and Latvia data protection authorities play an important role, especially for e-commerce, electronics communications and advertising.

A multiple enforcer model exists in some Member States, consisting of a central authority with a coordination role whilst enforcement of consumer protection law is carried out by local public bodies. This is not only the case of Spain where consumer protection policy is a responsibility shared between the State and the Autonomous regions. In the United Kingdom there is a division of competences between the regional and national level. In Germany, depending on the subject-matter, different public federal or regional authorities are appointed as competent authorities. Hungary has also a decentralised system, with regional inspectorates supporting the national authorities in enforcement.

The problem for authorities engaged in cross-border cooperation is that the competent authority in a Member State is often unknown and difficult to contact in the multiple enforcer model. Where cooperation takes place, the lines of communications are often long and fragmented which slows cooperation, with negative implications for enforcement efficiency. The box below provides more details on the German model.

Enforcement in Germany

Germany has an enforcement model in which a private bodies (consumer and trade organisations) deal with the enforcement of consumer law at domestic level and a public body (Ministry of Justice) as well as the Lander authorities deal with the Intra-community infringements under CPC Regulation.

Usually, there are no differences between the domestic enforcement powers and those applied to Intra-community infringements, but Germany is an exception.

The minimum enforcement powers set by the CPC Regulation were granted to the Ministry of Justice and depending on the subject area at stake, other public authorities are appointed as the competent authority. For instance, for issues related to medicines or price indication the 'Landers' authorities are the competent authorities. The Federal aviation office is the competent authority for air passenger rights. The Ministry of Justice is competent for subjects like e-commerce, consumer credit, and unfair terms in consumer contracts or door-to-door sales.

In a public presentation, the BVL (previous SLO) indicates that both private and public enforcement systems are complementary in the most efficient way to provide the most

effective enforcement¹²⁶. Variety of actors (4 federal authorities and 57 Land authorities¹²⁷ at regional level, including the involvement of local courts to make decisions) and the fact that private and public enforcement systems coexist in Germany, contributes to complexity of the German enforcement system. This complexity (at least for cross-border cooperation) may have implications for the efficiency and effectiveness of enforcement in the CPC context.

4.5 Administrative capacity and resources of Member States

The administrative capacity to exercise the powers granted to enforcement authorities is important for effective and efficient cross-border cooperation. Resources are also important for authorities to implement any changes proposed by the policy options.

However, the available data concerning resources of Member States devoted to the operation and administration of the CPC Regulation and consumer enforcement activities more generally is rather patchy. For instance, the budgets of authorities responsible for competition and or consumer safety, often do not allow a breakdown of resources devoted consumer protection enforcement. In more decentralised enforcement systems, the number of potential local and national authorities which may be involved in consumer enforcement activities is much greater, yet the number of persons actually involved in consumer enforcement can be relatively small, as an individual's time is shared across multiple responsibilities. The biennial reports and other sources often provide only incomplete picture about the situation in the Member States, as data are provided for some authorities only, yet the contractor is aware that other authorities exist in that Member State.

Finally, where data is available, it is rarely reported consistently to allow reliable comparison. Nevertheless, Table 4.5 is based on two data sources. The table provides indicative estimates of enforcement costs from the CPC external evaluation and the number of NCAs in each Member State from DG SANCO website country summary reports. If crude, it is possible to then scale up the resources of each Member States by multiplying the FTE per NCA and estimated annual operating cost by the number of NCAs.

Table 4.5 Indicative administrative and enforcement resources of the Member States in 2012

Member State	FTE annual resources for operation and maintenance per...		Number of NCAs in Member State	Estimated annual operation and maintenance cost (€) per...		Estimated FTE resources and annual cost of NCAs by Member State	
	SLO	NCA		SLO	NCA	FTE	Annual €
Austria	1	1	9	62,241	48,741	9	438,669
Belgium	7.5	12.5	1	466,455	674,426	12.5	674,426
Bulgaria	14	14	4	339,449	339,449	56	1,357,796
Cyprus	1.5	1.5	5	67,754	67,754	7.5	338,770
Czech Republic	2	2.5	10	59,106	73,258	25	732,580
Denmark	0	1.5	5 + consumer ombudsmen	-	109,660	7.5	548,300

¹²⁶ BVL, 2011. *Borderless Consumer Protection!? Effective enforcement, powerful consumers*. Presentation available at : http://www.bvl.bund.de/SharedDocs/Downloads/07_Bundesamt/Veranstaltungen/symposium_herausforderungen_2012_vortrag_MalekRadeideh.pdf?__blob=publicationFile&v=3

¹²⁷ CPC Biennial report of Germany 2012

Member State	FTE annual resources for operation and maintenance per...		Number of NCAs in Member State	Estimated annual operation and maintenance cost (€) per...		Estimated FTE resources and annual cost of NCAs by Member State	
	SLO	NCA		SLO	NCA	FTE	Annual €
Estonia	1.5	2.75	4	45,609	89,867	11	359,468
Finland	0.5	1	3	31,944	71,387	3	214,161
France	0	5	8 National	-	288,485	40	2,307,880
Germany	2.5	2.5	4 Federal + 57 Land	137,899	137,899	142.5	7,860,243
Greece	2.5	1.5	4 (+2 related authorities on food and health/safety)	85,055	54,033	9	324,198
Hungary	1	19	7	26,466	532,850	133	3,729,950
Croatia	N/A	N/A	1	N/A	N/A	N/A	N/A
Ireland	0	0.5	5	-	31,040	2.5	155,200
Italy	3	3	10	167,373	167,373	30	1,673,730
Latvia	4	3.5	9	109,097	95,460	31.5	859,140
Lithuania	4	3.5	8	39,765	39,765	28	318,120
Luxembourg	5	5	4	39,311	39,311	20	157,244
Malta	2.5	2.5	6	74,287	74,287	15	445,722
Netherlands	2.5	2	7	198,559	159,997	14	1,119,979
Poland	6	6	7	157,207	157,207	42	1,100,449
Portugal	0	6	4	-	182,755	24	731,020
Romania	3	3	12	75,429	75,429	36	905,148
Slovakia	0	2.5	8	-	71,567	20	572,536
Slovenia	0	13.5	3	-	525,147	40.5	1,575,441
Spain	11	11	9	562,276	562,276	9	438,669
Sweden	0	0.5	6	-	27,488	12.5	674,426
United Kingdom	2.5	3.5	6-7	110,406	140,888	56	1,357,796

Source: EC (2012): External evaluation of the CPC Regulation by ICF (formerly ICF-GHK)

Typically, larger Member States have greater costs and resources (i.e. Germany, France, UK, and Italy). Bulgaria, Hungary, Netherlands, Poland and Slovenia are also found to have relative high costs over €1m per annum for the operation and maintenance of NCAs. The lowest costs Member States are estimated to be Cyprus, Finland, Luxembourg, Ireland, Lithuania and Estonia.

While every effort is made to record resources as full-time equivalent (FTE) it unclear how consistently Member States provided this information in the external evaluation, therefore the estimates in Table 4.4 are only approximate. Recent updated information provided by Member States in their biennial reports indicates the following:

- About 1-2 FTE are responsible for CPC in each Austrian competent authority;
- In Denmark, 14 FTE are responsible for consumer protection, of which 1.5 FTE are responsible for CPC related activities;
- In Estonia, 61 FTE are employed by the national consumer protection authority, of which 2 FTE are responsible for CPC;

- In Hungary, up to 11 FTE are responsible for CPC across all authorities;
- In Italy, 2.5 FTE work full time in relation to CPC, but can be supported by 45 other employees in the SLO/NCA;
- France devotes 2.3 FTE to CPC activities;
- 13 FTE in all national authorities are responsible for CPC in Romania;
- There are 21 potential users of CPC in Slovakia; and
- In the UK there are 1077 staff working on consumer protection all of which could potentially assist in CPC activities, the exact number is unknown.

There is clearly a wide divergence in the resources available to Member States and hence their potential ability to implement changes proposed in the policy options.

4.6 Key findings

Figure 4.2 presents a graphical summary of the mapping highlighting groups of Member States with similar characteristics, which may encounter the same magnitude of impacts when implementing the proposed policy options.

The key findings are:

- Civil law based enforcement systems such as those in Austria, Belgium, Croatia, Luxembourg, and Sweden are found to have relatively few additional enforcement and investigation powers.
- This can be partly explained by the decision-making role of the courts in such systems and the limited competencies of ombudsmen in countries like Sweden and Denmark. These authorities focus on investigation of the violations whilst enforcement powers are vested with the courts. Authorities in some of these Member States do have the power to impose settlement procedures, avoiding what can be a costly legal proceeding for the infringing trader (i.e. Belgium, France, Netherlands, Sweden the UK).
- Mixed enforcement systems, which allow authorities to undertake civil, administrative and criminal proceedings like in the UK, have the highest number of additional powers. This allows authorities to adapt the proceeding to the type of infringement. The greater resources and experience with intra-Community consumer protection in larger Member States is also likely to impact the range of powers available (Spain France, and the UK all have five or more additional powers, Italy has four).
- Germany is an exception as its authorities have very limited additional powers, but are also highly decentralised with over 57 Lander competent authorities at regional level, in addition to four federal authorities. The implication of this could be that changes to the CPC Regulation could be more complex and costly to implement in Germany than in other Member States. German authorities also have relatively few additional powers, therefore the scale of adjustment is likely to be greater than for other Member States. This results largely from the private enforcement regime followed in Germany. Other regimes which rely to some degree on private enforcement of consumer law include Austria and the Czech Republic.
- Member States with relatively high numbers of NCAs are Austria, Czech Republic, Spain, Romania, Slovakia and the UK. Each could therefore incur greater costs compared to Member States with fewer NCAs and more centralised enforcement systems.
- Member States with primarily administrative enforcement system such as Cyprus, Estonia, Italy, Ireland, Malta, the Netherlands, Poland and Portugal have relatively few additional investigation powers, but each has at least three additional enforcement powers. Bulgaria, the Czech Republic, Lithuania, Latvia, Spain, Finland, France, Hungary, and Romania are the exceptions as they have many additional investigation and enforcement powers. This would imply that any additional enforcement powers are likely to be introduced much faster than in civil based systems, where adjustment to changes may take longer as more time is needed to develop guidance, case law and awareness amongst the judiciary.




Figure 4.2 Overall mapping of the regulatory baseline

Member State	Decentralisation	Type of public enforcement			Private enforcement	No. additional investigation powers	No. additional enforcement powers	No. NCAs established under CPC
		Admin	Civil	Criminal				
AT	Decentralised	Principal	Principal	Principal	None	0	2	18
BE	Decentralised	Principal	Principal	Principal	None	0	2	1
BG	Centralised	Principal	Principal	None	None	2	3	4
CY	Centralised	Principal	Principal	None	None	1	3	5
CZ	Centralised	Principal	Principal	None	128	2	2	10
DE	Decentralised	Principal	Principal	None	None	1	1	61
DK	Centralised	Principal	Principal	Principal	None	2	3	5
EE	Centralised	Principal	None	None	None	1	4	4
ES	Decentralised	Principal	Principal	None	None	2	5	9
FI	Centralised	Principal	Principal	Principal	None	2	4	3
FR	Centralised	Principal	Principal	Principal	None	2	3	8
GR	Centralised	Principal	Principal	None	None	0	3	4
HR	Centralised	Principal	Principal	None	None	1	1	1
HU	Centralised	Principal	Principal	Principal	None	2	3	7
IE	Centralised	Principal	Principal	None	None	1	2	5
IT	Centralised	Principal	Centralised	None	None	0	4	10
LT	Centralised	Principal	None	None	None	1	3	8
LU	Centralised	Principal	Principal	None	None	0	3	4
LV	Centralised	Principal	None	None	None	2	5	9
MT	Centralised	Principal	Principal	None	None	0	3	6
NL	Centralised	Principal	Principal	None	None	1	2	7
PL	Centralised	Principal	Principal	None	None	1	2	7
PT	Centralised	Principal	Principal	None	None	1	3	4
RO	Decentralised	Principal	None	None	None	2	3	12
SE	Centralised	Principal	Principal	None	None	0	3	6
SK	Centralised	Principal	Principal	None	None	2	3	8
SL	Centralised	Principal	Principal	None	None	2	2	6
UK	Decentralised	Principal	Principal	Principal	None	2	7	7

Key: Decentralisation

 Authorities are decentralised  Authorities are centralised

Key: Public enforcement

 Principal enforcement approach  Enforcement approach used to a lesser extent  Enforcement approach not used

¹²⁸ Private enforcement applies to all violations of the UCTD which is implemented in the Civil Code for which the Trade Inspectorate (competent authority) has no competence to act.





ANNEXES



Annex 1 Questionnaire for review of B2C e-commerce websites

Identification	
1. Your name	<i>Name</i>
2. Country for which you are conducting the website review	<input type="checkbox"/> Austria <input type="checkbox"/> Belgium <input type="checkbox"/> Bulgaria <input type="checkbox"/> Croatia <input type="checkbox"/> Cyprus <input type="checkbox"/> Czech Republic <input type="checkbox"/> Denmark <input type="checkbox"/> Estonia <input type="checkbox"/> Finland <input type="checkbox"/> France <input type="checkbox"/> Germany <input type="checkbox"/> Greece <input type="checkbox"/> Hungary <input type="checkbox"/> Ireland <input type="checkbox"/> Italy <input type="checkbox"/> Latvia <input type="checkbox"/> Lithuania <input type="checkbox"/> Luxembourg <input type="checkbox"/> Malta <input type="checkbox"/> Netherlands <input type="checkbox"/> Poland <input type="checkbox"/> Portugal <input type="checkbox"/> Romania <input type="checkbox"/> Slovakia <input type="checkbox"/> Slovenia <input type="checkbox"/> Spain <input type="checkbox"/> Sweden <input type="checkbox"/> United Kingdom
3. Today's date	<i>Please select today's date</i>
4. Start time (current time; please use 24-hour format and a full-stop between hours and minutes)	<i>Please specify</i>

E-commerce Website being reviewed	
5. Name of e-commerce Website/trader	<i>Please specify</i>
6. Number of e-commerce Website (as it appears in the list provided to you)	<i>Please specify</i>
7. Category of e-commerce for which website is checked (as it appears in the list provided to you)	Select one option # Electronic goods # Package travel # Recreation and culture # Clothes and sports goods # Consumer Credit
8. URL of the e-commerce Website	<i>Please specify</i>

Trader Identity	
<p><i>Is the following information regarding the identity and geographical address of the trader available on the website? Please check the front page, “contact us”, “about us”, imprint, FAQ pages, or similar. The address may also be in the terms and conditions or in a corporate information section.</i></p>	
<p>9. Is the geographical business address provided?</p> <p><i>Please copy and paste the information into the comment box provided.</i></p> <p><i>If there is more than one business address, please copy and paste the one for the country that you are researching.</i></p>	<p>Select one option</p> <p># Yes # No</p> <p>Comments</p>
<p><i>If “Yes”</i></p> <p>10. Select the country stated in the geographical business address.</p>	<p><input type="checkbox"/> Austria <input type="checkbox"/> Belgium <input type="checkbox"/> Bulgaria <input type="checkbox"/> Croatia <input type="checkbox"/> Cyprus <input type="checkbox"/> Czech Republic <input type="checkbox"/> Denmark <input type="checkbox"/> Estonia <input type="checkbox"/> Finland <input type="checkbox"/> France <input type="checkbox"/> Germany <input type="checkbox"/> Greece <input type="checkbox"/> Hungary <input type="checkbox"/> Ireland <input type="checkbox"/> Italy <input type="checkbox"/> Latvia</p>

		<input type="checkbox"/> Lithuania <input type="checkbox"/> Luxembourg <input type="checkbox"/> Malta <input type="checkbox"/> Netherlands <input type="checkbox"/> Poland <input type="checkbox"/> Portugal <input type="checkbox"/> Romania <input type="checkbox"/> Slovakia <input type="checkbox"/> Slovenia <input type="checkbox"/> Spain <input type="checkbox"/> Sweden <input type="checkbox"/> United Kingdom <input type="checkbox"/> Non-EU country <i>Please specify</i>
	11. Is the address provided by the trader located in the country for which you are conducting the website check (as indicated in question 2)?	Select one option # Yes # No
	12. Email address to contact trader	Select one option # Yes # No
<i>If "Yes"</i>	13. Copy and paste the relevant email address from the website.	<i>Please specify</i>
	14. Telephone number to contact trader	Select one option # Yes # No
<i>If "Yes"</i>	15. Copy and paste the relevant telephone number from the website.	<i>Please specify</i>
	16. Is a contact form provided on the website? <i>This can be any type of contact form where feedback to the trader can be entered directly. There must be space for a message, not just space for the consumer to enter contact details.</i>	Select one option # Yes # No
<p>After you have completed this section, please proceed to ONE of the following sections only, as directed by the market sector defined in the list provided to you:</p> <p>1: Electronic goods</p> <p>2: Package travel</p> <p>3: Recreation and culture</p> <p>4: Clothes and sports goods</p> <p>5: Consumer credit</p>		

<p>Electronic goods</p> <p><i>This section covers the market sector of <u>electronic goods</u>, such as smartphones, computers, and touchscreen tablets.</i></p> <p><i>Please refer to question 7 above to ensure that you are filling in the correct section.</i></p>	
<p>a) Product characteristics and price</p> <p><i>This sub-section asks if information about the product characteristics, including final price, and price elements is available on the website.</i></p> <p><i>To complete this section, browse the category of “tablets” (e.g. iPad, Samsung Galaxy Tab, etc.). If there is no specific category, then use the search function of the website.</i></p> <p><i>You should then select at random one of the products presented and complete the section below.</i></p> <p><i>Please check the main product page, “product details” page, or similar.</i></p>	
<p>17. What is the price displayed for the selected product?</p> <p><i>Please copy and paste the price exactly as it is presented, including the currency and any extra information.</i></p>	<p><i>Please specify</i></p>
<p><i>Please proceed to the relevant page where the product is described in detail.</i></p>	
<p>18. Is information on the resolution of the display provided? (for example, 1280 x 800 pixels)</p> <p><i>Please copy and paste the text into the comment box.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p>19. Is information on the amount of on-board storage (in Gigabytes / GB) provided?</p> <p><i>Please copy and paste the text into the comment box. Please check you have the details for internal storage rather than the RAM or an external storage option.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p><i>Now, select the product, add to basket / checkout, and proceed to the payment page or website up to the point where payment details are to be entered. Please do not select any optional extras that increase the price (eg. more memory).</i></p>	
<p>20. What is the final price as displayed on the order payment page?</p> <p><i>Please copy and paste the price exactly as it is presented, including the currency and any extra information.</i></p>	<p><i>Please specify</i></p> <p>Comments</p>
<p>21. Are taxes (e.g. sales taxes) included in the final price?</p>	<p>Select one option</p> <p>Comments</p>

<p><i>If it is not clear if taxes are included, please tick 'taxes are not mentioned'.</i></p> <p><i>If taxes are not mentioned here but were mentioned in the original price, please write that in the comment box.</i></p>	<p># Yes, taxes are included in the price # No, taxes are not included in the price # Taxes are not mentioned on this page</p>
<p>22. Is the final price to pay the same as the initial price offer? (as recorded above in question 17)</p> <p><i>Please copy and paste the price exactly as it is presented, including the currency and any extra information.</i></p>	<p>Select one option Comments # Yes, the prices are identical # No, the final price is higher than was previously indicated # No, the final price is lower than was previously indicated</p>
<p>23. Are all additional freight, delivery or postal charges provided?</p> <p><i>Please consider for this question only delivery to your country.</i></p>	<p>Select one option # Yes, additional costs listed or indication that no additional costs apply # No, unclear whether additional costs apply Comments</p>
<p>b) Payment methods and delivery</p>	
<p><i>Is the following information regarding payment and delivery arrangements available on the website?</i></p> <p><i>Please check the relevant product ordering page, front page, specific payment/delivery pages, FAQ pages, Terms and Conditions or similar.</i></p>	
<p>24. Is the consumer provided with information on the available payment methods?</p> <p><i>(e.g. Type of credit cards accepted, bank transfer, etc.)</i></p> <p><i>This information may be presented as a set of logos.</i></p>	<p>Select one option Comments # Yes, information is easy to find # Yes, but information is difficult to find # No information provided</p>
<p>25. Is the consumer provided with information on the expected delivery time?</p>	<p>Select one option Comments # Yes, information is easy to find # Yes, but information is difficult to find # No information provided</p>
<p>26. Does the trader ship to other countries? (other than the country for which you are conducting the website check)</p>	<p>Select one option Comments # Yes # No, trader does not ship to other countries # Unclear, information could not be found</p>

c) Returns, Terms and Conditions	
<p>Is the following information available on the website?</p> <p>Please check the front page, Terms and Conditions, product ordering page, FAQ pages, or similar.</p>	
<p>27. Are consumers provided with clearly worded information on their right to withdraw (i.e. return the product within a minimum of 7 days?)</p> <p><i>Check the list with the national translation of 'right to withdraw' provided to you. Please bear in mind that some retailers may allow more than 7 days .</i></p> <p><i>Please copy and paste the wording of the information into the comment box.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes, clear information and easy to find</p> <p># Yes, clear information, but difficult to find</p> <p># Information unclear</p> <p># No information provided</p>
<p>28. Are Terms and Conditions provided?</p> <p><i>Check the list with the national translation of Terms and Conditions provided to you.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p><i>If "Yes"</i></p> <p>29. Are the Terms and Conditions provided in the language of the website you are checking?</p> <p><i>This is typically the main language of the country for which you are conducting the website check. In bi-lingual countries, both languages are acceptable – however, if the language of the T&C differs from the language of the rest of the website, please indicate in comments (e.g. in Belgium: if French website has T&C in Flemish).</i></p>	<p>Select one option</p> <p># Yes</p> <p># No</p> <p>Comments</p>
<p>30. Is there a function to download (e.g. as a PDF) or print the Terms and Conditions?</p> <p><i>If there is no function to print or download, check with the print preview function whether it is possible to print the Terms and Conditions so that full text is printed.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes, there is a print or download function</p> <p># No, but I could print full text through browser function</p> <p># No, not possible to print full text through browser</p>
<p>Please proceed directly to Section 9 to complete this questionnaire.</p>	

Package travel

This section covers the market sector of package travel, i.e. where you can book a package which includes at least two of the following elements: transport, accommodation, or other tourist services which are a substantial part of the package (e.g. windsurfing instruction for the duration of the holiday). The service must cover more than 24 hours or include an overnight stay.

Please refer to question 7 above to ensure that you are filling in the correct section.

a) Product characteristics and price

This sub-section asks if information about the product characteristics, including final price, and price elements is available on the website.

To complete this section, browse the offers available. Choose at random a package holiday deal from the country you are researching to another EU Member State for one person (covering at least flight and accommodation). Please select a deal that is already a package, rather than constructing your own. If there is no specific category, then use the search function of the website.

Please check the main offer page, “offer details” page, or similar.

31. What is the price displayed for the selected product?

Please copy and paste the price exactly as it is presented, including the currency and any extra information, including any qualifiers, such as ‘from’. If there is a per person price and a total price, please supply the total price.

Please specify

Comments

Please proceed to the relevant page where the travel offer is described in detail. This could be on a ‘learn more’, ‘more details’ or similar page. It may also be on the payment page.

32. Is information on the total length of the trip (including flight days) provided?
(e.g. 7 nights)

Select one option

Comments

Yes

No

33. Is information provided on which meals/excursions are included in the package (e.g. no meals included, breakfast only, half board, full board, all inclusive)?

This question is not about whether meals are included but whether the information what is included in the package is present

Select one option

Comments

Yes

No

Now, select the travel offer, and proceed to the payment page or website up to the point where payment details are to be entered. Please do not enter any optional extras.

<p>34. What is the final price as displayed on the order payment page? <i>Please copy and paste the price exactly as it is presented, including the currency and any extra information.</i></p>	<p><i>Please specify</i></p>
<p>35. Are taxes (e.g. sales taxes) included in the final price? <i>If it is not clear if taxes are included, please tick 'taxes are not mentioned'.</i></p>	<p>Select one option Comments # Yes, taxes are included in the price # No, taxes are not included in the price # Taxes are not mentioned on this page</p>
<p>36. Is the final price to pay the same as the initial price offer? (as recorded above in question 31)</p>	<p>Select one option Comments # Yes, the prices are identical # No, the final price is higher than was previously indicated # No, the final price is lower than was previously indicated</p>
<p>37. Are all additional delivery or postal charges (e.g. for delivery of tickets/voucher by mail) provided? <i>Please consider for this question only delivery to your country.</i></p>	<p>Select one option Comments # Yes, additional costs listed or indication that no additional costs apply # No, unclear whether additional costs apply</p>
<p>b) Payment and delivery</p>	
<p><i>Is the following information regarding payment and delivery arrangements available on a clearly identified page on the website?</i> <i>Please check the relevant product ordering page, front page, specific payment/delivery pages, FAQ pages, Terms and Conditions or similar.</i></p>	
<p>38. Is the consumer provided with information on the available payment methods? <i>(e.g. Type of credit cards accepted, bank transfer, etc.)</i> <i>This information may be presented as a set of logos.</i></p>	<p>Select one option Comments # Yes, information is easy to find # Yes, but information is difficult to find # No information provided</p>
<p>39. Is the consumer provided with information about the arrangements for delivery of tickets/voucher? <i>(e.g. by email, pickup at the travel agency)</i></p>	<p>Select one option Comments # Yes, information is easy to find # Yes, but information is difficult to find # No information provided</p>
<p>c) Terms and Conditions</p>	
<p><i>Is the following information available on the website?</i></p>	

Please check the front page, Terms and Conditions, product ordering page, payment page. FAQ pages, or similar.	
<p>40. Are Terms and Conditions provided?</p> <p><i>Check the list with the national translation of Terms and Conditions provided to you</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p><i>If "Yes"</i></p>	<p>41. Are the Terms and Conditions provided in the language of the website you are checking?</p> <p><i>This is typically the main language of the country for which you are conducting the website check. In bi-lingual countries, both languages are acceptable – however, if the language of the T&C differs from the language of the rest of the website, please indicate in comments (e.g. in Belgium: if French website has T&C in Flemish)</i></p>
	<p>42. Is there a function to download (e.g. as a PDF) or print the Terms and Conditions?</p> <p><i>If there is no function to print or download, check with the print preview function whether it is possible to print the Terms and Conditions so that full text is printed</i></p>
<p>Please proceed directly to Section 9 to complete this questionnaire.</p>	

<p>Recreation and culture</p> <p><i>This section covers the market sector related to the <u>sale of tickets</u> to recreational and cultural events within the EU. This includes tickets for films, sports games, theatre, concerts, or other cultural events.</i></p> <p><i>Please refer to question 7 above to ensure that you are filling in the correct section.</i></p>	
<p>a) Product characteristics and price</p>	
<p><i>This sub-section asks if information about the product characteristics, including final price, and price elements is available on the website.</i></p> <p><i>To complete this section, select one of the event categories at random. If there is no specific list of categories, then use the search function of the website.</i></p> <p><i>You should then select at random one of the events presented and then complete the section below.</i></p> <p><i>Please check the main event page, “event details” page, or similar.</i></p>	
<p>43. What is the price displayed for the selected event?</p> <p><i>Please copy and paste the price exactly as it is presented, including the currency and any extra information.</i></p>	<p><i>Please specify</i></p> <p>Comments</p>
<p><i>Please proceed to the relevant page where the event is described in detail.</i></p>	
<p>44. Is information on the starting time of the event provided?</p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p>45. Is information on the location of the event provided?</p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p>46. Is the information on the price/seat category provided?</p> <p><i>If no seat categories are available, but the price is provided and applies to all seats, chose ‘Yes’</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p><i>Now, select the event offered, and pick a seat at random. Proceed to the payment page or website up to the point where payment details are to be entered.</i></p>	
<p>47. What is the final price as displayed on the order payment page?</p> <p><i>Please copy and paste the price exactly as it is presented, including the currency and any extra information.</i></p>	<p><i>Please specify</i></p>
<p>48. Are taxes (e.g. sales taxes) included in the final price?</p>	<p>Select one option</p> <p>Comments</p>

<p><i>If it is not clear if taxes are included, please tick 'taxes are not mentioned'</i></p>	<p># Yes, taxes are included in the price # No, taxes are not included in the price # Taxes are not mentioned on this page</p>
<p>49. Is the final price to pay the same as the initial price offer? (as recorded above in question 44)</p>	<p>Select one option Comments # Yes, the prices are identical # No, the final price is higher than was previously indicated # No, the final price is lower than was previously indicated</p>
<p>50. Are all additional delivery or postal charges (e.g. for delivery of tickets by mail) provided? <i>Please consider for this question only delivery to your country.</i></p>	<p># Yes, additional costs listed or indication that no additional costs apply # No, unclear whether additional costs apply Comments</p>
<p>b) Payment and delivery</p>	
<p><i>Is the following information regarding payment and delivery arrangements available on a clearly identified page on the website?</i> <i>Please check the relevant product ordering page, front page, specific payment/delivery pages, FAQ pages, Terms and Conditions or similar.</i></p>	
<p>51. Is the consumer provided with information about the arrangements for delivery of the tickets? <i>(e.g. by post, at the venue, e-mail, immediate download-print)</i></p>	<p>Select one option Comments # Yes, information is easy to find # Yes, but information is difficult to find # No information provided</p>
<p>52. Is the consumer provided with information on the available payment methods? <i>(e.g. Type of credit cards accepted, bank transfer, etc.)</i> <i>This information may be presented as a set of logos.</i></p>	<p>Select one option Comments # Yes, information is easy to find # Yes, but information is difficult to find # No information provided</p>
<p>53. Does the website contain any unfair terms and conditions? (For example: delivery is not guaranteed on time, partial reimbursement when the event is cancelled or postponed, terms regarding the acknowledgement of order, trader reserves the right to acknowledge the receipt of the order within several days and therefore not without undue delay)</p>	<p>Select one option Comments # Yes, information is easy to find # Yes, but information is difficult to find # No information provided</p>

(Directive 93/13/EEC Art. 3 (1) and (3) in connection with the Annex)		
c) Terms and Conditions		
Is the following information available on the website? Please check the front page, Terms and Conditions, product ordering page, FAQ pages, or similar.		
54. Are Terms and Conditions provided? <i>Check the list with the national translation of Terms and Conditions provided to you.</i>		Select one option Comments # Yes # No
If “Yes”	55. Are the Terms and Conditions provided in the language of the website you are checking? <i>This is typically the main language of the country for which you are conducting the website check. In bi-lingual countries, both languages are acceptable – however, if the language of the T&C differs from the language of the rest of the website, please indicate in comments (e.g. in Belgium: if French website has T&C in Flemish).</i>	Select one option # Yes # No Comments
	56. Is there a function to download (e.g. as a PDF) or print the Terms and Conditions? <i>If there is no function to print or download, check with the print preview function whether it is possible to print the Terms and Conditions so that full text is printed.</i>	Select one option Comments # Yes, there is a print or download function # No, but I could print full text through browser function # No, not possible to print full text through browser
Please proceed directly to Section 9 to complete this questionnaire.		

<p>Clothes and sports goods</p> <p><i>This section covers the market sector of <u>clothes and sports goods</u>, such as jeans, running shoes, and sports equipment.</i></p> <p><i>Please refer to question 7 above to ensure that you are filling in the correct section.</i></p>	
<p>a) Product characteristics and price</p>	
<p><i>This sub-section asks whether information about the product characteristics, including final price, and price elements is available on the website.</i></p> <p><i>To complete this section, browse the relevant offers under the category of “sports shoes” or similar. If there is no specific category, then use the search function of the website.</i></p> <p><i>You should then select at random one of the shoes presented and complete the section below.</i></p> <p><i>Please check the main product page, “product details” page, or similar.</i></p>	
<p>57. What is the price displayed for the selected product?</p> <p><i>Please copy and paste the price exactly as it is presented, including the currency and any extra information.</i></p>	<p><i>Please specify</i></p> <p>Comments</p>
<p><i>Please proceed to the relevant page where the product is described in detail.</i></p>	
<p>58. Are the colours in which the shoes are available specified?</p> <p>If no other colours are available but the colour of the shoes that you are buying is clear, please tick ‘yes’.</p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p>59. Is information on the main material used in the shoe provided?</p> <p><i>(e.g. leather upper)</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p><i>Now, select the product, add to basket / checkout, and proceed to the payment page or website up to the point where payment details are to be entered.</i></p>	
<p>60. What is the final price as displayed on the order payment page?</p> <p><i>Please copy and paste the price exactly as it is presented, including the currency and any extra information.</i></p>	<p><i>Please specify</i></p> <p>Comments</p>
<p>61. Are taxes (e.g. sales taxes) included in the final price?</p> <p><i>If it is not clear if taxes are included, please tick ‘taxes are not mentioned’.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes, taxes are included in the price</p> <p># No, taxes are not included in the price</p> <p># Taxes are not mentioned on this page</p>

<p>62. Is the final price to pay the same as the initial price offer? (as recorded above in question 58)</p>	<p>Select one option</p> <p>Comments</p> <p># Yes, the prices are identical</p> <p># No, the final price is higher than was previously indicated</p> <p># No, the final price is lower than was previously indicated</p>
<p>63. Are all additional freight, delivery or postal charges provided?</p> <p><i>Please consider for this question only delivery to your country.</i></p>	<p># Yes, additional costs listed or indication that no additional costs apply</p> <p># No, unclear whether additional costs apply</p> <p>Comments</p>
<p>b) Payment and delivery</p>	
<p><i>Is the following information regarding payment and delivery arrangements available on a clearly identified page on the website?</i></p> <p><i>Please check the relevant product ordering page, front page, specific payment/delivery pages, FAQ pages, Terms and Conditions or similar.</i></p>	
<p>64. Is the consumer provided with information on the available payment methods?</p> <p><i>(e.g. Type of credit cards accepted, bank transfer, etc.)</i></p> <p><i>This information may be presented as a set of logos.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes, information is easy to find</p> <p># Yes, but information is difficult to find</p> <p># No information provided</p>
<p>65. Is the consumer provided with information on the expected delivery time?</p>	<p>Select one option</p> <p>Comments</p> <p># Yes, information is easy to find</p> <p># Yes, but information is difficult to find</p> <p># No information provided</p>
<p>66. Does the trader ship to other countries? (other than the country for which you are conducting the website check)</p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No, trader does not ship to other countries</p> <p># Unclear, information is missing</p>
<p>c) Returns, Terms and Conditions</p>	
<p><i>Is the following information available on the website?</i></p> <p><i>Please check the front page, Terms and Conditions, product ordering page, FAQ pages, or similar.</i></p>	
<p>67. Are consumers provided with clearly worded information on their right to</p>	<p>Select one option</p> <p>Comments</p>

<p>withdraw (i.e. return the product within a minimum of 7 days?)</p> <p><i>Check the list with the national translation of 'right to withdraw' provided to you. Please bear in mind that some retailers may allow more than 7 days.</i></p> <p><i>Please copy and paste the wording of the information into the comment box.</i></p>	<p># Yes, clear information and easy to find</p> <p># Yes, clear information, but difficult to find</p> <p># Information unclear</p> <p># No information provided</p>	
<p>68. Are Terms and Conditions provided?</p> <p><i>Check the list with the national translation of Terms and Conditions provided to you.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>	
<p><i>If "Yes"</i></p>	<p>69. Are the Terms and Conditions provided in the language of the website you are checking?</p> <p><i>This is typically the main language of the country for which you are conducting the website check. In bi-lingual countries, both languages are acceptable – however, if the language of the T&C differs from the language of the rest of the website, please indicate in comments (e.g. in Belgium: if French website has T&C in Flemish).</i></p>	<p>Select one option</p> <p># Yes</p> <p># No</p> <p>Comments</p>
	<p>70. Is there a function to download (e.g. as a PDF) or print the Terms and Conditions?</p> <p><i>If there is no function to print or download, check with the print preview function whether it is possible to print the Terms and Conditions so that full text is printed.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes, there is a print or download function</p> <p># No, but I could print full text through browser function</p> <p># No, not possible to print full text through browser</p>
<p>Please proceed directly to Section 9 to complete this questionnaire.</p>		

<p>Consumer credit</p> <p><i>This section covers the market sector related to the sale of consumer credit products. Please refer to question 7 above to ensure that you are filling in the correct section.</i></p>	
<p>a) Product characteristics and price</p>	
<p><i>To complete this section, choose a consumer credit product (such as a short-term loan, but not a credit card) for a value of €3,000 Euro and a duration of 24 months (if not available, chose next closest values). If the website does not allow you to choose a particular loan, please check the information regarding short-term loans in general (ie. between 6 months and 36 months). You should then review the information presented to complete the section below.</i></p> <p><i>Please check the main credit product page, “contract details” page, or similar.</i></p>	
<p>71. Is the Annual Percentage Rate of Charge specified? (APR; total cost expressed as an annual percentage of the total amount of credit)</p> <p><i>Check the list with the national translation of APR provided to you. This information could be either based on the loan that you have selected or based on an example loan.</i></p> <p><i>Please copy and paste the text into the comment box.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p>72. Is there information about the total amount you will have to pay (the amount of borrowed capital plus interest and possible costs related to the credit) displayed?</p> <p><i>This information could be either based on the loan that you have selected or based on an example loan.</i></p> <p><i>Please copy and paste the text into the comment box.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>
<p>b) Terms and Conditions</p>	
<p><i>Please proceed to the loan agreement page, to the point where personal or contact details are required.</i></p> <p><i>Please also check the front page, product ordering pages, FAQ pages, or similar.</i></p>	
<p>73. Are Terms and Conditions provided?</p> <p><i>Check the list with the national translation of Terms and Conditions provided to you.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes</p> <p># No</p>

<p><i>If “Yes”</i></p>	<p>74. Are the Terms and Conditions provided in the language of the website you are checking?</p> <p><i>This is typically the main language of the country for which you are conducting the website check. In bi-lingual countries, both languages are acceptable – however, if the language of the T&C differs from the language of the rest of the website, please indicate in comments (e.g. in Belgium: if French website has T&C in Flemish).</i></p>	<p>Select one option</p> <p># Yes # No</p> <p>Comments</p>
	<p>75. Is there a function to download (e.g. as a PDF) or print the Terms and Conditions?</p> <p><i>If there is no function to print or download, check with the print preview function whether it is possible to print the Terms and Conditions so that full text is printed.</i></p>	<p>Select one option</p> <p>Comments</p> <p># Yes, there is a print or download function # No, but I could print full text through browser function # No, not possible to print full text through browser</p>
<p>Please proceed to Section 9 to complete this questionnaire.</p>		

<p>Summary assessment</p> <p>Please assess the website based on the totality of your experience with it, and please substantiate your ratings with specific comments.</p>	
<p>76. Overall, in terms of informing consumers of their rights, how would you rate your experience of this website?</p>	<p><i>Please select one option</i></p> <p>###Very good ###Fairly good ###Rather poor ###Very poor</p> <p>Comments</p>
<p>Please include any additional comments you have and the end time for this questionnaire.</p>	
<p>77. Additional comments</p>	<p><i>Please specify</i></p>
<p>78. End time (current time)</p>	<p><i>Please specify</i></p>

Annex 2 Methodology for estimating the future CPC caseload

One of the core tasks of establishing the baseline is the estimation of the CPC relevant caseload from 2014 to 2025. Although some data is held on infringements (for example, cross-border infringements recorded on the CPC System and complaints data collected by the European Consumer Centres Network), the true baseline caseload is unobservable¹²⁹. This is because a large proportion of infringements are not reported for a range of reasons (for example, a lack of consumer knowledge or empowerment). A further complexity of this task is a focus on those infringements with an intra-Community dimension, for which the 120 enforcement requests currently reported is considered a drastic underestimate of the true caseload, according to the external evaluation of the CPC Regulation in 2012.

In the absence of a clearly observable caseload baseline, estimates have been generated using data gathered from EU and national literature sources, supplemented with consultation responses from Member State enforcement authorities, leading trade bodies and consumer representative organisations. All data sources and assumptions are documented in this annex.

The following parameters are estimated in the baseline:

- the number of infringements affecting EU consumers in the sample of selected sectors;
- the number of consumers affected by the infringements; and
- the resulting financial detriment suffered by consumers.

The baseline is estimated for a sample of five consumer sectors in eight Member States, representative of differing consumer expenditure behaviour, national enforcement systems and volume of cross-border consumer expenditure. In the final estimation, the Member State results have been scaled up to provide EU total baseline estimates for each of the five consumer sectors. Based on the selection criteria agreed with the Commission at the inception phase, the Member States selected are: Germany; France; Hungary; Latvia; Poland; Spain; Sweden, and United Kingdom¹³⁰. The consumer sectors are: Clothing and sports goods; Electronic goods; Recreation and culture; Financial services; and Food supplements.

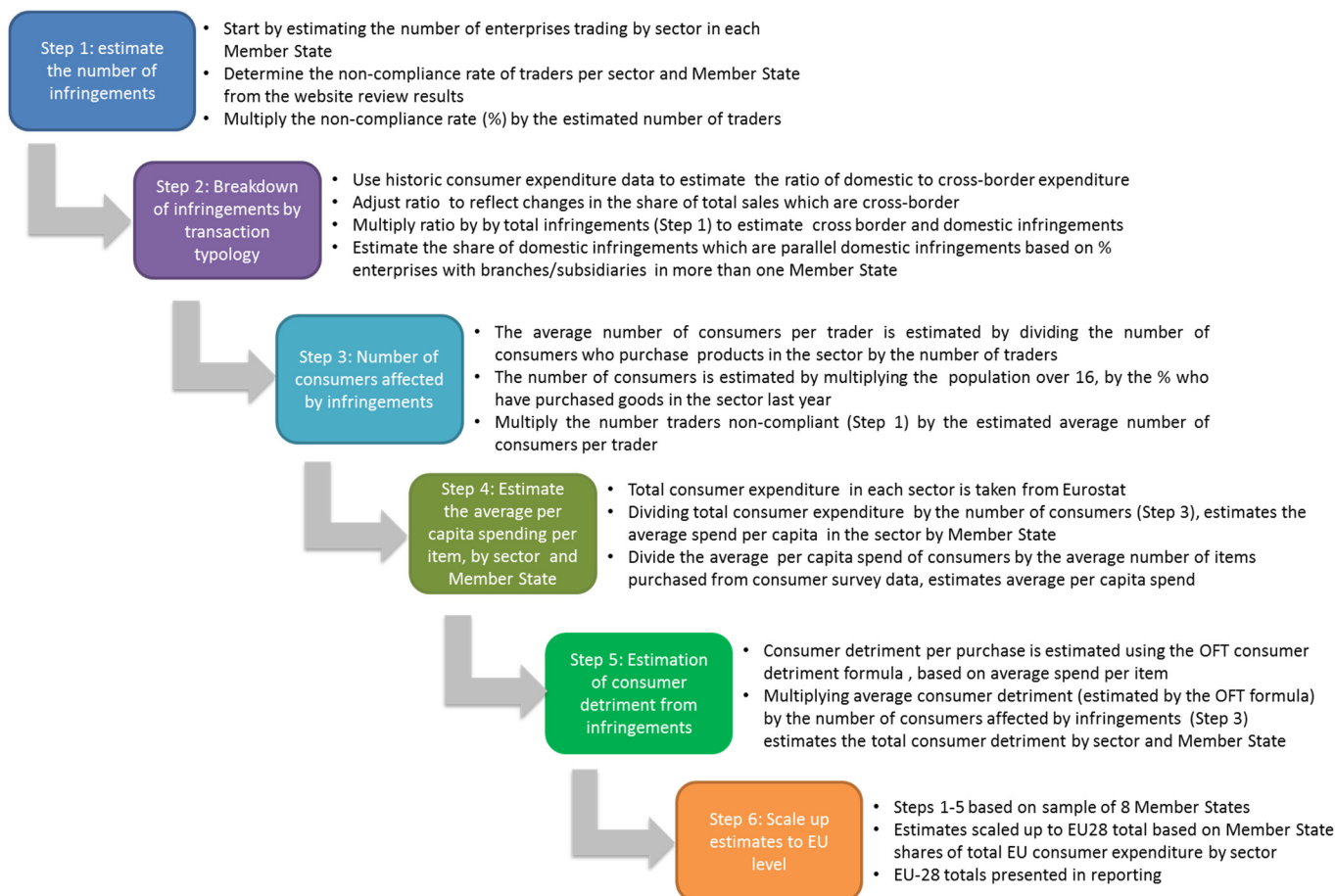
Estimation of the caseload involved two separate models, each applying the same methodology. The first model estimates the baseline with respect to EU consumers making purchases within the EU (i.e. from domestic traders or cross-border purchases from traders in another Member State, including domestic parallel transactions). The second model concerns EU consumers making purchases from traders located outside the EU in third countries (i.e. international purchases). Two separate models are needed as each model uses different datasets.

¹²⁹ Where the detriment is not apparent to the consumer, this can be considered 'hidden detriment' which by definition is not observed.

¹³⁰ These countries were selected to provide adequate coverage of the majority of EU concerns: it is representative of the geographic spread of Member States (with Hungary, Poland and Latvia representing new Member States); differing legal systems; a variety of cultural profiles; and, finally covering a range of different consumer conditions and behaviour.

The rest of this section describes the step-by-step approach undertaken to fulfil this task, as summarised in Figure A2.1.

Figure A2.1 The step-by-step approach for estimating the CPC caseload baseline 2014-2025



Source: ICF Analysis

A2.2 Step 1: Estimated number of infringements

The first step involves estimating the number of trading enterprises in each sector who are non-compliant with EU consumer protection law. While non-compliance may be observed from consumer complaints data relating to a single enterprise, the number of infringements is more difficult to estimate as consumer complaints could relate to a single or multiple infringements. Even with data on those consumer complaints upheld by competent authorities it is not possible to estimate the number of infringements. For this reason, consumer complaint data available from ECCs, consumer ombudsman and consumer associations was of limited value in this context.

Alternative sources were obtained to measure compliance by sector, including the results of the website review, Commission SWEEP exercises which covered some sectors being reviewed, and ad-hoc reporting of compliance rates in sector relevant literature¹³¹. Patchy and often inconsistently infringement data was also obtained from Member State enforcement authorities through consultation and from CPC System statistics. Due to the inconsistency in data, and for the purposes of maintaining consistency in methodology across sectors, data obtained from the website review undertaken as part of this study was

¹³¹ London Economics study on consumer credit assessed non-compliance: London Economics and Ipsos. 2013. 'Study on the functioning of the consumer credit market in Europe'. Available at: http://ec.europa.eu/consumers/archive/rights/docs/consumer_credit_market_study_en.pdf

used to estimate non-compliance¹³². Different compliance rates by sector and source are summarised in Table A2.1.

Table A2.2 Non-compliance of traders by consumer sector and evidence source

Sector	Website review – “very poor”	Website review – “very poor” + “rather poor”	Website review – terms and conditions information ¹³³	Commission Sweeps ¹³⁴	Website review – information missing
Clothing and sportswear	3%	13%	10%	N/A.	35%
Electronics	5%	20%	10%	55%	36%
Recreation and culture tickets	8%	26%	17%	59%	39%
Consumer credit	11%	33%	17%	69%	32%
Food supplement products	8%	26%*	17%	N/A	42%

The high and low non-compliance rates obtained from the website review are used to generate lower and higher bound scenarios in the analysis.

Having determined the non-compliance rate of traders in a given consumer sector and Member State, the estimated number of traders infringing EU consumer protection law was estimated by multiplying the non-compliance rate by the number of enterprises trading in that sector and Member State¹³⁵. The number of enterprises in each sector and Member State was sourced from Eurostat structural business statistics.

Data on the number of enterprises was only available until 2011 and therefore assumptions were made for 2012 onwards. It is anticipated that the number of traders will change overtime as consumer expenditure in each sector changes and/or structure of each market changes (i.e. from merger and acquisition activity). To account for these possible changes in projecting the baseline till 2025, the number of enterprises is assumed to increase proportionally to consumer expenditure in each sector. This means that as GDP increases and the share of consumer expenditure spent in a specific sector remains constant, the number of enterprises will increase proportionally as an expanding market creates more opportunities for new entrants¹³⁶. Data on consumer expenditure and sector expenditure as a share of Member State GDP was obtained from Eurostat COICOP and GDP growth forecasts were obtained from DG Economic and Financial Affairs European Economy series¹³⁷. Accounting for the fact that some companies may expand or consolidate as consumer spending increases, a deflator of 0.2% is included in the estimation method.

The formula used for estimating the number of infringements in each sector is:

¹³² It is recognised that these both account for the online market and some subsequent over-estimation may exist. However, considering consumer trends towards online shopping, it was concluded these non-compliance rates would be most representative.

¹³³ This refers to websites that were missing information regarding terms and conditions on their website, or failed to display these as required.

¹³⁴ In a “sweep”, authorities simultaneously check hundreds of sites of a specific online sector to identify where consumer rights are compromised or denied. These are coordinated by the European Commission.

¹³⁵ A full breakdown of sources used can be found in Annex 3.

¹³⁶ This is based on theory and the relationship between supply and demand. Expert judgement estimates a 0.2% deflation in the proportion due to economies of scale and scope.

¹³⁷ European Commission, DG Economic and Financial Affairs. 2014. ‘The 2015 Ageing Report: Underlying Assumptions and Project Methodologies’. Available at: http://ec.europa.eu/economy_finance/publications/european_economy/2014/pdf/ee8_en.pdf

$$Inf_t = Ent_{t-1} \cdot [1 + (0.2 \cdot (CExp_t - CExp_{t-1}) / CExp_{t-1})] \cdot NonC_t$$

Where:

Inf_t is the estimated number of infringements in period t;

Ent_{t-1} is the number of enterprise trading in the previous period (t-1);

$CExp_{t-1}$ is consumer expenditure in the previous period (t-1);

$CExp_t$ is consumer expenditure in period t¹³⁸; and

$NonC_t$ is the non-compliance rate in period t.

The formula calculates the number of infringements this period as a function of the number of enterprises in previous period multiplied by the percentage increase in the consumer expenditure this period from last period, if the number of enterprises increases proportionally to consumer expenditure. As we assume many businesses will actually get larger rather than expand in number a 0.2% deflator is included in the calculation. The non-compliance rate is then multiplied by this number of enterprise to estimate the number of infringements, on the basis that one enterprise equals one infringement. ,

A2.3 Step 2: Breakdown of infringements by transaction typology

The second step of the methodology involves breaking down the infringements by transaction typology (i.e. the proportion of infringements domestically, cross-border and parallel). Assumptions are made regarding this split based on historical findings by Commission SWEEP exercises, and the proportion of infringements found to be cross-border/ domestic (see Annex 4):

Table A2.3 Commission SWEEP cross border to domestic ratios

Sector	Cross border	Domestic
Clothing and sportswear	20%*	80%*
Electronics ¹³⁹	35%	65%
Recreation and culture tickets ¹⁴⁰	24%	76%
Consumer credit ¹⁴¹	5%	95%
Food supplement products	30%*	70%*

**Please note: Commission SWEEP information is not available for clothing and sportswear or food supplement products. In these instances, assumptions are based on trends in other sectors, as well as consumer scoreboard findings, to reach the proportion breakdown seen above (see Annex 4 for complete details).*

As it is foreseen and assumed that cross-border trade will increase over time due increasing cross-border trade with the trend towards a single EU market. In line with this, it would be expected that infringements

¹³⁸ Note:

$$CExp_t = GDP_t \cdot FinalC_t \cdot ShareY_t$$

Where:

GDP_t is GDP in period t

$FinalC_t$ is final consumption of households as a share of GDP (%) in period t

$ShareY_t$ is the share of final household consumption accounted for by sector/good Y in period t

¹³⁹ See: http://ec.europa.eu/consumers/archive/enforcement/sweep/electronic_goods/index_en.htm

¹⁴⁰ See: http://ec.europa.eu/consumers/archive/enforcement/sweep/online_ticket_sales/index_en.htm

¹⁴¹ See: http://ec.europa.eu/consumers/archive/enforcement/sweep/consumer_credits/index_en.htm

cross-border would also increase (at a faster rate than domestic). Therefore, the following inbuilt time trend was embedded into these ratios¹⁴²:

Table A2.4 Time trend in breakdown of infringement by transaction typology

Sector	Increase in the proportion of cross-border infringements to domestic infringements
Clothing and sportswear	0.2%
Electronics	0.2%
Recreation and culture tickets	0.3%
Consumer credit	0.2%
Food supplement products	0.3%

The formula used for estimating the number of **cross-border infringements** in each sector is:

$$CB\ Inf_t = Inf_t * (CBR_t * (1 + CoT))$$

Where:

$CBInf_t$ is the estimated number of cross-border infringements in period t;

Inf_t is the estimated number of infringements in period t;

CBR_t is the proportion of infringements assumed to be cross-border based on Table A2.3;

CoT is the embedded time trend in the change of cross-border infringements to domestic infringements

The formula for estimating the number of **domestic infringements** is¹⁴³:

$$DInf_t = Inf_t * (DR_t * (1 - CoT))$$

Where:

$DInf_t$ is the estimated number of domestic infringements in period t;

Inf_t is the estimated number of infringements in period t;

DR_t is the proportion of infringements assumed to be domestic based on Table A2.3;

CoT is the embedded time trend in the change of cross-border infringements to domestic infringements

To estimate the number of **parallel infringements** (which is when a trader perpetrates the infringement in multiple Member States through a network of subsidiaries or branches). Eurobarometer data shows that 10% of enterprises have subsidiaries or retail outlets in another Member State. As such, the following formula is applied:

$$PInf_t = (Ent_t * 0.1) * NonC_t$$

Where:

$PInf_t$ is the estimated number of parallel infringements in period t;

¹⁴² Based on expert opinion due to lack of available data. Ratios were informed by casual observation of changes to business organisation and the cross-border dimension to trade in each sector. For example in food supplements there is evidence of increasing growth in online sales, an increasing proportion of which is cross border (See http://ec.europa.eu/consumers/enforcement/cross-border_enforcement_cooperation/docs/cpc_biennial_2013_hu_en.pdf)

¹⁴³ This is the proportion, so to increase the share of cross-border, domestic must fall. However, in real terms domestic it still increasing. An increase in cross-border reflects the move towards a single EU market.

Ent_t is the number of enterprise trading in period t;

$NonC_t$ is the non-compliance rate in period t.

Due to the nature of these infringements, these will be captured within the domestic infringements already calculated. Therefore, recognising this overlap is essential. Please note, reported results in the baseline report excludes parallel infringements from the domestic figures, reporting them separately.

A2.4 Step 3: Number of consumers affected by infringements

The third step of the methodology involves estimating the number of consumers affected for each typology of infringement (i.e. domestic, cross-border and parallel).

A2.4.1 Domestic

The estimation of the number of domestic consumers affected by infringements is estimated based on the number of infringements (as calculated in step 1 and 2) multiplied by the number of consumers per each enterprise. Implicit to this estimation methodology, for simplicity, is that all domestic population aged over 16 are affected and the number of consumers per enterprise is the same. Although realistically it would be expected not all of the population would be affected and that the number of consumers per enterprise would vary significantly by size and geographical location, it is expected that, on average, it will allow a 'best guess' as to the number of consumers affected domestically.

$$DCon_t = (Pop_t \div Ent_t) * DInf_t$$

Where:

$DCon_t$ is the estimated number of domestic consumers affected in period t;

Pop_t is the domestic population aged over 16 years in period t;

Ent_t is the number of enterprises in that sector in period t;

$DInf_t$ is the estimated number of domestic infringements in period t.

These estimations will include consumers affected by parallel infringements, therefore reported numbers of domestic consumers affected exclude consumers affected by parallel infringements.

A2.4.2 Cross-border

The number of cross-border consumers affected by infringements are derived through a similar logic to the above, by multiplying the number of cross-border infringements by the number of cross-border consumers per enterprise selling cross-border. Similar to above, for simplicity, the ratio of cross-border consumers to cross-border enterprises does not discriminate and is estimated to be constant.

$$CBCon_t = [(((EUPop_t - Pop_t) * CB_t) * CB_{sector_t}) \div (Ent_t * CB_{sell_t})] * CBInf_t$$

Where:

$CBCon_t$ is the estimated number of cross-border consumers affected by infringement per sector in period t;

$EUPop_t$ is the EU population aged over 16 years in period t;

Pop_t is the domestic population within that Member State in period t;

CB_t is the level of cross-border shopping at an EU level in period t;

CB_{sector_t} is the proportion of cross-border shoppers shopping in relevant sector in period t;

Ent_t is the number of enterprises in that sector in period t;

CB_{sell_t} is the proportion of enterprises selling cross-border in period t;

$CBInf_t$ is the estimated number of cross-border infringements in period t.

Information regarding cross-border trends (that is, level of cross-border shopping, the proportion of cross-border shoppers shopping in relevant sector and the proportion of enterprises selling cross-border) are sourced from annual Eurobarometer publications.

A2.4.3 Parallel

The number of consumers affected by parallel infringements is estimated via a differing logic due to data availability. The proportion of domestic consumers affected by infringements to domestic infringements is applied (to estimate a ratio of consumers affected per infringement) to the expected number of parallel infringements. That is:

$$PCon_t = (DCon_t \div DInf_t) * PInf_t$$

Where:

$PCon_t$ is the estimated number of consumers affected by parallel infringements in period t;

$DCon_t$ is the estimated number of consumers affected by domestic infringements in period t;

$DInf_t$ is the estimated number of domestic infringements in period t;

$PInf_t$ is the estimated number of parallel infringements in period t.

It is important to note that these consumers are captured in the initial estimations of the domestic affected consumers, and as such, reported figures exclude consumers affected by parallel infringements and report these separately.

A2.5 Step 4: Estimate the average per capita spending per item, by sector and Member State

The fourth step involves estimating the average per capita spend per item, by sector and Member State.

A2.5.1 Domestic

Domestically, this is most straightforward, with per item spend being estimated by the following equation:

$$D_AvSpend_t = (CExp_t \div Pop_t) / It_t$$

Where:

$D_AvSpend_t$ is the average spent by item, by sector and Member State in period t;

$CExp_t$ is the consumer expenditure in sector in period t;

Pop_t is the domestic population in period t;

It_t is the average number of items purchased each year by a consumer.

Consumer expenditure and population data have been sourced from Eurostat (COICOP and population), as well as forecast data. The number of items purchased each year by a consumer is an assumption that have been made.

A2.5.2 Cross-border

Due to data availability constraints, a similar approach cannot be applied to estimate cross-border average spending. Because of this, a proxy approach has been adopted using a Civic Consulting study¹⁴⁴ which looks at average price of goods purchased by sector online (sourced from a consumer survey). It was assumed this would be a reasonable proxy for the cross-border purchase price of items as the majority of

¹⁴⁴ See:

http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

cross border trade is conducted online. However, it is noted that this does introduce a bias as many purchases are conducted offline.

A2.5.3 Parallel

As parallel infringements are captured within domestic infringements, the estimation undertaken in A2.5.1 are applied here.

A2.6 Step 5: Estimation of consumer detriment from infringements

To estimate the consumer detriment from infringements, the output from step 3 and step 4 are combined along with the OFT consumer detriment formula. Firstly, the average detriment per consumer is estimated and this is done with the OFT consumer detriment formula:

$$\text{Log}_{10}(\text{AvDetr}_t) = 0.3354 + 0.6340 * \text{Log}_{10}(\text{AvSpend}_t)$$

Where:

AvDetr_t is the average detriment per consumer in period t;

AvSpend_t is the average spent per sectoral item (as defined in step 4).

A2.6.1 Domestic

This result is then an input to estimate the consumer detriment domestically:

$$D_Detr_t = D_Con_t * \text{AvDetr}_t$$

Where:

D_Detr_t is the consumer detriment domestically in period t;

D_Con_t is the number of domestic consumers affected in period t;

AvDetr_t is the average detriment per consumer in period t.

A2.6.2 Cross-border

The result is then also input to estimate cross-border consumer detriment:

$$CB_Detr_t = CB_Con_t * \text{AvDetr}_t$$

Where:

CB_Detr_t is the consumer detriment cross-border in period t;

CB_Con_t is the number of cross-border consumers affected in period t;

AvDetr_t is the average detriment per consumer in period t.

A2.6.3 Parallel

The consumer detriment caused by parallel infringements is estimated via a differing logic due to limited data availability. The proportion of domestic consumer detriment to domestic infringements is applied (to estimate a ratio of detriment per infringement) to the expected number of parallel infringements. That is:

$$PDetr_t = (DDetr_t \div DInf_t) * PInf_t$$

Where:

$PDetr_t$ is the estimated parallel consumer detriment in period t;

$DDetr_t$ is the estimated domestic consumer detriment in period t;

$DInf_t$ is the estimated number of domestic infringements in period t;

$PInf_t$ is the estimated number of parallel infringements in period t.

The estimation of those consumers affected by this type of infringement are captured within the initial calculations of domestically affected consumers. Thus, they are calculated as a subset of this and reported separately.

A2.7 Step 6: Scale up estimates to EU total for five sample consumer sectors

To scale up the estimates to an EU total, an extrapolation method is adopted for:

- The number of infringements;
- The number of consumers potentially affected; and,
- The potential scale of financial detriment.

To extrapolate the **number of infringements by sector**, the total infringements for the eight countries in the sector covered by the analysis were summed up. Extrapolation of these totals to an EU level is then done by applying an inflator which represents the proportion of enterprises represented in the sample in comparison to the population (i.e. the number of enterprises within the eight Member States covered in comparison to the population of enterprises at EU-level):

$$EU_DInf_t = (\sum D_Inf_{t,MS}) * popinf_t$$

Where:

EU_DInf_t is the total estimated number of domestic infringements in period t in all Member States across Europe;

$\sum D_Inf_{t,MS}$ is the total estimated number of domestic infringements in period t across all Member States accounted for (DE, UK, ES, HU, FR, PL, SE & LV);

$popinf_t$ is an inflator based on the proportion of enterprise population represented in the sample of eight Member States in proportion to the population.

$$EU_CBInf_t = (\sum CB_Inf_{t,MS}) * popinf_t$$

Where:

EU_CBInf_t is the total estimated number of cross-border infringements in period t in all Member States across Europe;

$\sum CB_Inf_{t,MS}$ is the total estimated number of cross-border infringements in period t across all Member States accounted for (DE, UK, ES, HU, FR, PL, SE & LV);

$popinf_t$ is an inflator based on the proportion of enterprise population represented in the sample of eight Member States in proportion to the total EU population of enterprises.

A similar method is applied to estimate the **total number of consumers potentially affected**. The total number of consumers potentially affected is summed across the eight countries. Extrapolation of these totals was then done by applying an inflator based on the proportion of the population represented in the sample in comparison to the population at an EU level:

$$EU_DCon_t = (\sum D_Con_{t,MS}) * popinf_t$$

Where:

EU_DCon_t is the total estimated number of domestic consumers affected in period t in all Member States across Europe;

$\sum D_Con_{t,MS}$ is the total estimated number of domestic consumers affected in period t across all Member States accounted for (DE, UK, ES, HU, FR, PL, SE & LV);

$popinf_t$ is an inflator based on the proportion of the EU population represented in the sample of eight Member States.

$$EU_CBCon_t = (\sum CB_Con_{t,MS}) * popinf_t$$

Where:

EU_CBCon_t is the total estimated number of cross-border consumers affected in period t in all Member States across Europe;

$\sum CBCon_{t,MS}$ is the total estimated number of cross-border consumers affected in period t across all Member States accounted for (DE, UK, ES, HU, FR, PL, SE & LV);

$popinf_t$ is an inflator based on the proportion of the EU population represented in the same of eight

Finally, the extrapolated **total consumer detriment** was done by applying the number of infringements by the average detriment:

$$EU_DDetr_t = EU_DInf_t * AvDetr_t$$

Where:

EU_Detr_t is the total estimated domestic consumer detriment in period t in all Member States across Europe;

EU_DInf_t is the total estimated number of domestic infringements in period t in all Member States across Europe;

$AvDetr_t$ is the average detriment per consumer domestically.

$$EU_CBDetr_t = EU_CBInf_t * AvDetr_t$$

Where:

EU_CBDetr_t is the total estimated cross-border consumer detriment in period t in all Member States across Europe;

EU_CBInf_t is the total estimated number of cross-border infringements in period t in all Member States across Europe;

$AvDetr_t$ is the average detriment per consumer cross-border.

Annex 3 Key variables used for the calculation of the scale of infringements and associated consumer detriment

Table A3.1 Clothing and sports goods – key variables

Variable	Data source / assumption	Caveats
To estimate number of infringements:		
Number of retailers	Eurostat data on number of retailers in clothing and sports good sector ¹⁴⁵	<p>Eurostat provides the data on number of domestic retail sellers in the following sectors: clothing (G4771 – clothing in specialised stores), footwear (G4772 – of footwear and leather goods in specialised stores) and footwear equipment (G4773 – retail sale of footwear equipment in specialised stores) for each Member State.</p> <p>Data is available for 2008 - 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).</p> <p>There is a lack of specific breakdown on retailers selling sports goods, and so it has thus been assumed the three above mentioned categories include a significant number of sports goods mentioned.</p>
Non-compliance rate	<p>CIVIC examination of websites conducted within this study</p> <p>(Lower bound non-compliance rate of 3% and Upper bound non-compliance rate of 35%)</p>	<p>Two scenarios were constructed – an Upper bound estimation and a Lower bound estimation. Both of these were based on data collected by CIVIC Consulting as part of this study. It captures the types of infringements and provided ratings to indicate the level of non-compliance and irregularities.</p> <ul style="list-style-type: none"> ■ Lower bound scenario: Aggregate of the website review rating of “very poor” in response to Q76: “Overall, in terms of informing consumers of their rights, how would you rate this website?”. It is recognised there are limitations to this (particularly due to its subjective nature) however no other consistent measure of non-compliance could be adapted to all sectors. ■ Upper bound scenario: The percentage of websites which had ‘information missing’. <p>CPC network sweeps and the website review also provide a snapshot of online retailer compliance, and so were used as a comparator to ensure non-compliance rates were in line with expectations and were used when conducting the sensitivity analysis (see Annex 6).</p> <p>Non-compliance rates are assumed to remain constant, in line with the baseline premise.</p>

¹⁴⁵ Eurostat. 2014. Structural Business Statistics, sbs_na_sca_r2. Indicator: Number of enterprises. Available at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs_na_sca_r2&lang=en

Variable	Data source / assumption	Caveats
% of domestic / cross-border infringements	Based on European Commission sweep data	To approximate the ratio between cross-border infringements and domestic infringements, previous 'sweep' data was used. The ratio of domestic to cross-border infringements detected in the sweep is used as a rough approximation. An assumed rate of change is embedded in this proportion year-on-year (see Annex 4). However, no sweep has been undertaken in the clothing and sports goods sector, therefore a process of benchmarking based on other sectors is adopted. This is subject to a sensitivity analysis for robustness.
For scale of consumer detriment (domestic):		
Average number of domestic consumers per clothing and sports good retailer	Calculated as a function of number of domestic consumers and number of retailers	Assumes an equal split of consumers between retailers. In reality, this would be determined by market power however this cannot be accounted for in the calculations.
Number of potential domestic consumers	Eurostat data (population at the age of 16+ - census data and population projections) ¹⁴⁶	No caveats.
Number of retailers	Eurostat data on number of retailers per sector	Eurostat provides the data on number of domestic retail sellers of clothing (G4771 – clothing in specialised stores), footwear (G4772 – of footwear and leather goods in specialised stores) and footwear equipment (G4773 – retail sale of footwear equipment in specialised stores) for each Member State. Data is available for 2008 - 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).
Number of consumers potentially affected	Calculated by number of infringements multiplied by average number of domestic consumers per retailer (as above)	This assumes that when an infringement is made, all of the consumers serviced by that clothing and sports good retailer is affected.
Average detriment per consumer	Calculated using OFT formula	Although not a perfect measure for detriment, this methodology displays due rigour and caution in deriving estimates ¹⁴⁷ .

¹⁴⁶ Eurostat. 2014. Population and Population projections statistics at national level. Cens_hnmg and Proj_13n.

¹⁴⁷ Davies, S. 2010. 'A review of OFT's Impact Estimation Methods'. Available at: <http://competitionpolicy.ac.uk/documents/107435/107584/oft1164.pdf>

Variable	Data source / assumption	Caveats
		Notably, there are issues for improvement in regards to the approach. This methodology is based on a UK market and thus may have some geographical basis. Further, it is limited in its product scope. Finally, detriment can extend beyond financial and there is no consideration of this in the methodology.
Average purchase price per clothing and footwear item (domestic)	Derived from Eurostat data on final consumption expenditure on clothing and sports goods.	<p>Derived by dividing final consumption expenditure on clothing and sports goods per capita amount by the number of items purchased each year. Eurostat provides the breakdown of final consumption expenditure on two relevant components: clothing (CP031) and footwear (CP032). This does not include sports goods specifically although it can be assumed that most sports goods are already included in the two above mentioned categories.</p> <p>Consumption expenditure data is available from 2000-2012. For 2013 onwards the proportion of expenditure spent on clothing and footwear (to total expenditure) is assumed to remain constant (see Annex 4).</p> <p>No data is available regarding number of items purchased each year, and this is based on an informed estimate only. A 2011 CIVIC Consulting¹⁴⁸ study estimated, based on survey data, the median spend on clothing and footwear (EUR 100). This was used as a benchmark to derive the average number of items purchased each year.</p>
Total domestic detriment	The quotient of average detriment per consumer and number of consumers potentially affected	Assumes all consumers serviced by a retailer infringing are affected.
For scale of consumer detriment (cross-border):		
Proportion of retailers selling cross-border	Flash Eurobarometer 359 (2013). 'Retailers' attitudes towards cross-border trade and consumer protection.	No caveats.
Average number of cross-border consumers per clothing and footwear retailer	Calculated as a function of the number of cross-border consumers and number of domestic retailers	Assumes an equal split of cross-border consumers between clothing and sports good retailers. In reality, this would be determined by market power and cross-border presence (particularly online) however this cannot be accounted for in the calculations.

¹⁴⁸ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

Variable	Data source / assumption	Caveats
Number of cross-border consumers	<p>Eurostat data on EU population (aged 16 and over) minus domestic population of Member State X</p> <p>Flash Eurobarometer 397, % of EU consumers shopping cross-border¹⁴⁹</p>	<p>Data on cross-border shopping (as per FB 397) is referenced with data from CIVIC consulting based on the destination of cross-border shopping of EU consumers¹⁵⁰. This rate is then applied to the EU population (minus Member State X, which is captured by domestic infringement).</p> <p>Cross-border shopping data is available for 2008-2014, and an assumed growth rate is applied to 2015 onwards (see Annex 4).</p> <p>Destination shopping statistics is available for 2011 and is assumed to remain relatively constant.</p>
Number of traders (operating cross-border)	<p>Eurostat data on number of retailers in clothing and sports good sector</p> <p>Multiplied by % of retailers selling cross-border (Flash Eurobarometer 359)¹⁵¹</p>	<p>Eurostat provides the data on number of domestic retail sellers of clothing (G4771 – clothing in specialised stores), footwear (G4772 – of footwear and leather goods in specialised stores) and footwear equipment (G4773 – retail sale of footwear equipment in specialised stores) for each Member State.</p> <p>Data is available for 2008 - 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).</p> <p>FB 359 figures on cross-border selling are applied to these retailer figures to estimate the proportion in Member State x selling cross-border. Data is available for 2006-2012. An assumed growth rate is applied for 2013 onwards (see Annex 4).</p>
Number of consumers affected	Calculated by number of cross-border infringements multiplied by average number of cross-border consumers per retailer	This assumes when an infringement is made by a retailer, all of the cross-border consumers serviced by that retailer are affected.
Average detriment per consumer	Calculated using OFT formula	<p>Although not a perfect measure for detriment, this methodology displays due rigour and caution in deriving estimates¹⁵².</p> <p>Notably, there are issues for improvement in regards to the approach. This methodology is based on a UK market and thus may have some geographical basis. Further, it is limited in its product scope. Finally, detriment can extend beyond financial and there is no consideration of this in the methodology.</p>

¹⁴⁹ Flash Eurobarometer 397. Fieldwork 2014. 'Consumer attitudes towards cross-border trade and consumer protection'. Publication forthcoming.

¹⁵⁰ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

¹⁵¹ Flash Eurobarometer 359. 2013. 'Retailers' attitudes towards cross-border trade and consumer protection'.

¹⁵² Davies, S. 2010. 'A review of OFT's Impact Estimation Methods'. Available at: <http://competitionpolicy.ac.uk/documents/107435/107584/oft1164.pdf>

Variable	Data source / assumption	Caveats
Average consumer spend on clothes and sports goods (cross-border)	CIVIC Consulting Consumer Survey ¹⁵³	The median figure estimated as a result of this 2011 survey was used as a direct proxy for the amount spent per item cross-border (EUR 100).
Total potential cross-border detriment	The quotient of average detriment per consumer and number of cross-border consumers potentially affected	Assumes all consumers serviced by a retailer infringing are affected. Therefore this may tend to overestimate the number of consumers affected.

Table A3.2 Electronics

Variable	Data source / assumption	Caveats
To estimate number of infringements:		
Number of retailers	Eurostat data on number of retailers in electronics sector ¹⁵⁴	Eurostat provides the data on number of domestic retail sellers in the following sectors: 'Retail sale of information and communication equipment in specialised stores', 'retail sale of computers, peripheral units and software in specialised stores', 'retail sale of telecommunications equipment in specialised stores', 'retail sale of audio and video equipment in specialised stores'. Data is available for 2008 - 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).
Non-compliance rate	CIVIC examination of websites conducted within this study (Lower bound non-compliance rate of 5% and Upper bound non-compliance rate of 36%)	Two scenarios were constructed – an Upper bound estimation and a Lower bound estimation. Both of these were based on data collected by CIVIC Consulting as part of this study. It captures the types of infringements and provided ratings to indicate the level of non-compliance and irregularities. <ul style="list-style-type: none"> ■ Lower bound scenario: Aggregate of the website review rating of “very poor” in response to Q76: “Overall, in terms of informing consumers of their rights, how would you rate this website?”. It is recognised there are limitations to this (particularly due to its subjective nature) however no other consistent measure of non-compliance could be adapted to all sectors. ■ Upper bound scenario: The percentage of websites which had ‘information missing’.

¹⁵³ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

¹⁵⁴ Eurostat. 2014. Structural Business Statistics, sbs_na_sca_r2. Indicator: Number of enterprises. Available at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs_na_sca_r2&lang=en

Variable	Data source / assumption	Caveats
		<p>CPC network sweeps and the website review also provide a snapshot of online retailer compliance, and so were used as a comparator to ensure non-compliance rates were in line with expectations and were used when conducting the sensitivity analysis (see Annex 6).</p> <p>Non-compliance rates are assumed to remain constant, in line with the baseline premise.</p>
% of domestic / cross-border infringements	Based on European Commission sweep data ¹⁵⁵	<p>To approximate the ratio between cross-border infringements and domestic infringements, previous 'sweep' data was used. The ratio of domestic to cross-border infringements detected in the sweep is used as a rough approximation.</p> <p>An assumed rate of change is embedded in this proportion year-on-year (see Annex 4).</p> <p>This is subject to a sensitivity analysis.</p>
For scale of consumer detriment (domestic):		
Average number of domestic consumers per electronic retailer	Calculated as a function of the number of domestic consumers and number of electronic retailers	Assumes an equal split of consumers between electronic retailers. In reality, this would be determined by market power however this cannot be accounted for in the calculations.
Number of potential domestic consumers	Eurostat data (population at the age of 16+ - census data and population projections) ¹⁵⁶	No caveats.
Number of retailers	Eurostat data on number of electronic retailers	<p>Eurostat provides the data on number of domestic retail sellers in the following sectors: 'Retail sale of information and communication equipment in specialised stores', 'retail sale of computers, peripheral units and software in specialised stores', 'retail sale of telecommunications equipment in specialised stores', 'retail sale of audio and video equipment in specialised stores'.</p> <p>Data is available for 2008 - 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).</p>
Number of consumers potentially affected	Calculated by number of infringements multiplied by average number of domestic	This assumes that when an infringement is made, all of the consumers serviced by that electronics good retailer is affected.

¹⁵⁵ DG Health and Consumers. 2010. 'Electronic Goods Sweep'. Available at: http://ec.europa.eu/consumers/enforcement/sweep/electronic_goods/index_en.htm

¹⁵⁶ Eurostat. 2014. Population and Population projections statistics at national level. Cens_hnmga and Proj_13n.

Variable	Data source / assumption	Caveats
	consumers per retailer (as above)	
Average detriment per consumer	Calculated using OFT formula	Although not a perfect measure for detriment, this methodology displays due rigour and caution in deriving estimates ¹⁵⁷ . Notably, there are issues for improvement in regards to the approach. This methodology is based on a UK market and thus may have some geographical basis. Further, it is limited in its product scope. Finally, detriment can extend beyond financial and there is no consideration of this in the methodology.
Average purchase price per electronics item (domestic)	Derived from Eurostat data on final consumption expenditure on electronics	Derived by dividing final consumption expenditure on electronics goods per capita amount by the number of items purchased each year. Eurostat provides the breakdown of final consumption expenditure on electronics. Consumption expenditure data is available from 2000-2012. For 2013 onwards the proportion of expenditure spent on electronics (to total expenditure) is assumed to remain constant (see Annex 4). No data is available regarding number of items purchased each year, and this is based on an informed estimate only. A 2011 CIVIC Consulting study estimated, based on survey data, the median spend on electronics (EUR 165)/ This was used as a benchmark to derive the average number of items purchased each year.
Total domestic detriment	The quotient of average detriment per consumer and number of consumers potentially affected	Assumes all consumers serviced by a retailer infringing are affected.
For scale of consumer detriment (cross-border):		
Proportion of retailers selling cross-border	Flash Eurobarometer 359 (2013). 'Retailers' attitudes towards cross-border trade and consumer protection.	No caveats.
Average number of cross-border consumers per electronics retailer	Calculated as a function of the number of cross-border consumers and number of domestic retailers	Assumes an equal split of cross-border consumers between electronics retailers. In reality, this would be determined by market power and cross-border presence (particularly online) however this cannot be accounted for in the calculations.

¹⁵⁷ Davies, S. 2010. 'A review of OFT's Impact Estimation Methods'. Available at: <http://competitionpolicy.ac.uk/documents/107435/107584/oft1164.pdf>

Variable	Data source / assumption	Caveats
Number of cross-border consumers	<p>Eurostat data on EU population (aged 16 and over) minus domestic population of Member State X</p> <p>Flash Eurobarometer 397, % of EU consumers shopping cross-border¹⁵⁸</p>	<p>Data on cross-border shopping (as per FB 397) is referenced with data from CIVIC consulting based on the destination of cross-border shopping of EU consumers¹⁵⁹. This rate is then applied to the EU population (minus Member State X, which is captured by domestic infringement).</p> <p>Cross-border shopping data is available for 2008-2014, and an assumed growth rate is applied to 2015 onwards (see Annex 4).</p> <p>Destination shopping statistics is available for 2011 and is assumed to remain relatively constant.</p>
Number of traders (operating cross-border)	<p>Eurostat data on number of retailers in electronics sector</p> <p>Multiplied by % of retailers selling cross-border (Flash Eurobarometer 359)¹⁶⁰</p>	<p>Eurostat provides the data on number of domestic retail sellers in the following sectors: 'Retail sale of information and communication equipment in specialised stores', 'retail sale of computers, peripheral units and software in specialised stores', 'retail sale of telecommunications equipment in specialised stores', 'retail sale of audio and video equipment in specialised stores'.</p> <p>Data is available for 2008 - 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).</p> <p>FB 359 figures on cross-border selling are applied to these retailer figures to estimate the proportion in Member State x selling cross-border. Data is available for 2006-2012. An assumed growth rate is applied for 2013 onwards (see Annex 4).</p>
Number of consumers affected	Calculated by number of cross-border infringements multiplied by average number of cross-border consumers per retailer	This assumes when an infringement is made by a retailer, all of the cross-border consumers serviced by that retailer are affected.
Average detriment per consumer	Calculated using OFT formula	<p>Although not a perfect measure for detriment, this methodology displays due rigour and caution in deriving estimates¹⁶¹.</p> <p>Notably, there are issues for improvement in regards to the approach. This methodology is based on a UK market and thus may have some geographical basis. Further, it is limited in its product scope. Finally, detriment can extend beyond financial and there is no consideration of this in the methodology.</p>

¹⁵⁸ Flash Eurobarometer 397. 2014. 'Consumer attitudes towards cross-border trade and consumer protection'.

¹⁵⁹ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

¹⁶⁰ Flash Eurobarometer 359. 2013. 'Retailers' attitudes towards cross-border trade and consumer protection'.

¹⁶¹ Davies, S. 2010. 'A review of OFT's Impact Estimation Methods'. Available at: <http://competitionpolicy.ac.uk/documents/107435/107584/oft1164.pdf>

Variable	Data source / assumption	Caveats
Average consumer spend on electronics goods (cross-border)	CIVIC Consulting Consumer Survey ¹⁶²	The median figure estimated as a result of this 2011 survey was used as a direct proxy for the amount spent per item cross-border (EUR 165).
Total potential cross-border detriment	The quotient of average detriment per consumer and number of cross-border consumers potentially affected	Assumes all consumers serviced by a retailer infringing are affected. Therefore this may tend to overestimate the number of consumers affected.

Table A3.3 Consumer credit

Variable	Data source / assumption	Caveats
To estimate number of infringements:		
Number of retailers	ECB data on consumer credit institutions ¹⁶³	The ECB provides numbers of credit institutions per Member States which encapsulates only those institutions which can receive deposits or other repayable funds ¹⁶⁴ . This categorisation may potentially omit some institutions from the parabanking sector (which are not legally allowed to receive deposits but still are able to grant consumer credits). Data is available for 2006. A formulaic approach is used for 2007 onwards (see Annex 4 for more detail on this).
Non-compliance rate	CIVIC examination of websites conducted within this study (Lower bound non-compliance rate of 11% and Upper bound non-compliance rate of 32%)	Two scenarios were constructed – an Upper bound estimation and a Lower bound estimation. Both of these were based on data collected by CIVIC Consulting as part of this study. It captures the types of infringements and provided ratings to indicate the level of non-compliance and irregularities. <ul style="list-style-type: none"> ■ Lower bound scenario: Aggregate of the website review rating of “very poor” in response to Q76: “Overall, in terms of informing consumers of their rights, how would you rate this website?”. It is recognised there are limitations to this (particularly due to its subjective nature) however no other consistent measure of non-compliance could be adapted to all sectors. ■ Upper bound scenario: The percentage of websites which had ‘information missing’.

¹⁶² CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

¹⁶³ ECB. 2014. Monetary Financial Institutions. Available at: <https://www.ecb.europa.eu/stats/money/mfi/general/html/statrep.en.html>

¹⁶⁴ ECB. 2014. Explanatory notes on statistics on the Monetary Financial Institutions sector. Available at: https://www.ecb.europa.eu/stats/pdf/money/mfi/mfi_definitions.pdf??1bb17bb3939ed54de233c530f47853ff

Variable	Data source / assumption	Caveats
		<p>CPC network sweeps and the website review also provide a snapshot of online retailer compliance, and so were used as a comparator to ensure non-compliance rates were in line with expectations and were used when conducting the sensitivity analysis (see Annex 4).</p> <p>Non-compliance rates are assumed to remain constant, in line with the baseline premise.</p>
% of domestic / cross-border infringements	Based on European Commission sweep data ¹⁶⁵	<p>To approximate the ratio between cross-border infringements and domestic infringements, previous 'sweep' data was used. The ratio of domestic to cross-border infringements detected in the sweep is used as a rough approximation.</p> <p>An assumed rate of change is embedded in this proportion year-on-year (see Annex 4).</p> <p>This is subject to a sensitivity analysis.</p>
For scale of consumer detriment (domestic):		
Average number of domestic consumers per consumer credit provider	Calculated as a function of number of domestic consumers and number of consumer credit providers	Assumes an equal split of consumers between retailers. In reality, this would be determined by market power however this cannot be accounted for in the calculations.
Number of potential domestic consumers	Eurostat data (population at the age of 16+ - census data and population projections) ¹⁶⁶	No caveats.
Number of consumer credit providers	ECB data on consumer credit institutions ¹⁶⁷	<p>The ECB provides numbers of credit institutions per Member States which encapsulates only those institutions which can receive deposits or other repayable funds¹⁶⁸. This categorisation may potentially omit some institutions from the parabanking sector (which are not legally allowed to receive deposits but still are able to grant consumer credits).</p> <p>Data is available for 2006. A formulaic approach is used for 2007 onwards (see Annex 4 for more detail on this).</p>

¹⁶⁵ DG Health and Consumers. 2011. 'Consumer credit sweep'. Available at: http://ec.europa.eu/consumers/enforcement/sweep/consumer_credits/index_en.htm

¹⁶⁶ Eurostat. 2014. Population and Population projections statistics at national level. Cens_hnmga and Proj_13n.

¹⁶⁷ ECB. 2014. Monetary Financial Institutions. Available at: <https://www.ecb.europa.eu/stats/money/mfi/general/html/statrep.en.html>

¹⁶⁸ ECB. 2014. Explanatory notes on statistics on the Monetary Financial Institutions sector. Available at: https://www.ecb.europa.eu/stats/pdf/money/mfi/mfi_definitions.pdf??1bb17bb3939ed54de233c530f47853ff

Variable	Data source / assumption	Caveats
Number of consumers potentially affected	Calculated by number of infringements multiplied by average number of domestic consumers per consumer credit institution (i.e. retailer)	This assumes when an infringement is made, all of the consumer serviced by that retailer are affected.
Average detriment per consumer	Calculated using OFT formula	Although not a perfect measure for detriment, this methodology displays due rigour and caution in deriving estimates ¹⁶⁹ . Notably, there are issues for improvement in regards to the approach. This methodology is based on a UK market and thus may have some geographical basis. Further, it is limited in its product scope. Finally, detriment can extend beyond financial and there is no consideration of this in the methodology.
Average purchase price per consumer credit item (domestic)	Eurostat data on final consumption expenditure ¹⁷⁰ . Derived by dividing this per capita amount by the number of items purchased each year.	Eurostat data provides the breakdown of final consumption expenditure on financial services for 2000-2012. For 2013 onwards, it is calculated by holding constant the proportion of financial services in total consumer expenditure (% varies by Member State). No data is available regarding the number of items purchased each year, therefore this is based on an estimation. It is derived using findings from a CIVIC Consulting consumer survey in 2011 ¹⁷¹ where the median spend on consumer credit was found to be EUR 100. This was used as a benchmark in deriving the number of items purchased.
Total potential domestic detriment	The quotient of average detriment per consumer and no. of consumers potentially affected	Assumes all consumers serviced by a retailer infringing are affected. Therefore, this may tend to overestimate the number of consumers affected.
For scale of consumer detriment (cross-border):		
Proportion of retailers selling cross-border	Flash Eurobarometer 359 (2013). 'Retailers' attitudes towards cross-border trade and consumer protection.	No caveats.

¹⁶⁹ Davies, S. 2010. 'A review of OFT's Impact Estimation Methods'. Available at: <http://competitionpolicy.ac.uk/documents/107435/107584/oft1164.pdf>

¹⁷⁰ Eurostat. 2014. 'Final consumption expenditure of households by consumption purposes, financial services n.e.c.'. (nama_co3_c)

¹⁷¹ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

Variable	Data source / assumption	Caveats
Average number of cross-border consumers per consumer credit institution (i.e. retailer)	Calculated as a function of the number of cross-border consumers and number of domestic consumer credit institutions.	Assumes an equal split of cross-border consumers between consumer credit institutions (i.e. retailer). In reality, this would be determined by market power and cross-border presence (particularly online) however this cannot be accounted for in the calculations.
Number of cross-border consumers	<p>Eurostat data on EU population (aged 16 and over) minus domestic population of Member State X</p> <p>Flash Eurobarometer 397, % of EU consumers shopping cross-border¹⁷²</p>	<p>Data on cross-border shopping (as per FB 397) is referenced with data from CIVIC consulting based on the destination of cross-border shopping of EU consumers¹⁷³. This rate is then applied to the EU population (minus Member State X, which is captured by domestic infringement).</p> <p>Cross-border shopping data is available for 2008-2014, and an assumed growth rate is applied to 2015 onwards (see Annex 4).</p> <p>Destination shopping statistics is available for 2011 and is assumed to remain relatively constant.</p>
Number of traders (operating cross-border)	<p>ECB data on number of retailers in consumer credit sector</p> <p>Multiplied by % of retailers selling cross-border (Flash Eurobarometer 359)¹⁷⁴</p>	<p>The ECB provides numbers of credit institutions per Member States which encapsulates only those institutions which can receive deposits or other repayable funds¹⁷⁵. This categorisation may potentially omit some institutions from the parabanking sector (which are not legally allowed to receive deposits but still are able to grant consumer credits).</p> <p>Data is available for 2006. A formulaic approach is used for 2007 onwards (see Annex 4 for more detail on this).</p> <p>FB 359 figures on cross-border selling are applied to these retailer figures to estimate the proportion in Member State x selling cross-border. Data is available for 2006-2012. An assumed growth rate is applied for 2013 onwards (see Annex 4).</p>
Number of consumers affected	Calculated by number of cross-border infringements multiplied by average number of cross-border consumers per retailer	This assumes when an infringement is made by a retailer, all of the cross-border consumers serviced by that retailer are affected.

¹⁷² Flash Eurobarometer 397. 2014. 'Consumer attitudes towards cross-border trade and consumer protection'.

¹⁷³ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

¹⁷⁴ Flash Eurobarometer 359. 2013. 'Retailers' attitudes towards cross-border trade and consumer protection'.

¹⁷⁵ ECB. 2014. Explanatory notes on statistics on the Monetary Financial Institutions sector. Available at: https://www.ecb.europa.eu/stats/pdf/money/mfi/mfi_definitions.pdf??1bb17bb3939ed54de233c530f47853ff

Variable	Data source / assumption	Caveats
Average detriment per consumer	Calculated using OFT formula	Although not a perfect measure for detriment, this methodology displays due rigour and caution in deriving estimates ¹⁷⁶ . Notably, there are issues for improvement in regards to the approach. This methodology is based on a UK market and thus may have some geographical basis. Further, it is limited in its product scope. Finally, detriment can extend beyond financial and there is no consideration of this in the methodology.
Average consumer spend on consumer credit (cross-border)	Eurostat data on final consumption expenditure on financial services ¹⁷⁷ Set equal to domestic spend	Due to lack of data on cross-border spend on consumer credit, it is assumed the value of the products purchased would be the same as domestic expenditure. It is assumed only one item would be purchased cross-border, therefore it is set equal to the value of one item domestically.
Total potential cross-border detriment	The quotient of average detriment per consumer and number of cross-border consumers potentially affected	Assumes all consumers serviced by a retailer infringing are affected. Therefore this may tend to overestimate the number of consumers affected.

Table A3.4 Food supplements

Variable	Data source / assumption	Caveats
To estimate number of infringements:		
Number of retailers	Federation Natexbio ¹⁷⁸ Atkinson, J., Rombaut, B. The 2011 PHARMINE report on pharmacy and pharmacy education in the EU. Pharmacy Practice 2011. Oct-Dec; 9(4): 169-187.	Limited information exists. However, available data suggests that for the case of France, 60% of food supplement sales is done through pharmacies ¹⁷⁹ . Therefore, this is used as a proxy. In practice, it is recognised this may underestimate the number of food supplement retailers with food supplement sales realistically taking place through other channels (for example, specialised shops). However, this proxy is adopted due to the lack of available data. Data is available for 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).

¹⁷⁶ Davies, S. 2010. 'A review of OFT's Impact Estimation Methods'. Available at: <http://competitionpolicy.ac.uk/documents/107435/107584/oft1164.pdf>

¹⁷⁷ Eurostat. 2014. 'Final consumption expenditure of households by consumption purposes, financial services n.e.c.'. (nama_co3_c)

¹⁷⁸ Federation Natexbio. 2014. 'Distribution des compléments alimentaires. Available at: <http://www.natexbio.com/forme-et-equilibre/distribution-des-complements-alimentaires>

¹⁷⁹ Federation Natexbio. 2014. 'Distribution des compléments alimentaires. Available at: <http://www.natexbio.com/forme-et-equilibre/distribution-des-complements-alimentaires>

Variable	Data source / assumption	Caveats
Non-compliance rate	CIVIC examination of websites conducted within this study (Lower bound non-compliance rate of 8% and Upper bound non-compliance rate of 39%)	Two scenarios were constructed – an Upper bound estimation and a Lower bound estimation. Both of these were based on data collected by CIVIC Consulting as part of this study. It captures the types of infringements and provided ratings to indicate the level of non-compliance and irregularities. <ul style="list-style-type: none"> ■ Lower bound scenario: Aggregate of the website review rating of “very poor” in response to Q76: “Overall, in terms of informing consumers of their rights, how would you rate this website?”. It is recognised there are limitations to this (particularly due to its subjective nature) however no other consistent measure of non-compliance could be adapted to all sectors. ■ Upper bound scenario: The percentage of websites which had ‘information missing’. <p>CPC network sweeps and the website review also provide a snapshot of online retailer compliance, and so were used as a comparator to ensure non-compliance rates were in line with expectations and were used when conducting the sensitivity analysis (see Annex 6).</p> <p>Non-compliance rates are assumed to remain constant, in line with the baseline premise.</p>
% of domestic / cross-border infringements	Based on European Commission sweep data ¹⁸⁰	To approximate the ratio between cross-border infringements and domestic infringements, previous ‘sweep’ data was used. The ratio of domestic to cross-border infringements detected in the sweep is used as a rough approximation. <p>An assumed rate of change is embedded in this proportion year-on-year (see Annex 4).</p> <p>No sweep has been undertaken in the food supplements sector, therefore to make this comparison benchmarking against other sectors was adopted as the approach. This is subject to a sensitivity analysis.</p>
For scale of consumer detriment (domestic):		
Average number of domestic consumers per food supplement retailer	Calculated as a function of the number of domestic consumers and number of retailers	Assumes an equal split of consumers between retailers. In reality, this would be determined by market power however this cannot be accounted for in the calculations.
Number of potential domestic consumers	Eurostat data (population at the age of 16+ - census data and population projections) ¹⁸¹	No caveats.

¹⁸⁰ DG Health and Consumers. 2011. ‘Consumer credit sweep’. Available at: http://ec.europa.eu/consumers/enforcement/sweep/consumer_credits/index_en.htm

¹⁸¹ Eurostat. 2014. Population and Population projections statistics at national level. Cens_hnmga and Proj_13n.

Variable	Data source / assumption	Caveats
Number of food supplement retailers	Federation Natexbio ¹⁸² Atkinson, J., Rombaut, B. The 2011 PHARMINE report on pharmacy and pharmacy education in the EU. Pharmacy Practice 2011. Oct-Dec; 9(4): 169-187.	Limited information exists. However, available data suggests that for the case of France, 60% of food supplement sales is done through pharmacies ¹⁸³ . Therefore, this is used as a proxy. In practice, it is recognised this may underestimate the number of food supplement retailers with food supplement sales realistically taking place through other channels (for example, specialised shops). However, this proxy is adopted due to the lack of available data. Data is available for 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).
Number of consumers potentially affected	Calculated by number of infringements multiplied by average number of domestic consumers per retailer	This assumes when an infringement is made, all of the consumers serviced by that food supplement retailer is affected.
Average detriment per consumer	Calculated using OFT formula	Although not a perfect measure for detriment, this methodology displays due rigour and caution in deriving estimates ¹⁸⁴ . Notably, there are issues for improvement in regards to the approach. This methodology is based on a UK market and thus may have some geographical basis. Further, it is limited in its product scope. Finally, detriment can extend beyond financial and there is no consideration of this in the methodology.
Average purchase price per food supplement item (domestic)	Syndicat National des Compléments Alimentaire, France ¹⁸⁵	Data availability was an issue, particularly for Sweden, Hungary and Latvia. Hungary and Latvia were proxied with Poland while Sweden was proxied with Germany (based on level of GDP per capita).
Total potential domestic detriment	The quotient of average detriment per consumer and number of consumers potentially affected	Assumes all consumers serviced by a retailer infringing are affected. Therefore, this may tend to overestimate the number of consumers affected
For scale of consumer detriment (cross-border):		
Proportion of retailers selling cross-border	Flash Eurobarometer 359 (2013). 'Retailers' attitudes towards	No caveats.

¹⁸² Federation Natexbio. 2014. 'Distribution des compléments alimentaires. Available at: <http://www.natexbio.com/forme-et-equilibre/distribution-des-compléments-alimentaires>

¹⁸³ Federation Natexbio. 2014. 'Distribution des compléments alimentaires. Available at: <http://www.natexbio.com/forme-et-equilibre/distribution-des-compléments-alimentaires>

¹⁸⁴ Davies, S. 2010. 'A review of OFT's Impact Estimation Methods'. Available at: <http://competitionpolicy.ac.uk/documents/107435/107584/oft1164.pdf>

¹⁸⁵ Synadiet, 2014. Les chiffres clé du marché. Available at : http://www.synadiet.fr/FR/compléments_alimentaires/chiffres_cles_marche.asp

Variable	Data source / assumption	Caveats
	cross-border trade and consumer protection.	
Average number of cross-border consumers per food supplement retailer	Calculated as a function of the number of cross-border consumers and number of domestic food supplement retailers.	Assumes an equal split of cross-border consumers between food supplement retailers.. In reality, this would be determined by market power and cross-border presence (particularly online) however this cannot be accounted for in the calculations.
Number of cross-border consumers	Eurostat data on EU population (aged 16 and over) minus domestic population of Member State X Flash Eurobarometer 397, % of EU consumers shopping cross-border ¹⁸⁶	Data on cross-border shopping (as per FB 397) is referenced with data from CIVIC consulting based on the destination of cross-border shopping of EU consumers ¹⁸⁷ . This rate is then applied to the EU population (minus Member State X, which is captured by domestic infringement). Cross-border shopping data is available for 2008-2014, and an assumed growth rate is applied to 2015 onwards (see Annex 4). Destination shopping statistics is available for 2011 and is assumed to remain relatively constant.
Number of traders (operating cross-border)	Federation Natexbio ¹⁸⁸ Atkinson, J., Rombaut, B. The 2011 PHARMINE report on pharmacy and pharmacy education in the EU. Pharmacy Practice 2011. Oct-Dec; 9(4): 169-187. Multiplied by % of retailers selling cross-border (Flash Eurobarometer 359) ¹⁸⁹	Limited information exists. However, available data suggests that for the case of France, 60% of food supplement sales is done through pharmacies ¹⁹⁰ . Therefore, this is used as a proxy. In practice, it is recognised this may underestimate the number of food supplement retailers with food supplement sales realistically taking place through other channels (for example, specialised shops). However, this proxy is adopted due to the lack of available data. Data is available for 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this). FB 359 figures on cross-border selling are applied to these retailer figures to estimate the proportion in Member State x selling cross-border. Data is available for 2006-2012. An assumed growth rate is applied for 2013 onwards (see Annex 4).

¹⁸⁶ Flash Eurobarometer 397. 2014. 'Consumer attitudes towards cross-border trade and consumer protection'.

¹⁸⁷ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

¹⁸⁸ Federation Natexbio. 2014. 'Distribution des compléments alimentaires. Available at: <http://www.natexbio.com/forme-et-equilibre/distribution-des-complements-alimentaires>

¹⁸⁹ Flash Eurobarometer 359. 2013. 'Retailers' attitudes towards cross-border trade and consumer protection'.

¹⁹⁰ Federation Natexbio. 2014. 'Distribution des compléments alimentaires. Available at: <http://www.natexbio.com/forme-et-equilibre/distribution-des-complements-alimentaires>

Variable	Data source / assumption	Caveats
Number of consumers affected	Calculated by number of cross-border infringements multiplied by average number of cross-border consumers per retailer	This assumes when an infringement is made by a retailer, all of the cross-border consumers serviced by that retailer are affected.
Average detriment per consumer	Calculated using OFT formula	Although not a perfect measure for detriment, this methodology displays due rigour and caution in deriving estimates ¹⁹¹ . Notably, there are issues for improvement in regards to the approach. This methodology is based on a UK market and thus may have some geographical basis. Further, it is limited in its product scope. Finally, detriment can extend beyond financial and there is no consideration of this in the methodology.
Average consumer spend on food supplement goods (cross-border)	CIVIC Consulting 2011 Consumer Survey ¹⁹²	Due to lack of adequate data, average cross-border spend has been proxied with the category “over the counter medicines”. It is assumed this is an adequate proxy, however it may slightly deviate from the actual average spend on food supplement products.
Total potential cross-border detriment	The quotient of average detriment per consumer and number of cross-border consumers potentially affected	Assumes all consumers serviced by a retailer infringing are affected. Therefore this may tend to overestimate the number of consumers affected.

Table A3.5 Tickets for sport, entertainment and cultural events

Variable	Data source / assumption	Caveats
To estimate number of infringements:		
Number of retailers	Combination of number of national statistics was used to estimate the approximate number of theatres, cinemas and football clubs Some examples of sources:	Limited information exists. Conservative estimation was constructed from a variety of sources. This was then applied to estimate the level or relevant retailers in a given Member State as some sport disciplines or certain type of entertainment events were not included. Data is available for 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).

¹⁹¹ Davies, S. 2010. ‘A review of OFT’s Impact Estimation Methods’. Available at: <http://competitionpolicy.ac.uk/documents/107435/107584/oft1164.pdf>

¹⁹² CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

	(i) UNESCO data ¹⁹³ (ii) Polish Institute of Statistics (GUS) ¹⁹⁴ (iii) Publico.es ¹⁹⁵ (iv) French Ministry of Culture ¹⁹⁶	
Non-compliance rate	CIVIC examination of websites conducted within this study (Lower bound non-compliance rate of 8% and Upper bound non-compliance rate of 39%)	Two scenarios were constructed – an Upper bound estimation and a Lower bound estimation. Both of these were based on data collected by CIVIC Consulting as part of this study. It captures the types of infringements and provided ratings to indicate the level of non-compliance and irregularities. <ul style="list-style-type: none"> ■ Lower bound scenario: Aggregate of the website review rating of “very poor” in response to Q76: “Overall, in terms of informing consumers of their rights, how would you rate this website?”. It is recognised there are limitations to this (particularly due to its subjective nature) however no other consistent measure of non-compliance could be adapted to all sectors. ■ Upper bound scenario: The percentage of websites which had ‘information missing’. <p>CPC network sweeps and the website review also provide a snapshot of online retailer compliance, and so were used as a comparator to ensure non-compliance rates were in line with expectations and were used when conducting the sensitivity analysis (see Annex 6).</p> <p>Non-compliance rates are assumed to remain constant, in line with the baseline premise.</p>
% of domestic / cross-border infringements	Based on European Commission sweep data ¹⁹⁷	To approximate the ratio between cross-border infringements and domestic infringements, previous ‘sweep’ data was used. The ratio of domestic to cross-border infringements detected in the sweep is used as a rough approximation. <p>An assumed rate of change is embedded in this proportion year-on-year (see Annex 4).</p> <p>This is subject to a sensitivity analysis.</p>
For scale of detriment (domestic):		

¹⁹³ <http://data.uis.unesco.org/?ReportId=5542>

¹⁹⁴ http://stat.gov.pl/cps/rde/xbcr/gus/kts_dzialalnosc_instyt_kultury_w_polsce-2010.pdf

¹⁹⁵ <http://www.publico.es/culturas/412246/el-teatro-se-indigna>

¹⁹⁶ <http://www2.culture.gouv.fr/culture/deps/chiffres-cles2011/07-theatre-2011.pdf>

¹⁹⁷ DG Health and Consumers. 2010. ‘Online ticket sales sweep’. Available at: http://ec.europa.eu/consumers/enforcement/sweep/online_ticket_sales/index_en.htm

Average number of domestic consumers per ticket retailer	Calculated as a function of number of domestic consumers and number of retailers	Assumes an equal split of consumers between retailers. In reality, this would be determined by market power however this cannot be accounted for in the calculations.
Number of potential domestic consumers	Eurostat data (population at the age of 16+ - census data and population projections) ¹⁹⁸	No caveats.
Number of retailers	Combination of number of national statistics was used to estimate the approximate number of theatres, cinemas and football clubs Some examples of sources: (i) UNESCO data ¹⁹⁹ (ii) Polish Institute of Statistics (GUS) ²⁰⁰ (iii) Publico.es ²⁰¹ (iv) French Ministry of Culture ²⁰²	Limited information exists. Conservative estimation was constructed from a variety of sources. This was then applied to estimate the level or relevant retailers in a given Member State as some sport disciplines or certain type of entertainment events were not included. Data is available for 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).
Number of consumers potentially affected	Calculated by number of infringements multiplied by average number of domestic consumers per retailer	This assumes when an infringement is made, all of the consumers serviced by that retailer are affected.
Average detriment per consumer	Calculated using OFT formula	Although not a perfect measure for detriment, this methodology displays due rigour and caution in deriving estimates ²⁰³ . Notably, there are issues for improvement in regards to the approach. This methodology is based on a UK market and thus may have some geographical basis. Further, it is limited in its product scope. Finally, detriment can extend beyond financial and there is no consideration of this in the methodology.

¹⁹⁸ Eurostat. 2014. Population and Population projections statistics at national level. Cens_hnmg and Proj_13n.

¹⁹⁹ <http://data.uis.unesco.org/?ReportId=5542>

²⁰⁰ http://stat.gov.pl/cps/rde/xbcr/gus/kts_dzialalnosc_instytut_kultury_w_polsce-2010.pdf

²⁰¹ <http://www.publico.es/culturas/412246/el-teatro-se-indigna>

²⁰² <http://www2.culture.gouv.fr/culture/deps/chiffres-cles2011/07-theatre-2011.pdf>

²⁰³ Davies, S. 2010. 'A review of OFT's Impact Estimation Methods'. Available at: <http://competitionpolicy.ac.uk/documents/107435/107584/oft1164.pdf>

Average purchase price per ticket item (domestic)	Constructed from a range of sources based on average ticket prices of theatre, cinema and football tickets	No consistent data source is available, therefore data has been constructed from a variety of sources. Potentially subject to bias, with differing products specified.
Total potential domestic detriment	The quotient of average detriment per consumer and number of consumers potentially affected	Assumes all consumers serviced by a retailer infringing are affected. Therefore this may tend to overestimate the number of consumers affected.
For scale of detriment (cross-border):		
Percentage of retailers selling cross-border	Flash Eurobarometer 359 (2013). 'Retailers' attitudes towards cross-border trade and consumer protection.	No caveats.
Average number of cross-border consumers per ticket retailer	Calculated as a function of the number of cross-border consumers and number of domestic ticket retailers	Assumes an equal split of cross-border consumers between ticket retailers. In reality, this would be determined by market power and cross-border presence (particularly online) however this cannot be accounted for in the calculations.
Number of cross-border consumers	Eurostat data on EU population (aged 16 and over) minus domestic population of Member State X Flash Eurobarometer 397, % of EU consumers shopping cross-border ²⁰⁴	Data on cross-border shopping (as per FB 397) is referenced with data from CIVIC consulting based on the destination of cross-border shopping of EU consumers ²⁰⁵ . This rate is then applied to the EU population (minus Member State X, which is captured by domestic infringement). Cross-border shopping data is available for 2008-2014, and an assumed growth rate is applied to 2015 onwards (see Annex 4). Destination shopping statistics is available for 2011 and is assumed to remain relatively constant.
Number of traders (operating cross-border)	Combination of number of national statistics was used to estimate the approximate number of theatres, cinemas and football clubs Some examples of sources:	Limited information exists. Conservative estimation was constructed from a variety of sources. This was then applied to estimate the level or relevant retailers in a given Member State as some sport disciplines or certain type of entertainment events were not included. Data is available for 2011. A formulaic approach is used for 2012 onwards (see Annex 4 for more detail on this).

²⁰⁴ Flash Eurobarometer 397. 2014. 'Consumer attitudes towards cross-border trade and consumer protection'.

²⁰⁵ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

	<p>(i) UNESCO data²⁰⁶</p> <p>(ii) Polish Institute of Statistics (GUS)²⁰⁷</p> <p>(iii) Publico.es²⁰⁸</p> <p>(iv) French Ministry of Culture²⁰⁹</p> <p>Multiplied by % of retailers selling cross-border (Flash Eurobarometer 359)²¹⁰</p>	<p>FB 359 figures on cross-border selling are applied to these retailer figures to estimate the proportion in Member State x selling cross-border. Data is available for 2006-2012. An assumed growth rate is applied for 2013 onwards (see Annex 4).</p>
Number of consumers affected	<p>Calculated by number of cross-border infringements multiplied by average number of cross-border consumers per retailer</p>	<p>This assumes when an infringement is made by a retailer, all of the cross-border consumers serviced by that retailer are affected.</p>
Average detriment per consumer	<p>Calculated using OFT formula</p>	<p>Although not a perfect measure for detriment, this methodology displays due rigour and caution in deriving estimates²¹¹.</p> <p>Notably, there are issues for improvement in regards to the approach. This methodology is based on a UK market and thus may have some geographical basis. Further, it is limited in its product scope. Finally, detriment can extend beyond financial and there is no consideration of this in the methodology.</p>
Average consumer spend on tickets (cross-border)	<p>Constructed from a range of sources based on average ticket prices of theatre, cinema and football tickets</p> <p>Assumed to be the same as domestic spend</p>	<p>No consistent data source is available, therefore data has been constructed from a variety of sources. Potentially subject to bias, with differing products specified.</p>
Total potential cross-border detriment	<p>The quotient of average detriment per consumer and</p>	<p>Assumes all consumers serviced by a retailer infringing are affected. Therefore this may tend to overestimate the number of consumers affected.</p>

²⁰⁶ <http://data.uis.unesco.org/?ReportId=5542>

²⁰⁷ http://stat.gov.pl/cps/rde/xbcr/gus/kts_dzialalnosc_instytut_kultury_w_polsce-2010.pdf

²⁰⁸ <http://www.publico.es/culturas/412246/el-teatro-se-indigna>

²⁰⁹ <http://www2.culture.gouv.fr/culture/deps/chiffres-cles2011/07-theatre-2011.pdf>

²¹⁰ Flash Eurobarometer 359. 2013. 'Retailers' attitudes towards cross-border trade and consumer protection'.

²¹¹ Davies, S. 2010. 'A review of OFT's Impact Estimation Methods'. Available at: <http://competitionpolicy.ac.uk/documents/107435/107584/oft1164.pdf>



	number of cross-border consumers potentially affected	
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Annex 4 Key assumptions used to estimate future CPC caseloads by sector

Table A4.1 Clothes and sports goods

Variable	Assumption	Rationale
EU Population and population growth	As forecast by Eurostat	Eurostat forecast.
GDP and GDP growth.	As forecast by Eurostat	GDP figures for 2000-2013 were used from Eurostat. Predicted GDP growth rates applied from 2014-2025 ²¹² .
Final consumption expenditure as share of GDP	Held constant for 2013 onwards	Eurostat data available 2000-2012. From 2013 onwards, a constant proportion is applied. A steady trend is observed in this ratio up to 2012, therefore this justifies the constant application.
Share of clothes and footwear in consumer expenditure (%)	Eurostat 2000-2013, derived for 2014 onwards.	Eurostat data available on consumer expenditure on clothing and footwear. The proportion is derived by dividing this by consumer expenditure (total). The current share of clothes and footwear goods in total final consumption expenditure is roughly between 3-7% of final consumption expenditure, depending on the country. For 2014 onwards, this share is assumed to remain constant (% depends on country). Historically this has remained constant (from 2007-2012), therefore this steady trend justifies this assumption.
Average number of clothes and sports goods purchased per year	No data available. Educated guess of ten items is made.	Due to lack of available data, an educated guess has been made. CIVIC Consulting consumer survey in 2011 ²¹³ established that the average price of a clothing purchase online was EUR 100. This was used as a benchmark to derive the educated guess of ten items.
Average per capita consumer domestic spend on clothing and footwear		
Number of cross-border consumers	Flash Eurobarometer 397 ²¹⁴	Data on cross-border shopping (as per FB 397, 28% in 2014) is referenced with data from CIVIC consulting based on the destination of cross-border shopping of EU consumers ²¹⁵ . This rate is

²¹² The European Commission. 2014. The 2015 Ageing Report. Available at: http://ec.europa.eu/economy_finance/publications/european_economy/2014/pdf/ee8_en.pdf

²¹³ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

²¹⁴ Flash Eurobarometer 397. 2014. 'Consumer attitudes towards cross-border trade and consumer protection'.

²¹⁵ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

		<p>then applied to the EU population (minus Member State X, which is captured by domestic infringement).</p> <p>Cross-border shopping data is available for 2008-2014, and an assumed growth rate is applied to 2015 onwards of 3%. . A basic analysis of this data shows a trend of 1.8% growth year-on-year²¹⁶. However, the pace of change has been more rapid in recent years, with differences across sectors expected. Therefore, for clothing and footwear, a rate of change of 3% year-on-year is assumed.</p>
Percentage of cross-border consumers (from other Member States) purchasing clothes and footwear from traders located in Member State X	<p>Estimated as: cross-border shoppers multiplied by the proportion shopping in that specific Member State.</p> <p>Increase by 3% annually from the 2013 level in each Member State.</p>	<p>Available data regarding cross-border shopping behaviour is available via Flash Eurobarometer 397 for 2007 – 2013. A basic analysis of this data shows a trend of 1.8% growth year-on-year²¹⁷. However, the pace of change has been more rapid in recent years, with differences across sectors expected. Therefore, for clothing and footwear, a rate of change of 3% year-on-year is assumed.</p> <p>These figures are cross-referenced with the 2011 Civic Consulting report²¹⁸ provides a breakdown of the destination of cross-border shopping. Significant variation exists across countries (for example, 27% of cross-border shoppers' surveyed chose to shop in Germany whilst only 2% chose to shop in Poland). This figure is assumed to remain constant over time.</p>
Percentage of EU cross-border consumers purchasing clothing and footwear in Member State X	It is assumed 17% shop for clothing and footwear. Furthermore, it is assumed this proportion will remain constant up until 2025.	For ease of estimation, this is held constant and is broadly in line with a very slight expected decline. A 2013 Eurostat Economy and Finance publication ²¹⁹ looks at consumption expenditure trends domestically. It finds the share of expenditure on clothing and sportswear has been falling slightly (by half a percentage point) over the last decade. As a result, a constant trend is justified.
Average per capita consumer cross-border spend on clothing and footwear	EUR 100	A 2011 CIVIC Consulting study undertook a consumer survey. It was estimated the median spend on clothing and footwear cross-border was EUR 100. This was used directly as the value of a standard cross-border purchase in the clothing and footwear sector.
Number of clothing and footwear retailers based in Member State	Eurostat data available 2008-2011. From 2012 onwards, expected changes in population of retailers to correspond to changes in demand (i.e. consumer expenditure on clothing and footwear in that Member State).	Eurostat provides the data on number of domestic retail sellers of clothing (G4771 – clothing in specialised stores), footwear (G4772 – of footwear and leather goods in specialised stores) and footwear equipment (G4773 – retail sale of footwear equipment in specialised stores) for each Member State.

²¹⁶ $y=0.16 + 0.0182x + \text{error term}$

²¹⁷ $y=0.16 + 0.0182x + \text{error term}$

²¹⁸ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

²¹⁹ http://ec.europa.eu/economy_finance/publications/european_economy/2013/pdf/ee1_en.pdf

		Data is available 2008-2011. For 2012 onwards, the growth rate in the population of retailers (i.e. supply) is expected to correspond to changes in demand (i.e. changes in consumption expenditure on clothing and footwear in the Member State). The growth rate in consumer expenditure is applied to retailer numbers r , discounted at a rate of 20% to reflect economies of scale and scope. In other words 80% of any increase in consumer expenditure results in the expansion of existing retailers and not in the creation of new retailers. In the absence of reliable data to proxy this discount rate, an expert guestimate has been used based on casual observation of the retail sector in Member States. For example the proliferation of chain stores and the expansion of large retailers like Amazon online are trends which can be observed in many high streets.
Non-compliance rate among Member State x in clothes and footwear sector	Lower bound non-compliance rate of 3% and upper bound non-compliance rate of 35%.	As explained in Annex 3, a lower bound and upper bound non-compliance rate is used based on the research undertaken by CIVIC Consulting as part of this study (see Annex 3 for more details). The non-compliance rates are assumed to remain constant, in line with the premise of baseline estimation.
Share of infringements domestic and cross-border	80% of infringements occur domestically and 20% cross-border. Rate of change of 0.4% for lower bound estimate and 0.6% for upper bound scenario.	Assumption is based on observed proportions in the European Commission 'sweep' data. It provides a breakdown of cross-border to domestic infringements for other sectors (electronic goods and tickets), and these ratios were used as a benchmark to estimate the ratio for clothing and sports goods. Data from other sectors has been used in the absence of information relating specifically to clothing and footwear. The lack of data may be due to the blurred difference between cross-border and domestic retailers in the clothing and footwear sector as many franchises, subsidiaries, agents and SMEs are present which makes any distinction of cross-border dimension difficult.
% of Member State retailers selling cross-border	Flash Eurobarometer 359 with growth rate of 2% year-on-year ²²⁰	Data has been used from Flash Eurobarometer 359 on retailers selling cross-border. A growth rate of 2% was applied to this sector to reflect potential growth and observed time trend from 2006-2012.

Table A4.2 Electronics

Variable	Assumption	Rationale
EU Population and population growth	As forecast by Eurostat	Eurostat forecast.

²²⁰ Flash Eurobarometer 359. 2013. 'Retailers' attitudes towards cross-border trade and consumer protection'.

Variable	Assumption	Rationale
GDP and GDP growth.	As forecast by Eurostat	GDP figures for 2000-2013 were used from Eurostat. Predicted GDP growth rates applied from 2014-2025 ²²¹ .
Final consumption expenditure as share of GDP	Held constant for 2013 onwards	Eurostat data available 2000-2012. From 2013 onwards, a constant proportion is applied. A steady trend is observed in this ratio up to 2012, therefore this justifies the constant application.
Share of electronics expenditure (%)	Eurostat 2000-2013, derived for 2014 onwards.	<p>Eurostat data available on consumer expenditure on electronics. The proportion is derived by dividing this by consumer expenditure (total). The current share of electronics goods in total final consumption expenditure is roughly 2% of final consumption expenditure at an EU level (for 2013).</p> <p>For 2014 onwards, this share is assumed to remain constant (% depends on country). Historically this has remained constant (from 2007-2012), therefore this steady trend justifies this assumption.</p>
Average number of electronic goods purchased per year	Varies by Member State (3 DE, 4 UK, 2 ES, 1 HU, 3 FR, 1 PL, 3 SE, 1 LV).	Due to lack of available data, an educated guess has been made. CIVIC consulting consumer survey in 2011 established the average price of electronics online was EUR 165 on average (although a detailed breakdown was available by Member State). This was used as a benchmark to inform the derivation by dividing sales per Member State by the average spend..
Number of cross-border consumers	Flash Eurobarometer 397 ²²²	<p>Data on cross-border shopping (as per FB 397, 28% in 2014) is referenced with data from CIVIC consulting based on the destination of cross-border shopping of EU consumers²²³. This rate is then applied to the EU population (minus Member State X, which is captured by domestic infringement).</p> <p>Cross-border shopping data is available for 2008-2014, and an assumed growth rate is applied to 2015 onwards of 3%. A basic analysis of this data shows a trend of 1.8% growth year-on-year²²⁴. However, the pace of change has been more rapid in recent years, with differences across sectors expected. Therefore, for electronics, a rate of change of 3% year-on-year is assumed.</p>

²²¹ The European Commission. 2014. The 2015 Ageing Report. Available at: http://ec.europa.eu/economy_finance/publications/european_economy/2014/pdf/ee8_en.pdf

²²² Flash Eurobarometer 397. 2014. 'Consumer attitudes towards cross-border trade and consumer protection'.

²²³ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

²²⁴ $y=0.16 + 0.0182x + \text{error term}$

Variable	Assumption	Rationale
Percentage of cross-border consumers (from other Member States) purchasing electronics from traders located in Member State X	Estimated as: cross-border shoppers multiplied by the proportion shopping in that specific Member State. Increase by 3% annually from the 2013 level in each Member State.	Available data regarding cross-border shopping behaviour is available via Flash Eurobarometer 397 for 2007 – 2013. A basic analysis of this data shows a trend of 1.8% growth year-on-year ²²⁵ . However, the pace of change has been more rapid in recent years, with differences across sectors expected. Therefore, for electronics, a rate of change of 3% year-on-year is assumed. These figures are cross-referenced with the 2011 Civic Consulting Consumer Survey provides a breakdown of the destination of cross-border shopping. Significant variation exists across countries (for example, 27% of cross-border shoppers' surveyed chose to shop in Germany whilst only 2% chose to shop in Poland). This figure is assumed to remain constant over time.
Percentage of EU cross-border consumers purchasing electronics in Member State X	It is assumed 19% shop for electronics cross-border. Furthermore, it is assumed this proportion will remain constant up until 2025.	The CIVIC Consulting Consumer Survey (2011) found 19% of cross-border shoppers said they purchased electronics. A 2012 European Commission report ²²⁶ found that electronic products accounted for 18% of consumers' last purchase, thus providing further evidence for this assumption.
Average per capita consumer cross-border spend on electronics	EUR 165	In the CIVIC Consulting Consumer Survey (2011) the median spend on electronics cross-border was EUR 165. This was used directly as the value of a standard cross-border purchase in the electronics sector.
Number of electronics retailers based in Member State	Eurostat data available 2008-2011. From 2012 onwards, expected changes in population of retailers to correspond to changes in demand (i.e. consumer expenditure on electronics in that Member State).	Eurostat data available on consumer expenditure on electronics. The proportion is derived by dividing this by consumer expenditure (total). The current share of electronics goods in total final consumption expenditure is roughly 2% of final consumption expenditure at an EU level (for 2013). Data is available 2008-2011. For 2012 onwards, the growth rate in the population of retailers (i.e. supply) is expected to correspond to changes in demand (i.e. changes in consumption expenditure on electronics in the Member State). The growth rate in consumer expenditure is applied and discounted at a rate of 20% to reflect economies of scale and scope. In other words 80% of any increase in consumer expenditure results in the expansion of existing retailers and not in the creation of new retailers. In the absence of reliable data to proxy this discount rate, this expert guestimate is used and considered appropriate as electronics goods retailers are increasing large and operate online (i.e. Media-Saturn, Euronics, Dixons retail, Argos, FNAC, etc.) and account for a growing share of the consumer electronics market.

²²⁵ $y=0.16 + 0.0182x + \text{error term}$

²²⁶ European Commission. 2012. 'Functioning of the market for electric and electronic consumer goods'. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/report_electric_and_electronic_goods_market_2012_en.pdf

Variable	Assumption	Rationale
Non-compliance rate among Member State x in electronics sector	Lower bound non-compliance rate of 5% and upper bound non-compliance rate of 36%.	As explained in Annex 3, a lower bound and upper bound non-compliance rate is used based on the research undertaken by CIVIC Consulting as part of this study (see Annex 3 for more details). The non-compliance rates are assumed to remain constant, in line with the premise of baseline estimation.
Share of infringements domestic and cross-border	65% of infringements occur domestically and 35% cross-border. Rate of change of 0.4% for lower bound estimate and 0.6% for upper bound scenario.	Assumption is based on observed proportions in the European Commission 'sweep' data. It provides a breakdown of cross-border to domestic infringements for electronic goods.
% of Member State retailers selling cross-border	Flash Eurobarometer 359 with growth rate of 2% year-on-year ²²⁷	Data has been used from Flash Eurobarometer 359 on retailers selling cross-border. A growth rate of 2% was applied to this sector to reflect potential growth and observed time trend from 2006-2012.

Table A4.3 Consumer credit

Variable	Assumption	Rationale
EU Population and population growth	As forecast by Eurostat	Eurostat forecast.
GDP and GDP growth.	As forecast by Eurostat	GDP figures for 2000-2013 were used from Eurostat. Predicted GDP growth rates applied from 2014-2025 ²²⁸ .
Final consumption expenditure as share of GDP	Held constant for 2013 onwards	Eurostat data available 2000-2012. From 2013 onwards, a constant proportion is applied. A steady trend is observed in this ratio up to 2012, therefore this justifies the constant application.
Share of financial services in consumer expenditure (in %)	Held constant for 2013 onwards	Eurostat data available 2000-2012 ²²⁹ . From 2013 onwards, a constant proportion is applied. A steady trend is observed in this ratio up to 2012, therefore this justifies the constant application.
Average number of financial service products bought per year, domestically	3	Educated guess by experts due to lack of data. It is assumed that, on average, a consumer will purchase (i) a current account; (ii) a credit card; and, (iii) insurance and/or personal loan.

²²⁷ Flash Eurobarometer 359. 2013. 'Retailers' attitudes towards cross-border trade and consumer protection'.

²²⁸ The European Commission. 2014. The 2015 Ageing Report. Available at: http://ec.europa.eu/economy_finance/publications/european_economy/2014/pdf/ee8_en.pdf

²²⁹ Eurostat. 2013. 'Final consumption expenditure of households by consumption purpose – COICOP 3 digit'. [nama_CO3_C]

Variable	Assumption	Rationale
Number of cross-border consumers	Flash Eurobarometer 397 ²³⁰	<p>Data on cross-border shopping (as per FB 397, 28% in 2014) is referenced with data from CIVIC consulting based on the destination of cross-border shopping of EU consumers²³¹. This rate is then applied to the EU population (minus Member State X, which is captured by domestic infringement).</p> <p>Cross-border shopping data is available for 2008-2014, and an assumed growth rate is applied to 2015 onwards of 3%. A basic analysis of this data shows a trend of 1.8% growth year-on-year²³². However, the pace of change has been more rapid in recent years, with differences across sectors expected. Therefore, for consumer credit, a rate of change of 5% year-on-year is assumed to capture the quicker rate of change expected for this sector.</p>
Percentage of cross-border consumers (from other MS's) purchasing consumer credit from providers located in Member State X	4.9% with a growth rate of 1.5%.	<p>A report by London Economics²³³ found that cross-border consumer credit transactions were undertaken by only 4.9% of cross-border shoppers.</p> <p>Further the study confirmed that although cross-border lending / borrowing was more common in certain countries (for example, Luxembourg) it is still quite small in most EU Member States and there are still considerable barriers for its development (including language barriers, perceived risk of fraud, preference for physical proximity/face-to-face contact). Hence, this fed into the educated guess of a 1.5% year-on-year growth rate in terms of cross-border consumers purchasing consumer credit.</p>
Average per capita spend on consumer credit by cross-border consumers	Estimated average spend domestically is applied to average spend cross-border	The average spend of consumers on consumer credit products is unknown due to a paucity of available data., It is therefore assumed that the value of the products purchased would on average be the same as domestic expenditure. It is assumed only one item would be purchased cross-border, therefore it is set equal to the value of one item domestically.
Non-compliance rate among Member State X in consumer credit retailers (in %).	Lower bound non-compliance rate of 11% and upper bound non-compliance rate of 32%.	<p>As explained in Annex 3, a lower bound and upper bound non-compliance rate is used based on the research undertaken by CIVIC Consulting as part of this study (see Annex 3 for more details).</p> <p>The non-compliance rates are assumed to remain constant, in line with the premise of baseline estimation.</p>

²³⁰ Flash Eurobarometer 397. 2014. 'Consumer attitudes towards cross-border trade and consumer protection'.

²³¹ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

²³² $y=0.16 + 0.0182x + \text{error term}$

²³³ London Economics and Ipsos. 2013. 'Study on the functioning of the consumer credit market in Europe'. Available at: http://ec.europa.eu/consumers/archive/rights/docs/consumer_credit_market_study_en.pdf

Variable	Assumption	Rationale
Share of infringements domestic and cross-border	95% of infringements occur domestically and 5% cross-border. Rate of change of 0.25% for lower bound estimate and 0.5% for upper bound scenario.	Assumption is based on observed proportions in the European Commission 'sweep' data. It provides a breakdown of cross-border to domestic infringements for consumer credit
% of Member State retailers selling cross-border	Flash Eurobarometer 359 with growth rate of 2% year-on-year ²³⁴	Data has been used from Flash Eurobarometer 359 on retailers selling cross-border. A growth rate of 2% was applied to this sector to reflect potential growth and observed time trend from 2006-2012.

Table A4.4 Food supplements

Variable	Assumption	Rationale
EU Population and population growth	As forecast by Eurostat	Eurostat forecast.
Proportion of consumers purchasing food supplements domestically	70%	No data or empirical evidence available. Educated guess based on expert opinion.
Average number of food supplements purchased per year, domestically	1	It is assumed that on average only 1 food supplement item is purchased each year. This was determined based on the average purchase price expected, as per the Civic study. Source: CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf
Average per capita consumer domestic spend on food supplements	Constructed from various sources – data available for PL, DE, UK, FR and ES. SE proxied with DE and LV and HU proxied with PL.	Country data was constructed from various sources ²³⁵ . Proxies were used for SE, LV and HU to account for data gaps.

²³⁴ Flash Eurobarometer 359. 2013. 'Retailers' attitudes towards cross-border trade and consumer protection'.

²³⁵ For example: Syndadiet. 2009. Available at: http://www.synadiet.fr/FR/complements_alimentaires/chiffres_cles_marche.asp; and Biznes PL. 2009. Available at: http://biznes.gazetaprawna.pl/artykuly/558101,rosnie_sprzedaz_suplementow_diety.html

Number of cross-border consumers	Flash Eurobarometer 397 ²³⁶	Data on cross-border shopping (as per FB 397, 28% in 2014) is referenced with data from CIVIC consulting based on the destination of cross-border shopping of EU consumers ²³⁷ . This rate is then applied to the EU population (minus Member State X, which is captured by domestic infringement). Cross-border shopping data is available for 2008-2014, and an assumed growth rate is applied to 2015 onwards of 3%. A basic analysis of this data shows a trend of 1.8% growth year-on-year ²³⁸ . However, the pace of change has been more rapid in recent years, with differences across sectors expected. Therefore, for consumer credit, a rate of change of 5% year-on-year is assumed to capture the quicker rate of change expected for this sector.
Percentage of cross-border consumers (from other Member States) purchasing food supplement products from retailer located in Member State X	It is assumed 2% shop for electronics. Furthermore, it is assumed this will grow at a rate of 2% year-on-year.	A study by CIVIC Consulting found 5% of cross-border shoppers said they purchased 'over the counter medicine' – this is used as a proxy for food supplements. An educated guess of 2% growth rate year-on-year was made, based on qualitative research indicating strong growth in the sector (particularly in Eastern Europe).
Average per capita spend on food supplements products by cross-border consumers	Constructed from various sources – data available for PL, DE, UK, FR and ES. SE proxied with DE and LV and HU proxied with PL. EU-average data used.	Country data was constructed from various sources ²³⁹ . Proxies were used for SE, LV and HU to account for data gaps. EU average data across the countries were used for cross-border spend.
Non-compliance rate among Member State X in consumer credit retailers (in %).	Lower bound non-compliance rate of 8% and upper bound non-compliance rate of 39%.	As explained in Annex 3, a lower bound and upper bound non-compliance rate is used based on the research undertaken by CIVIC Consulting as part of this study (see Annex 3 for more details). The non-compliance rates are assumed to remain constant, in line with the premise of baseline estimation.
% of Member State retailers selling cross-border	Flash Eurobarometer 359 with growth rate of 2% year-on-year ²⁴⁰	Data has been used from Flash Eurobarometer 359 on retailers selling cross-border. A growth rate of 2% was applied to this sector to reflect potential growth and observed time trend from 2006-2012.

²³⁶ Flash Eurobarometer 397. 2014. 'Consumer attitudes towards cross-border trade and consumer protection'.

²³⁷ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

²³⁸ $y=0.16 + 0.0182x + \text{error term}$

²³⁹ For example: Syndadiet. 2009. Available at: http://www.synadiet.fr/FR/complements_alimentaires/chiffres_cles_marche.asp and Biznes PL. 2009. Available at: http://biznes.gazetaprawna.pl/artykuly/558101,rosnie_sprzedaz_suplementow_diety.html

²⁴⁰ Flash Eurobarometer 359. 2013. 'Retailers' attitudes towards cross-border trade and consumer protection'.

Table A4.5 Tickets for sport, entertainment and cultural events

Variable	Assumption	Rationale
EU Population and population growth	As forecast by Eurostat	Eurostat forecast.
GDP and GDP growth.	As forecast by Eurostat	GDP figures for 2000-2013 were used from Eurostat. Predicted GDP growth rates applied from 2014-2025 ²⁴¹ .
Final consumption expenditure as share of GDP	Held constant for 2013 onwards	Eurostat data available 2000-2012. From 2013 onwards, a constant proportion is applied. A steady trend is observed in this ratio up to 2012, therefore this justifies the constant application.
Average purchase price per recreation and cultural event (domestic)	Varies by Member State: ES 22, SE 23, DE 21, FR 19, UK 31, LV 14, HU 11, PL 13	Constructed averages based on a variety of sources. Average price for sport, cinema and museum ticket for eight Member States has been constructed based on domestic website observations ²⁴² .
Average purchase price per recreation and cultural event (cross-border)	Constant at the level of EUR 19 (average of EU)	Constructed averages based on a variety of sources. Average price for sport, cinema and museum ticket for eight Member States has been constructed based on domestic statistics.
Number of cross-border consumers	Flash Eurobarometer 397 ²⁴³	Data on cross-border shopping (as per FB 397, 28% in 2014) is referenced with data from CIVIC consulting based on the destination of cross-border shopping of EU consumers ²⁴⁴ . This rate is then applied to the EU population (minus Member State X, which is captured by domestic infringement). Cross-border shopping data is available for 2008-2014, and an assumed growth rate is applied to 2015 onwards of 3%. A basic analysis of this data shows a trend of 1.8% growth year-on-year ²⁴⁵ . However, the pace of change has been more rapid in recent years, with differences across

²⁴¹ The European Commission. 2014. The 2015 Ageing Report. Available at: http://ec.europa.eu/economy_finance/publications/european_economy/2014/pdf/ee8_en.pdf

²⁴² For LV: Cinema: <http://forumcinemas.lv/eng/Tickets/TicketPrices/>, Theater : <http://www.jrt.lv/en/box-office-opening-hours> around 20 euro can get a normal ticket, probably also cheaper, Ice-hockey game: http://www.dinamoriga.eu/data/dr-prezentacija/dr_prez.pdf (page 7, 6-25LVL, which is around 10-30euro), tickets per sector for ice-hockey games. No info for the new season though.; For DE: <http://www.kinofans.com/Kino-News/Kino-Wissen/Kino-Ticketpreise-steigen-kontinuierlich-E15318.htm>; For PL: <http://www.filmneweurope.com/country-profiles/45-poland/menu-id-235>, <http://www.filmneweurope.com/country-profiles/45-poland/menu-id-235>; For ES: <http://www.facua.org/es/estudio.php?id=118>; For FR: <http://www.das-rendez-vous.org/42.0.html?&L=1>; For HU: http://www.numbeo.com/cost-of-living/country_result.jsp?country=Hungary; <http://europeanfootballweekends.blogspot.be/2010/10/debreceen.html>; for UK: http://www.numbeo.com/cost-of-living/country_result.jsp?country=United+Kingdom

²⁴³ Flash Eurobarometer 397. 2014. 'Consumer attitudes towards cross-border trade and consumer protection'.

²⁴⁴ CIVIC Consulting Consumer Survey. 2011. Available at: http://ec.europa.eu/consumers/archive/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

²⁴⁵ $y=0.16 + 0.0182x + \text{error term}$

Variable	Assumption	Rationale
		sectors expected. Therefore, for consumer credit, a rate of change of 5% year-on-year is assumed to capture the quicker rate of change expected for this sector.
Percentage of EU cross-border consumers shopping in Member State X for tickets	2%	Held constant at 2%. Due to lack of data availability, this was an educated guess based on benchmarking to other sectors.
Number of retailers selling tickets for sport, cultural and entertainment events	Flash Eurobarometer 359 with growth rate of 2% year-on-year ²⁴⁶	Data has been used from Flash Eurobarometer 359 on retailers selling cross-border. A growth rate of 2% was applied to this sector to reflect potential growth and observed time trend from 2006-2012.
Non-compliance rate among Member State X in consumer credit retailers (in %).	Lower bound non-compliance rate of 8% and upper bound non-compliance rate of 39%.	As explained in Annex 3, a lower bound and upper bound non-compliance rate is used based on the research undertaken by CIVIC Consulting as part of this study (see Annex 3 for more details). The non-compliance rates are assumed to remain constant, in line with the premise of baseline estimation.

²⁴⁶ Flash Eurobarometer 359. 2013. 'Retailers' attitudes towards cross-border trade and consumer protection'.



Annex 5 Baseline estimations – Upper and Lower bound estimates

This annex details the Upper and Lower bound estimates which inform the average estimation presented in the main report (Section 3).

A5.1 Clothing and footwear

A5.1.1 Upper bound scenario

Figure A5.1 Upper scenario: Scale of infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements	195,827	196,513	197,201	197,893	198,587	199,280	199,977	200,676	201,379	202,085	202,786	203,497
Domestic	137,077	136,450	135,812	135,170	134,522	133,864	133,201	132,528	131,853	131,178	130,483	129,784
Cross-border	39,168	40,481	41,807	43,141	44,483	45,834	47,194	48,566	49,944	51,325	52,721	54,131
Parallel	19,582	19,582	19,582	19,582	19,582	19,582	19,582	19,582	19,582	19,582	19,582	19,582

Figure A5.2 Upper scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers potentially affected	124,374,218	123,999,798	123,620,435	123,245,696	122,835,178	122,381,239	122,014,212	121,580,419	121,199,053	120,852,320	120,510,138	120,177,308
Domestic	103,107,005	102,481,936	101,848,137	101,211,086	100,539,829	99,824,447	99,180,480	98,470,711	97,803,720	97,160,694	96,510,876	95,861,831
Cross-border	6,538,010	6,810,681	7,087,411	7,372,265	7,660,087	7,954,239	8,253,166	8,559,973	8,870,170	9,187,711	9,515,613	9,851,750
Parallel	14,729,203	14,707,181	14,684,887	14,662,345	14,635,262	14,602,553	14,580,566	14,549,735	14,525,163	14,503,915	14,483,649	14,463,727



Figure A5.3 Upper scenario: Potential scale of financial detriment, € million (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment	5,343.53	5,384.71	5,426.95	5,469.81	5,512.94	5,555.15	5,602.91	5,648.35	5,696.27	5,745.54	5,795.16	5,844.83
Domestic	4,433.69	4,452.62	4,471.80	4,490.69	4,509.14	4,525.95	4,546.82	4,564.71	4,583.99	4,603.51	4,622.12	4,639.70
Cross-border	276.48	293.09	310.39	328.57	347.42	367.14	387.66	409.17	431.49	454.83	479.38	505.08
Parallel	633.37	639.00	644.76	650.56	656.38	662.07	668.43	674.47	680.78	687.20	693.65	700.04

A5.1.2 Lower bound scenario

Figure A5.4 Lower scenario: Scale of infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements	16,863	16,922	16,983	17,044	17,103	17,164	17,228	17,284	17,343	17,404	17,468	17,527
Domestic	13,452	11,777	11,753	11,726	11,699	11,672	11,645	11,618	11,586	11,559	11,532	11,498
Cross-border	3,371	3,453	3,532	3,614	3,694	3,776	3,861	3,938	4,023	4,105	4,190	4,277
Parallel	40	1,692	1,698	1,704	1,710	1,716	1,722	1,728	1,734	1,740	1,746	1,752

Figure A5.5 Lower scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers potentially affected	10,711,075	10,695,762	10,684,530	10,672,742	10,657,869	10,640,411	10,627,724	10,611,198	10,593,015	10,583,464	10,578,520	10,566,900
Domestic	10,117,212	8,843,350	8,811,806	8,778,271	8,744,950	8,706,507	8,671,398	8,633,864	8,593,211	8,560,833	8,531,482	8,494,906
Cross-border	563,420	581,889	599,649	618,829	634,702	653,886	674,046	693,179	713,715	733,951	755,331	777,588



Parallel	30,443	1,270,523	1,273,075	1,275,642	1,278,217	1,280,018	1,282,280	1,284,155	1,286,089	1,288,680	1,291,707	1,294,406
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Figure A5.6 Lower scenario: Potential scale of financial detriment, € million (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment	460.18	464.47	469.05	473.67	478.32	482.96	487.98	492.89	497.75	503.01	508.51	513.67
Domestic	435.05	384.22	386.90	389.49	392.20	394.74	397.53	400.23	402.76	405.62	408.59	411.15
Cross-border	23.83	25.04	26.26	27.58	28.79	30.18	31.66	33.13	34.72	36.33	38.05	39.87
Parallel	1.31	55.20	55.90	56.60	57.33	58.03	58.78	59.53	60.28	61.06	61.86	62.65

A5.2 Electronics

A5.2.1 Upper bound scenario

Figure A5.7 Upper scenario: Scale of infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements	431,276	437,817	444,467	451,201	458,060	465,035	472,112	479,263	486,548	493,955	501,454	509,078
Domestic	260,135	261,487	262,805	264,145	265,449	266,775	268,050	269,271	270,497	271,697	272,855	273,985
Cross-border	150,928	155,834	160,879	165,982	171,242	176,592	182,091	187,713	193,460	199,351	205,371	211,540
Parallel	20,213	20,496	20,783	21,074	21,369	21,668	21,971	22,279	22,591	22,907	23,228	23,553



Figure A5.8 Upper scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers potentially affected	84,232,091	83,633,417	83,011,561	82,417,256	81,772,644	81,135,950	80,506,609	79,857,586	79,233,647	78,639,358	78,037,461	77,469,850
Domestic	76,650,595	76,000,943	75,329,030	74,682,702	73,990,087	73,304,636	72,623,815	71,923,210	71,244,356	70,592,050	69,930,234	69,298,896
Cross-border	1,625,657	1,675,399	1,725,488	1,776,319	1,826,341	1,877,401	1,930,040	1,983,629	2,039,279	2,095,634	2,154,188	2,213,736
Parallel	5,955,840	5,957,075	5,957,044	5,958,234	5,956,215	5,953,913	5,952,754	5,950,747	5,950,011	5,951,674	5,953,039	5,957,217

Figure A5.9 Upper scenario: Potential scale of financial detriment, € million (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment	3,552	3,565	3,576	3,589	3,600	3,611	3,623	3,633	3,645	3,657	3,669	3,681
Domestic	3,209	3,214	3,218	3,223	3,226	3,230	3,233	3,236	3,238	3,241	3,243	3,246
Cross-border	94	99	104	109	114	119	125	130	136	143	149	156
Parallel	249	252	254	257	260	262	265	268	270	273	276	279

A5.2.2 Lower bound scenario

Figure A5.10 Lower scenario: Scale of infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
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Number of infringements	68,371	69,385	70,443	71,502	72,591	73,709	74,801	75,968	77,107	78,246	79,449	80,686
Domestic	41,659	41,993	42,357	42,724	43,079	43,451	43,812	44,174	44,554	44,875	45,260	45,663
Cross-border	23,930	24,571	25,225	25,877	26,570	27,275	27,965	28,727	29,443	30,218	30,992	31,781
Parallel	2,782	2,821	2,861	2,901	2,942	2,983	3,024	3,067	3,110	3,153	3,197	3,242

Figure A5.11 Lower scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers potentially affected	14,016,275	13,960,068	13,904,561	13,857,434	13,795,944	13,747,475	13,689,613	13,633,760	13,577,964	13,514,812	13,462,621	13,427,039
Domestic	12,888,366	12,825,426	12,762,645	12,707,499	12,638,752	12,583,231	12,517,885	12,454,009	12,390,505	12,319,600	12,259,120	12,214,098
Cross-border	267,089	272,943	279,912	287,115	294,204	300,474	307,578	315,131	322,645	329,536	337,442	345,709
Parallel	860,820	861,699	862,004	862,820	862,988	863,771	864,150	864,620	864,814	865,676	866,059	867,232

Figure A5.12 Lower scenario: Potential scale of financial detriment, € million (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment	591	595	599	603	607	612	616	620	624	628	632	637
Domestic	540	542	545	548	551	554	557	560	563	566	569	572
Cross-border	16	16	17	18	18	19	20	21	22	22	23	24
Parallel	36	36	37	37	38	38	38	39	39	40	40	



A5.3 Consumer credit

A5.3.1 Upper bound scenario

Figure A5.13 Upper scenario: Scale of infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements	2,746	2,760	2,763	2,771	2,776	2,781	2,793	2,801	2,806	2,813	2,824	2,831
Domestic	2,398	2,395	2,384	2,379	2,368	2,361	2,356	2,351	2,340	2,335	2,330	2,323
Cross-border	136	153	167	180	196	208	225	238	254	266	282	296
Parallel	212	212	212	212	212	212	212	212	212	212	212	212

Figure A5.14 Upper scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers potentially affected	130,051,935	129,810,590	129,090,538	128,911,071	128,272,649	127,748,884	127,515,211	127,041,125	126,252,132	126,083,445	125,625,790	125,180,927
Domestic	119,445,786	119,202,301	118,486,603	118,295,794	117,653,692	117,133,286	116,890,848	116,423,089	115,641,089	115,458,052	115,002,412	114,551,276
Cross-border	61,819	72,274	82,862	89,073	101,263	113,384	121,647	135,104	149,581	158,127	175,049	190,952
Parallel	10,544,330	10,536,015	10,521,073	10,526,204	10,517,694	10,502,214	10,502,716	10,482,932	10,461,462	10,467,266	10,448,329	10,438,699



Figure A5.15 Upper scenario: Potential scale of financial detriment, € million (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment	6,822.71	6,851.49	6,855.87	6,888.80	6,898.42	6,914.37	6,964.95	7,002.34	7,021.73	7,074.51	7,110.71	7,146.64
Domestic	6,266.29	6,291.57	6,292.71	6,321.54	6,327.34	6,339.80	6,384.64	6,417.09	6,431.58	6,478.32	6,509.40	6,539.78
Cross-border	3	4	4	5	5	6	7	7	8	9	10	11
Parallel	553	556	559	563	566	568	574	578	582	587	591	596

A5.3.2 Lower bound scenario

Figure A5.16 Lower scenario: Scale of infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements	932	937	937	940	944	949	947	951	952	956	958	962
Domestic	814	798	793	791	786	783	775	769	768	766	764	767
Cross-border	46	48	48	49	55	58	58	62	63	67	69	69
Parallel	72	91	96	100	103	108	114	120	121	123	125	126



Figure A5.17 Lower scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers potentially affected	44,051,482	44,346,354	44,326,257	44,381,427	44,202,617	44,263,249	44,142,868	43,988,696	43,937,045	43,895,051	43,856,974	44,217,238
Domestic	40,452,471	39,787,021	39,519,262	39,378,828	39,053,959	38,869,295	38,453,006	38,019,913	37,924,913	37,787,456	37,654,798	37,941,733
Cross-border	20,905	22,217	22,822	24,239	30,900	32,672	33,549	35,897	36,983	39,897	41,378	42,574
Parallel	3,578,106	4,537,116	4,784,173	4,978,360	5,117,758	5,361,282	5,656,313	5,932,886	5,975,149	6,067,698	6,160,798	6,232,931

Figure A5.18 Lower scenario: Potential scale of financial detriment, € million (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment	2,311.00	2,340.63	2,354.13	2,371.67	2,377.19	2,395.73	2,411.11	2,424.60	2,443.64	2,462.94	2,482.40	2,524.38
Domestic	2,122.19	2,099.98	2,098.83	2,104.34	2,100.30	2,103.79	2,100.33	2,095.61	2,109.26	2,120.24	2,131.35	2,166.11
Cross-border	1	1	1	1	2	2	2	2	2	2	2	2
Parallel	188	239	254	266	275	290	309	327	332	340	349	356

A5.4 Food supplements

A5.4.1 Upper bound scenario

Figure A5.19 Upper scenario: Scale of infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements	60,673	60,820	61,186	61,551	61,917	62,285	62,652	63,020	63,387	63,760	64,141	64,526
Domestic	36,109	35,602	35,246	34,875	34,504	34,122	33,736	33,339	32,940	32,532	32,122	31,711



Cross-border	18,202	18,856	19,578	20,314	21,051	21,801	22,554	23,319	24,085	24,866	25,657	26,453
Parallel	6,362	6,362	6,362	6,362	6,362	6,362	6,362	6,362	6,362	6,362	6,362	6,362

Figure A5.20 Upper scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers potentially affected	114,604,379	113,193,777	111,796,959	110,365,987	108,922,625	107,454,498	105,996,545	104,527,208	103,072,563	101,623,567	100,185,834	98,776,813
Domestic	97,276,550	95,861,873	94,520,715	93,145,123	91,759,879	90,349,930	88,947,605	87,531,911	86,128,316	84,726,317	83,333,430	81,964,751
Cross-border	189,607	202,410	215,808	229,867	244,462	259,754	275,833	292,598	310,307	328,861	348,399	368,731
Parallel	17,138,221	17,129,493	17,060,436	16,990,996	16,918,283	16,844,813	16,773,106	16,702,698	16,633,939	16,568,388	16,504,005	16,443,331

Figure A5.21 Upper scenario: Potential scale of financial detriment, € million (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment	1,442.86	1,450.27	1,457.67	1,464.43	1,470.81	1,476.61	1,482.31	1,487.58	1,492.79	1,497.80	1,502.69	1,507.73
Domestic	1,224.69	1,228.20	1,232.40	1,235.92	1,239.04	1,241.55	1,243.87	1,245.69	1,247.36	1,248.73	1,249.89	1,251.08
Cross-border	2.40	2.61	2.83	3.07	3.32	3.59	3.88	4.19	4.52	4.88	5.26	5.66
Parallel	215.77	219.47	222.44	225.45	228.45	231.47	234.56	237.70	240.90	244.19	247.54	250.98

A5.4.2 Lower bound scenario

Figure A5.22 Lower scenario: Scale of infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
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Number of infringements	12,561	12,589	12,666	12,743	12,818	12,892	12,969	13,044	13,122	13,197	13,277	13,359
Domestic	7,506	7,428	7,384	7,340	7,295	7,245	7,197	7,146	7,098	7,042	6,991	6,936
Cross-border	3,768	3,853	3,953	4,053	4,151	4,254	4,357	4,460	4,564	4,672	4,780	4,893
Parallel	1,287	1,308	1,329	1,350	1,372	1,393	1,415	1,438	1,460	1,483	1,506	1,530

Figure A5.23 Lower scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers potentially affected	23,729,253	23,561,855	23,409,081	23,254,354	23,098,484	22,925,568	22,760,925	22,597,150	22,431,135	22,262,619	22,109,201	21,953,022
Domestic	20,222,567	19,998,856	19,801,556	19,603,041	19,401,375	19,185,995	18,976,640	18,765,072	18,555,600	18,338,810	18,137,186	17,929,771
Cross-border	39,268	41,391	43,567	45,849	48,214	50,671	53,293	55,955	58,801	61,773	64,906	68,155
Parallel	3,467,418.48	3,521,607.93	3,563,958.24	3,605,463.95	3,648,894.71	3,688,901.54	3,730,991.56	3,776,122.83	3,816,733.77	3,862,035.73	3,907,109.36	3,955,096.45

Figure A5.24 Lower scenario: Potential scale of financial detriment, € million (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment	298.75	301.88	305.22	308.56	311.90	315.04	318.30	321.59	324.87	328.12	331.62	335.09
Domestic	254.60	256.23	258.18	260.11	261.98	263.65	265.37	267.05	268.73	270.28	272.03	273.67
Cross-border	0.50	0.53	0.57	0.61	0.66	0.70	0.75	0.80	0.86	0.92	0.98	1.05
Parallel	43.65	45.12	46.47	47.84	49.27	50.69	52.18	53.74	55.28	56.92	58.60	60.37



A5.5 Tickets for recreational and cultural events

Figure A5.25 Upper scenario: Scale of infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements	90,888	91,126	90,938	91,126	91,788	92,000	92,263	92,525	92,813	93,113	93,351	93,613
Domestic	60,081	59,794	59,194	58,894	58,852	58,531	58,259	57,963	57,734	57,451	57,110	56,800
Cross-border	21,813	22,338	22,750	23,238	23,888	24,400	24,913	25,450	25,988	26,550	27,063	27,613
Parallel	8,994	8,994	8,994	8,994	9,048	9,069	9,091	9,112	9,091	9,112	9,178	9,200

Figure A5.26 Upper scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers potentially affected	124,326,499	123,768,691	123,250,715	122,656,637	122,006,350	121,364,375	120,739,030	120,104,468	119,535,828	118,955,167	118,345,252	117,761,771
Domestic	108,006,058	107,450,377	106,855,303	106,265,078	105,604,279	104,935,015	104,292,144	103,635,091	103,117,703	102,510,817	101,797,155	101,181,310
Cross-border	151,643	155,495	159,182	162,762	166,491	170,180	173,695	177,590	181,354	185,164	188,863	192,795
Parallel	16,168,798	16,162,819	16,236,230	16,228,797	16,235,580	16,259,180	16,273,191	16,291,787	16,236,771	16,259,186	16,359,234	16,387,666

Figure A5.27 Upper scenario: Potential scale of financial detriment, € million (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
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Financial detriment	1,826	1,848	1,871	1,893	1,914	1,936	1,959	1,982	2,006	2,030	2,054	2,078
Domestic	1,586	1,604	1,622	1,640	1,657	1,674	1,692	1,710	1,730	1,749	1,767	1,786
Cross-border	2	2	2	2	3	3	3	3	3	3	3	3
Parallel	237	241	246	250	255	259	264	269	272	277	284	289

A5.5.2 Lower bound scenario

Figure A5.28 Lower scenario: Scale of infringements, '000 (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of infringements	18,826	18,850	18,826	18,850	19,013	19,051	19,101	19,163	19,201	19,263	19,325	19,401
Domestic	12,451	12,438	12,376	12,338	12,440	12,411	12,398	12,386	12,398	12,372	12,356	12,354
Cross-border	4,513	4,550	4,588	4,650	4,700	4,763	4,813	4,875	4,913	4,988	5,025	5,088
Parallel	1,862	1,862	1,862	1,862	1,873	1,877	1,890	1,902	1,890	1,903	1,944	1,959

Figure A5.29 Lower scenario: Number of consumers potentially affected, millions of consumers (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Number of consumers potentially affected	25,782,865	25,715,861	25,736,174	25,637,195	25,718,136	25,659,961	25,629,365	25,571,687	25,558,320	25,493,739	25,524,404	25,521,331
Domestic	22,401,429	22,339,856	22,342,542	22,247,146	22,324,189	22,260,186	22,210,064	22,138,156	22,147,741	22,065,052	22,024,205	21,997,589
Cross-border	31,387	31,672	32,141	32,602	32,757	33,215	33,511	33,985	34,290	34,750	35,076	35,538
Parallel	3,350,049	3,344,333	3,361,491	3,357,447	3,361,190	3,366,560	3,385,790	3,399,546	3,376,289	3,393,937	3,465,123	3,488,204



Figure A5.30 Lower scenario: Potential scale of financial detriment, € million (2014-2025)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Financial detriment	379	384	391	396	404	409	416	422	429	435	443	450
Domestic	329	334	339	343	350	355	360	365	372	377	382	388
Cross-border	0	0	0	0	0	1	1	1	1	1	1	1
Parallel	49	50	51	52	53	54	55	56	57	58	60	62

Annex 6 Sensitivity analysis: Caseload scenario estimations (2014 – 2025)

The results presented in section 4 are best-guess scenarios based on collected data and educated estimates. To verify robustness of the results, a sensitivity analysis has been conducted. This sensitivity analysis predominantly focused on variables that may be subject to change or have an element of uncertainty to the assumption. Specifically, these were:

- The non-compliance rate – looking to test for changes if the non-compliance rate was to differ from that predicted. There are alternative sources of information for non-compliance rate, which will be used for the estimate. The best guess estimates adopt a conservative approach to non-compliance;
- Change in levels of cross-border trade. The change in cross-border trade is assumed to increase by approximately 2% each year. This is in line with historical changes (as per Eurobarometer studies)²⁴⁷. However it could be expected there would be rapid increase in cross-border change in some European countries (particularly in Eastern Europe catching up to Western European levels). Therefore, changes in this level are tested for as part of the sensitivity analysis;
- Changes to the ratio between cross-border and domestic infringements. Currently, an inbuilt increase in cross-border infringements is inbuilt into the ‘best-guess’ scenario. However, the sensitivity analysis will look at variations in this change.

The sensitivity analysis is undertaken based on key assumptions (i.e. the non-compliance rate, change in the levels of cross-border trade, and changes to the ratio between cross-border and domestic infringements)

A6.1 Non-compliance rate

The table below outlines the assumptions applied to the best guess estimates undertaken as part of this study. It also describes what the sensitivity analysis parameters will be.

Table A6.1 Changes to non-compliance assumptions

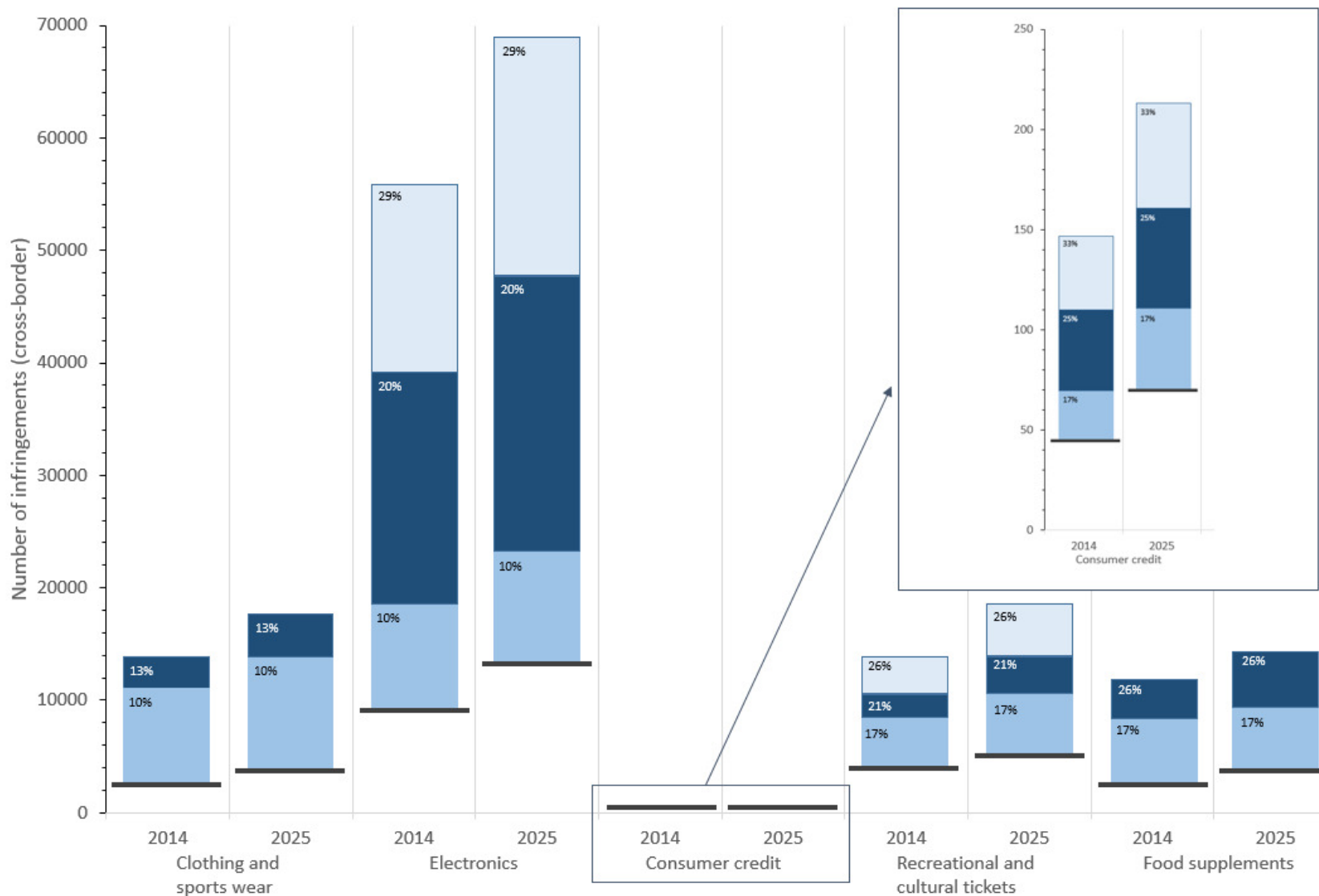
Sector	Best-guess	Sensitivity analysis parameters	Comments
Clothing and sports wear	3%	13% (very poor + rather poor) 10% (terms and conditions)	<ul style="list-style-type: none"> ■ According to analysis undertaken by Civic non-compliance rate was estimated to be 3% (see Section 2 of this report for full details); ■ Variations of this (according to other variables in the Civic review and Commission sweeps in other sectors as a benchmark) will be used to calculate the impact on infringements, and cost to consumers.
Electronics	5%	20% (very poor + rather poor) 10% (terms and conditions) 29% (Commission sweeps)	<ul style="list-style-type: none"> ■ According to analysis undertaken by Civic non-compliance rate was estimated to be 5%; ■ Variations of this (according to other variables in the Civic review and Commission sweeps) will be used to calculate the impact on infringements, and cost to consumers.
Consumer credit	11%	33% (very poor + rather poor) 17% (terms and conditions)	<ul style="list-style-type: none"> ■ According to analysis undertaken by Civic non-compliance rate was estimated to be 11%; ■ Variations of this (according to other variables in the Civic review and Commission sweeps) will be

²⁴⁷ Insert reference to Eurobarometer studies.

Sector	Best-guess	Sensitivity analysis parameters	Comments
		25% (Commission sweeps)	used to calculate the impact on infringements, and cost to consumers.
Tickets for recreational and cultural events	8%	26% (very poor + rather poor) 17% (terms and conditions) 21% (Commission Sweeps)	<ul style="list-style-type: none"> ■ According to analysis undertaken by Civic non-compliance rate was estimated to be 8%; ■ Variations of this (according to other variables in the Civic review and Commission sweeps) will be used to calculate the impact on infringements, and cost to consumers.
Food supplements	8%	26% (very poor + rather poor) 17% (terms and conditions)	<ul style="list-style-type: none"> ■ According to analysis undertaken by Civic non-compliance rate was estimated to be 8% (not this sector was not specifically assessed by Civic so is proxied with recreation and cultural tickets); ■ Variations of this (according to other variables in the Civic review and Commission sweeps in other sectors as a benchmark) will be used to calculate the impact on infringements, and cost to consumers.

The results of the sensitivity analysis estimations can be found on the following page.

Figure A6.1 Results of sensitivity analysis – non-compliance rate



A6.2 Change in ratio between cross-border and domestic infringements

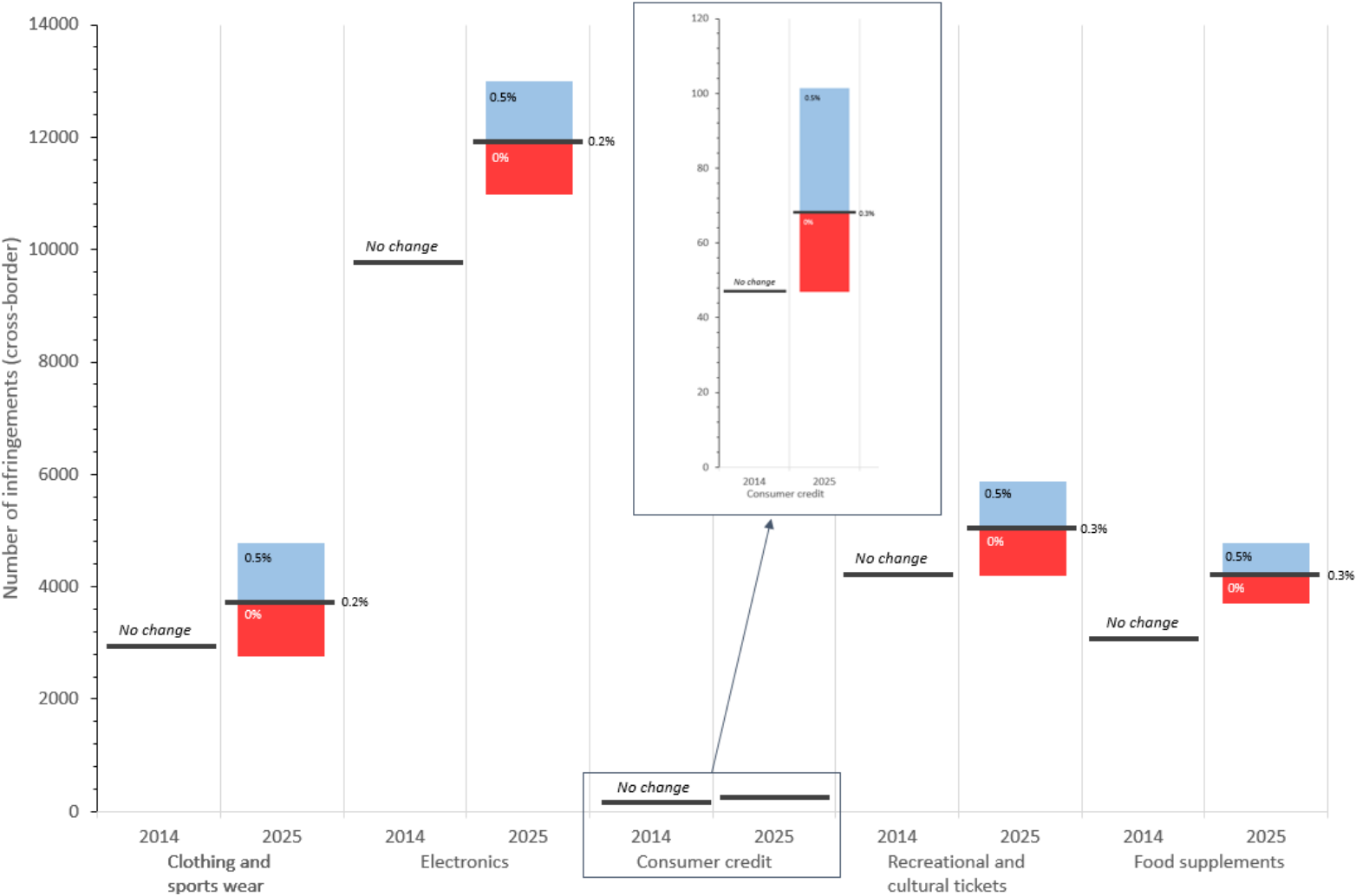
The table below outlines the assumptions applied to the best guess estimates undertaken as part of this study. It also describes what the sensitivity analysis parameters will be.

Sector	Best-guess	Sensitivity analysis parameters	Comments
Clothing and sports wear	0.2% year-on-year change	0.5% year-on-year change 0% (i.e. no change)	<ul style="list-style-type: none"> Due to relatively high levels of cross-border trade in clothing and sports goods, the ratio between cross-border and domestic infringements are expected to change slightly (by 0.2%) each year; This could change depending on trends of cross-border change for the sector or alongside other external factors that alter the likelihood of infringements at a cross-border level.
Electronics	0.2% year-on-year change	0.5% year-on-year change 0% (i.e. no change)	<ul style="list-style-type: none"> Due to relatively high levels of cross-border trade in electronic goods, the ratio between cross-border and domestic infringements are expected to change slightly (by 0.2%) each year; This could change depending on trends of cross-border change for the sector or alongside other external factors that alter the likelihood of infringements at a cross-border level.
Consumer credit	0.3% year-on-year change	0.5% year-on-year change 0% (i.e. no change)	<ul style="list-style-type: none"> Due to relatively low levels of cross-border trade in consumer credit, the ratio between cross-border and domestic infringements are expected to change slightly (by 0.5%) each year; This could change depending on trends of cross-border change for the sector or alongside other external factors that alter the likelihood of infringements at a cross-border level.
Tickets for recreational and cultural events	0.3% year-on-year change	0.5% year-on-year change 0% (i.e. no change)	<ul style="list-style-type: none"> Due to relatively current levels of cross-border trade in online ticket sales (and expected increases), the ratio between cross-border and domestic infringements are expected to change slightly (by 0.2%) each year; This could change depending on trends of cross-border change for the sector or alongside other external factors that alter the likelihood of infringements at a cross-border level.
Food supplements	0.3% year-on-year change	0.5% year-on-year change 0% (i.e. no change)	<ul style="list-style-type: none"> Due to forecasted higher levels of cross-border trade in food supplements (and expected increases), the ratio between cross-border and domestic infringements are expected to change slightly (by 0.2%) each year; This could change depending on trends of cross-border change for the sector or alongside other external factors that alter the likelihood of infringements at a cross-border level.

The results of the sensitivity analysis can be found overleaf.



Figure A6.2 Results of sensitivity analysis – change in ratio between cross-border and domestic infringements



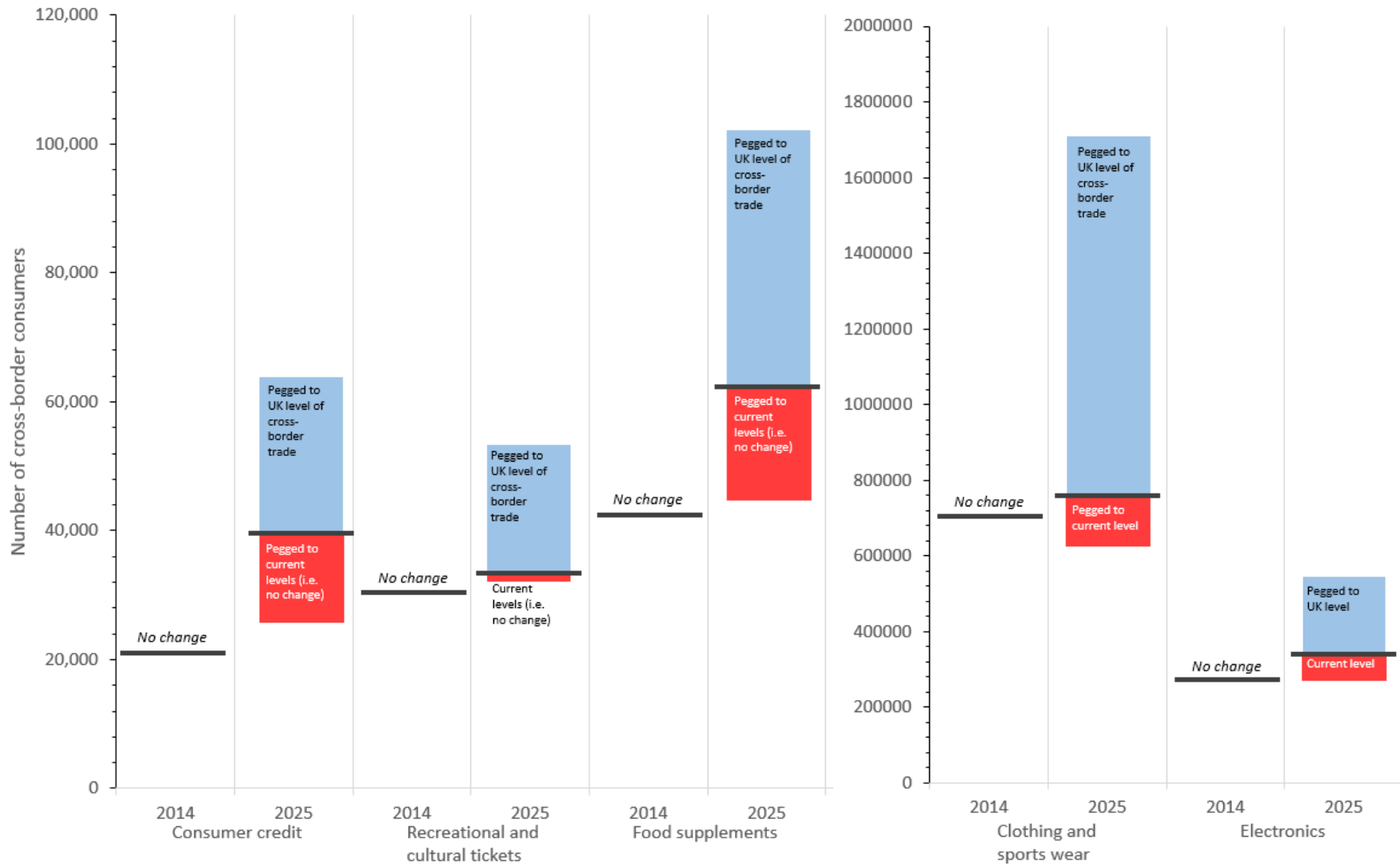
A6.3 Change in level of cross-border shopping

The table below outlines the assumptions applied to the best guess estimates undertaken as part of this study. It also describes what the sensitivity analysis parameters will be.

Sector	Best-guess	Sensitivity analysis parameters	Comments
Clothing and sports wear	2% year-on-year change	Pegged to levels of the UK (Member State with highest level of cross-border shopping) Pegged to current levels (i.e. no change over the next 10 years)	<ul style="list-style-type: none"> ■ If cross-border trade was to increase more rapidly, this would increase the number of cross-border consumers (and thus, the number of consumers affected by potential infringements); ■ This may be particularly important for countries with lower levels of current cross-border trade – increases may far exceed the forecasted 2% growth that has been estimated for; ■ Therefore for the sensitivity analysis, an assumption is applied that cross-border shopping will increase in all Member States to the levels expected for the UK (the Member State with the highest levels of cross-border trade currently). This will capture the maximum potential if all countries were to reach these levels.
Electronics			
Consumer credit			
Tickets for recreational and cultural events			
Food supplements			

The results of the sensitivity analysis can be found overleaf.

Figure A6.3 Results of sensitivity analysis – change in level of cross-border shopping



Please note: Critical to these fluctuations is the number of retailers and population. Population increases year-on-year and the number of retailers are matched to the trend in consumption

Annex 7 Detailed summary of the website reviews

A7.1 Introduction

This annex provides the results from the website review that Civic Consulting of the CPEC conducted as part of the support study for the impact assessment on the review of CPC Regulation. The website review was conducted in March 2014 and reviewed in total 2682 websites from every EU28 Member State.

A7.1.1 Identification of market sectors

For this review, a selection of five market sectors was made, based on criteria including:

- popularity of the sector for online shopping;
- size and economic importance;
- frequency of non-compliance in previous sweeps; and
- severity of potential consumer detriment or harm.

Once each sector had been selected, a particular product category was chosen to ensure comparability across all Member States (relevant for selected questions, such as the availability of specific product information). The table below shows the market sectors selected according to each of these criteria, along with the particular product category, selected for each sector.

Table A7.1 Criteria for the selection of market sectors

Sector	Popularity for online shopping	Economic size	Non-compliance in previous sweeps	Potential detriment	Product category
Electronic goods	Medium	Medium	Medium	High	Tablet computers
Package Travel	High	Medium/ High	Low/ Medium	High	Package holidays (flight and hotel)
Recreation and Culture	High	Low	Medium	Medium	Event tickets
Clothes and sports goods	High	High	n/a	Medium	Sports shoes
Consumer credit	Low	High	High	High	Short term credit (6-24 months)

Source: Civic Consulting

A7.1.2 Identification of websites

Subsequently a list of relevant e-commerce websites (on average 500 per market sector, plus several backup websites per country) which offer these product categories was compiled by native-speaker qualified researchers for each of the EU28 Member States. This entailed an average of 18 websites per sector (90 in total) per Member State. However, given the very different sizes of the 28 Member States, larger Member States were over-sampled,²⁴⁸ to make up the shortfall from the lack of traders from smaller Member States.

In order to safeguard that a representative sample of traders in each country and market sector was covered, researchers identified the particular websites through a four stage approach:

²⁴⁸ In France, Germany, Italy, Poland, Spain and the UK researchers aimed to find 24 websites per sector per Member State, while in Cyprus, Luxembourg and Malta, the target was 14 per sector per Member State.

- First, relevant keywords were used (such as 'tablet computer' or 'holiday') to find websites on DMOZ, the website directory.²⁴⁹
- Subsequently, Google searches, using country-specific Google homepages (e.g. www.google.pl; www.google.si, etc.), were used.
- Each researcher was provided with a list of price comparison websites for their respective countries, the third stage was for them to use these websites to identify further websites in each sector.
- Finally, researchers were encouraged to use their own knowledge of their country's e-commerce landscape to add any websites that had not been identified in the previous steps.

For each website, global, and - where possible - local, traffic ranking results from Alexa²⁵⁰ were identified in order to ensure that a spread of websites (in terms of popularity) in each country were used.

The following table presents the final number of websites per category per country that were analysed in the research process. In a small number of countries (Cyprus, Malta and Luxembourg) the low number of websites reflects the limited number of relevant online traders that were identified in the research process.

Table A7.2 Total number of websites reviewed, by country and sector

Country	Electronic Goods	Package Travel	Recreation and Culture	Clothes and Sports Goods	Consumer Credit	Total
AT	24	21	20	21	16	102
BE	22	16	16	16	22	92
BG	24	19	12	23	20	98
CY	12	11	3	7	6	39
CZ	26	18	23	21	21	109
DE	25	26	25	26	26	128
DK	21	17	19	21	16	94
EE	25	16	8	16	19	84
EL	22	15	15	21	6	79
ES	24	21	20	24	22	111
FI	22	21	20	24	24	111
FR	26	25	21	26	21	119
HR	15	14	15	17	20	81
HU	21	22	17	21	14	95
IE	18	20	20	20	19	97
IT	24	24	27	25	25	125

²⁴⁹ DMOZ Open Directory Project (<http://www.dmoz.org/>).

²⁵⁰ Alexa Traffic Rank is a global ranking of websites. The traffic rank is based on three months of aggregated historical traffic data from millions of Alexa Toolbar users and data obtained from other, diverse traffic data sources, and is a combined measure of page views and users (reach). As a first step, Alexa computes the reach and number of page views for all sites on the Web on a daily basis. The main Alexa traffic rank is based on a value derived from these two quantities averaged over time (so that the rank of a site reflects both the number of users who visit that site as well as the number of pages on the site viewed by those users). The three-month change is determined by comparing the site's current rank with its rank from three months ago. For example, on 1 July, the three-month change would show the difference between the rank based on traffic during the first quarter of the year and the rank based on traffic during the second quarter. See: <http://www.alexa.com/help/traffic-learn-more>.

Country	Electronic Goods	Package Travel	Recreation and Culture	Clothes and Sports Goods	Consumer Credit	Total
LT	24	18	13	21	19	95
LU	6	4	4	6	7	27
LV	24	19	15	22	12	92
MT	12	8	8	10	4	42
NL	25	25	25	25	22	122
PL	26	26	24	26	26	128
PT	23	23	19	23	22	110
RO	18	21	15	20	18	92
SE	25	24	21	23	25	118
SI	18	17	12	11	16	74
SK	22	21	13	24	19	99
UK	23	20	27	24	25	119
Total	597	532	477	564	512	2682

Source: Civic Consulting

A7.1.3 Review process

The questionnaire for the review was designed in six sections, a general section in which our researchers completed questions that were relevant for all websites, and five market-specific sections. The particular questions were devised in cooperation with the Commission based on selected information requirements in the following pieces of legislation:

- Directive 90/314/EEC (Directive on package travel, package holidays and package tours);
- Directive 93/13/EEC (Directive on unfair terms in consumer contracts);
- Directive 97/7/EC (Directive on the protection of consumers in respect of distance contracts);
- Directive 2000/31/EC (Directive on electronic commerce);
- Directive 2005/29/EC (Unfair Commercial Practices Directive);
- Directive 2008/48/EC (Directive on credit agreements for consumers).

A7.2 Results of Fieldwork

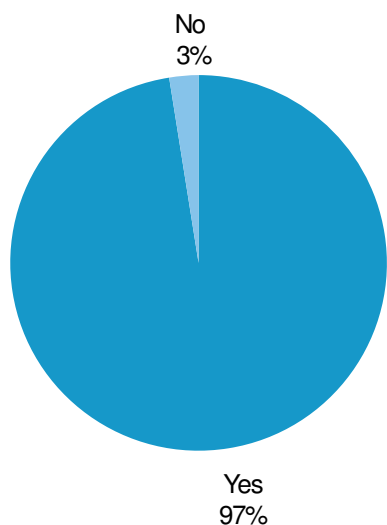
This sub-section summarises the results of the review of the e-commerce websites. It focuses first on the review of general aspects that were relevant for all websites, before presenting the results of each market sector in more detail: electronic goods; package travel, recreation and culture; clothes and sports goods; and consumer credit.

A7.2.1 General aspects

A7.2.1.1 Identification

Researchers were asked to find a postal address through which the company that runs the e-commerce website could be contacted. As the primary reason for searching for this address was for getting in contact with the company in question, addresses of physical branches of shops were also included here. As the figure below demonstrates, the overwhelming majority (97%) of the websites examined did contain a postal business address by which the company running the website could be identified. On the remaining 3% of websites, this information could not be found.

Figure A7.1 Is the geographical business address provided?



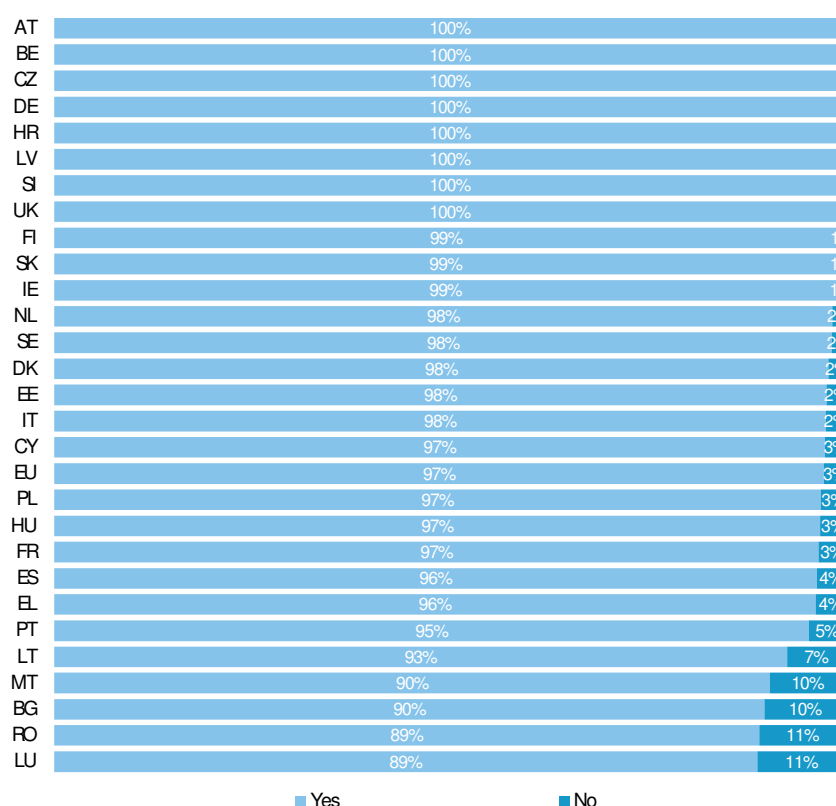
Source: Civic Consulting website review, Question 9

The following figure presents the results by country. As it demonstrates there is some variation between Member States and scores range from 100% of websites from eight Member States containing an address²⁵¹ to 89% of websites reviewed in Luxembourg and Romania.²⁵²

²⁵¹ Austria, Belgium, Croatia, Czech Republic, Germany, Latvia, Slovenia and the UK.

²⁵² Please note that Cyprus, Luxembourg and Malta have small sample sizes in all market sectors. Other countries have particularly small sample sizes in particular market sectors: Package Travel - Croatia; Recreation and Culture - Bulgaria, Estonia, Lithuania, Slovakia and Slovenia; Clothes and Sports Shoes - Slovenia; Consumer Credit - Greece, Hungary and Lithuania. These limitations have to be taken into account when interpreting the results. .

Figure A7.2 Is the geographical business address provided? – Results by country



Source: Civic Consulting website review, Question 9

Of the websites that did contain a postal business address, the vast majority (93%) were situated in the same country that the website was targeted at. The other 7% of websites with an address were situated in different countries. Often, this was due to a large company being registered in one country for all their European activities yet maintaining separate websites for different countries.

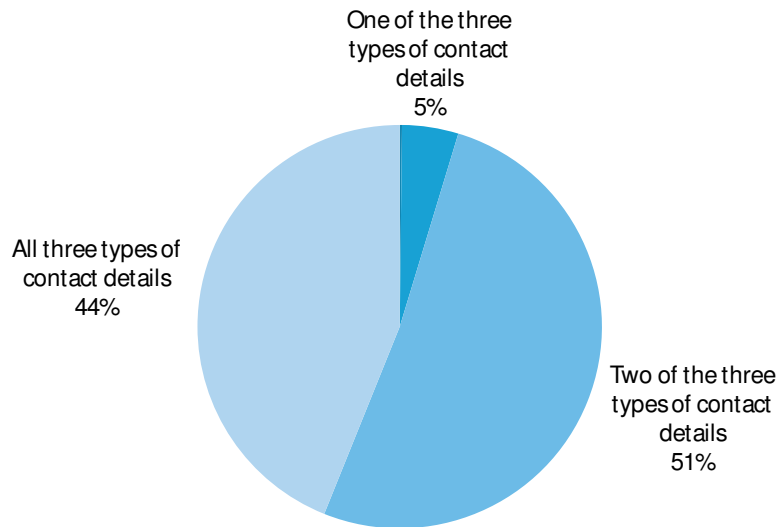
A7.2.1.2 Contact details

In order for consumers to receive information regarding questions or complaints, it is important that they can contact the provider of the website in a quick and convenient manner. Researchers were therefore searched for three types of contact details: a telephone number, an email address, and a web contact form.²⁵³

The following figure presents the results of the review. In total, a little under half (44%) of all websites contained all three types of contact details. The majority (51%) contained two out of three types, while 5% contained only one. Very few (less than 1%) contained no such contact details at all.

²⁵³ Web contact forms were defined as webpages which allowed input of contact details (name, email address, etc.) as well as space for a message to the company. Therefore email sign-up forms were not included, nor were 'chat' functions which are often automated.

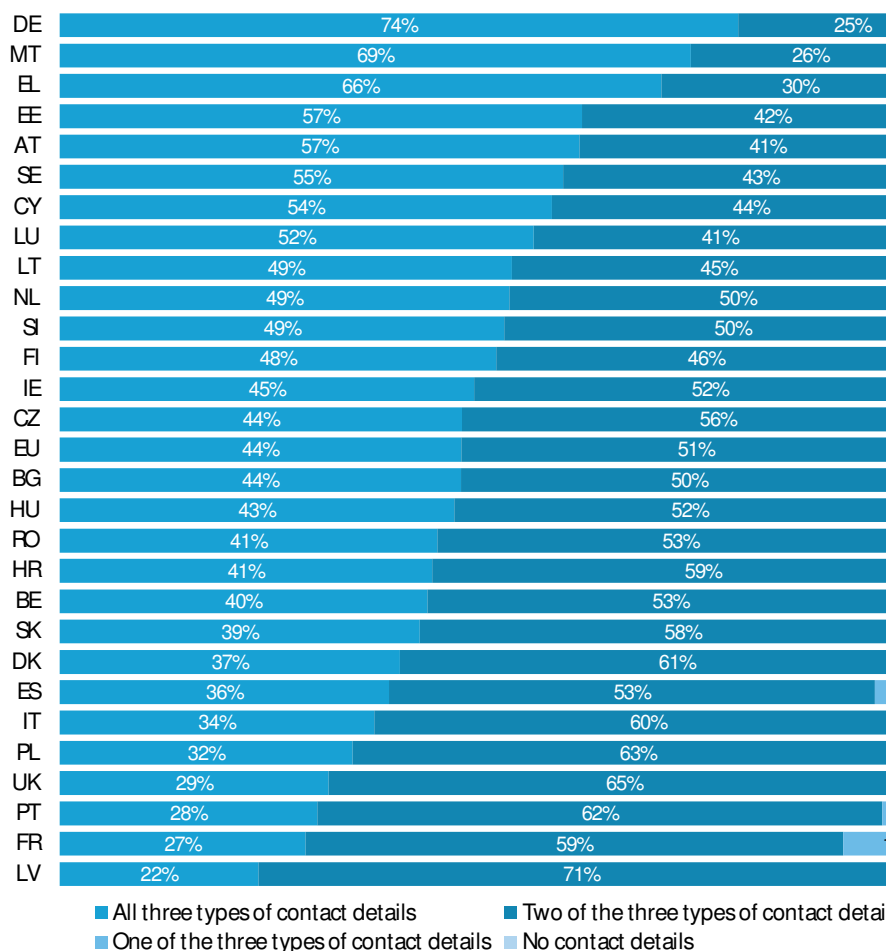
Figure A7.3 Proportion of websites that supplied contact details (email, phone number, contact form)



Source: Civic Consulting website review, Question 12: Email address to contact trader; Question 14: Telephone number to contact trader; Question 16: Is a contact form provided on the website?

As the figure below with results by country shows, the reviewed websites from Germany were most likely to contain all three types of contact details (74%), while websites from France (27%) and Latvia (22%) were the least likely. Notably all the websites in our sample from Croatia and the Czech Republic provided at least two contact methods.

Figure A7.4 Proportion of websites that supplied contact details (email, phone number, contact form) – results by country



Source: Civic Consulting website review, Question 12: Email address to contact trader; Question 14: Telephone number to contact trader; Question 16: Is a contact form provided on the website?

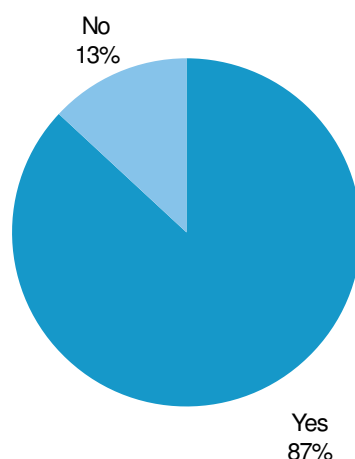
The detailed situation regarding contact details was as follows:

- **Telephone number:** 96% of sampled websites provided the consumer with a contact telephone number. Only 4% did not do this. Results at a country level show only slight variation in the percentage of websites with a contact number, from 100% of the websites reviewed in Croatia, Germany, Luxembourg and Slovenia, to 90% of websites in Spain and Portugal.
- **Email address:** 85% of sampled websites provided the consumer with a contact email address. 15% did not do this. Results at a country level show more variation in the percentage of websites with email address, from 99% of websites reviewed in Germany to only 50% in France.
- **Web contact form:** 58% of sampled websites provided the consumer with a web contact form. More than two fifths (42%) did not do this. Results at a country level show variation in the percentage of websites with a web contact form, from 81% of websites reviewed in Greece and Malta to only 25% in Latvia.
- **Web contact forms and email addresses were often used as alternatives to each other.** While 40% of websites reviewed contained an email address but not a web contact form, 12% had a web contact form but not an email address. In only 3% of websites were neither present.

A7.2.1.3 Terms and Conditions

Terms and conditions provide consumers with legal information that informs them of their rights and obligations when engaging with e-commerce websites. Overall in our sample, 87% displayed terms and conditions somewhere on the website (see figure below).

Figure A7.5 Are Terms and Conditions provided?



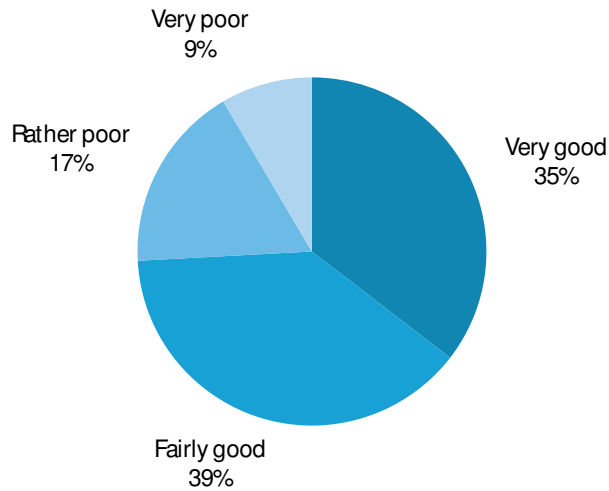
Source: Civic Consulting website review, Questions 28, 40, 54, 68 and 73

France was the country from which the highest proportion of websites contained terms and conditions (99%) while Lithuania was the country which contained the lowest proportion of websites with terms and conditions (38%) in our sample.

A7.2.1.4 Overall experience of website

At the conclusion of each website review, researchers were also asked to rate their overall experience of using the website. This was based on their subjective assessment of how well the website informed consumers about their rights, and did not take into account other aspects of the website's performance. As this question was more subjective than the rest of the review questionnaire, there is more variation in the results for this question than for most of the issues investigated. As the figure below shows, over a third (35%) of reviewed websites were rated as 'very good', and a similar proportion (39%) were seen as 'fairly good'. Under a fifth (17%) was seen as 'rather poor', while under a tenth (9%) was seen as 'very poor'. Overall, three-quarters (74%) of the reviewed websites were rated positively (i.e. either 'very good' or 'fairly good'), while the other quarter (26%) were seen negatively (i.e. either 'rather poor' or 'very poor').

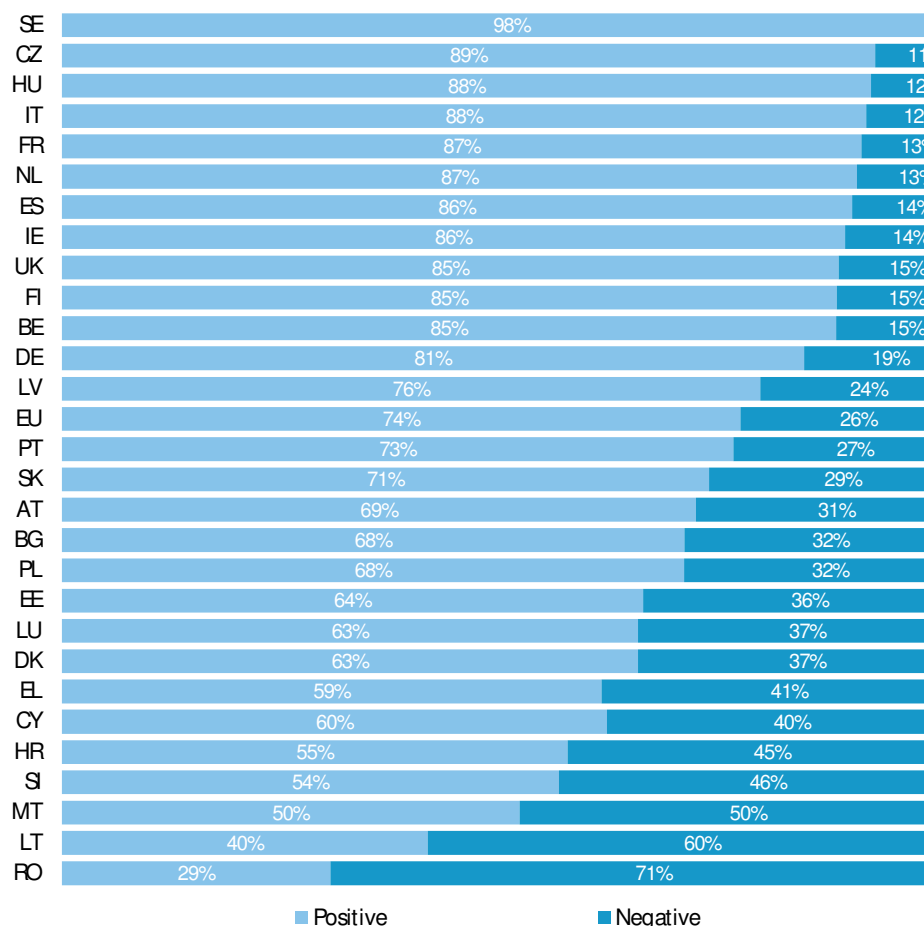
Figure A7.6 Overall, in terms of informing consumers of their rights, how would you rate your experience of this website?



Source: Civic Consulting website review, Question 76

The following figure presents the results by country. Overall the sampled Swedish websites were the most positively assessed with 98% of websites being rated positively. Other countries with a relatively high score on this variable were the Czech Republic, Hungary, Italy, France and the Netherlands. On the other hand 71% of sampled websites serving Romania were seen negatively. Other countries with relatively negative scores were Croatia, Cyprus, Lithuania and Malta.

Figure A7.7 Overall, in terms of informing consumers of their rights, how would you rate your experience of this website? – results by country



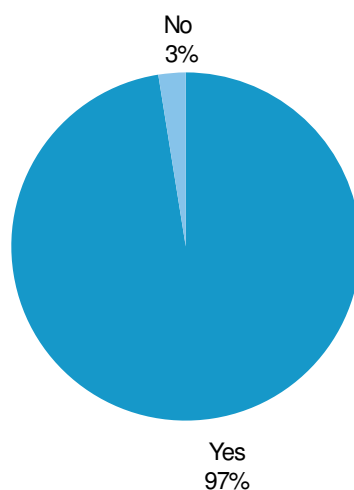
Source: Civic Consulting website review, Question 76

A7.3 Electronic Goods

A7.3.1 Identification

In terms of whether websites selling electronic goods contained a business address, the results are similar to the total sample of websites. As the figure below shows, the overwhelming majority (97%) of the websites selling electronic goods examined presented some kind of postal business address by which the company running the website could be identified. On the remaining 3% of websites, this information could not be found.

Figure A7.8 Is the geographical business address provided?



Source: Civic Consulting website review, Question 9

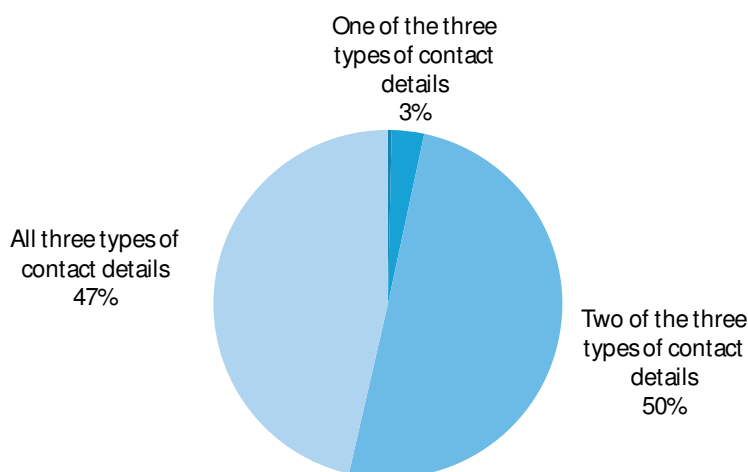
Of the reviewed websites that did contain a postal business address, 94% were situated in the same country that the website was targeted at. In contrast, 6% of websites with an address were situated in a different country to the country they were targeting their retail efforts towards.

A7.3.2 Contact details

Researchers were asked to search for three types of contact details: an email address, a telephone number and a web contact form.²⁵⁴ The following figure presents the overall results for the reviewed websites selling electronic goods. A little under half (47%) of all websites contained all three types of contact details. Half of all websites in our sample selling electronic goods (50%) contained two out of the three types. A very small minority (3%) only contained one contact type, while very few (less than 1%) contained none at all.

²⁵⁴ Web contact forms were defined as webpages which allowed input of contact details (name, email address, etc.) as well as space for a message to the company. Therefore email sign-up forms were not included, nor were 'chat' functions which are often automated.

Figure A7.9 Proportion of websites selling electronic goods that supplied contact details (e-mail, phone number, contact form)



Source: Civic Consulting website review, Question 12: Email address to contact trader; Question 14: Telephone number to contact trader; Question 16: Is a contact form provided on the website?

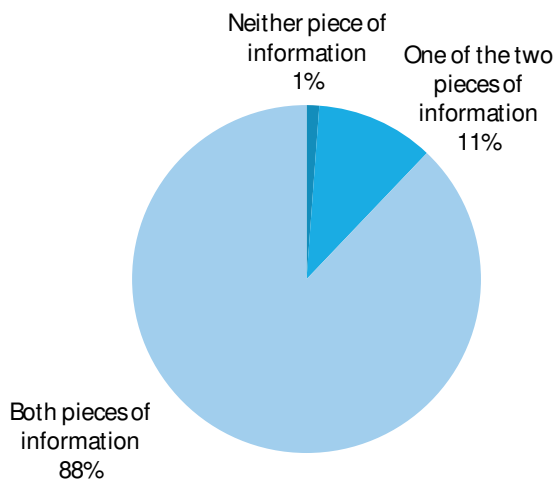
The detailed situation regarding type of contact details was as follows:

- *Telephone number*: 96% of websites selling electronic goods contained a contact telephone number; 4% did not.
- *Email address*: 86% of websites selling electronic goods contained a contact email address; 14% did not.
- *Web contact form*: 61% of websites selling electronic goods contained a web contact form for contacting the company; 39% did not.

A7.3.3 Product information

In order to make an informed purchase, consumers need to be aware of key aspects of the product they are purchasing. We therefore asked researchers to search for two pieces of key information regarding a randomly chosen product from the pre-defined product category (tablets): whether there is information about the display resolution of the tablet computer screen; and whether there is information about the internal storage of the tablet computer, both of which are important for consumers making purchase decisions. As can be seen below, the vast majority (88%) of sampled websites selling electronic goods contained both pieces of information for the example product in question. Just over one in ten (11%) contained only one of the two pieces, while a small fraction (1%) contained neither.

Figure A7.10 Proportion of websites providing key product information for example tablet computer (display resolution, storage)



Source: Civic Consulting website review, Question 18: Is information on the resolution of the display provided? (for example, 1280 x 800 pixels); Question 19: Is information on the amount of on-board storage (in Gigabytes / GB) provided?

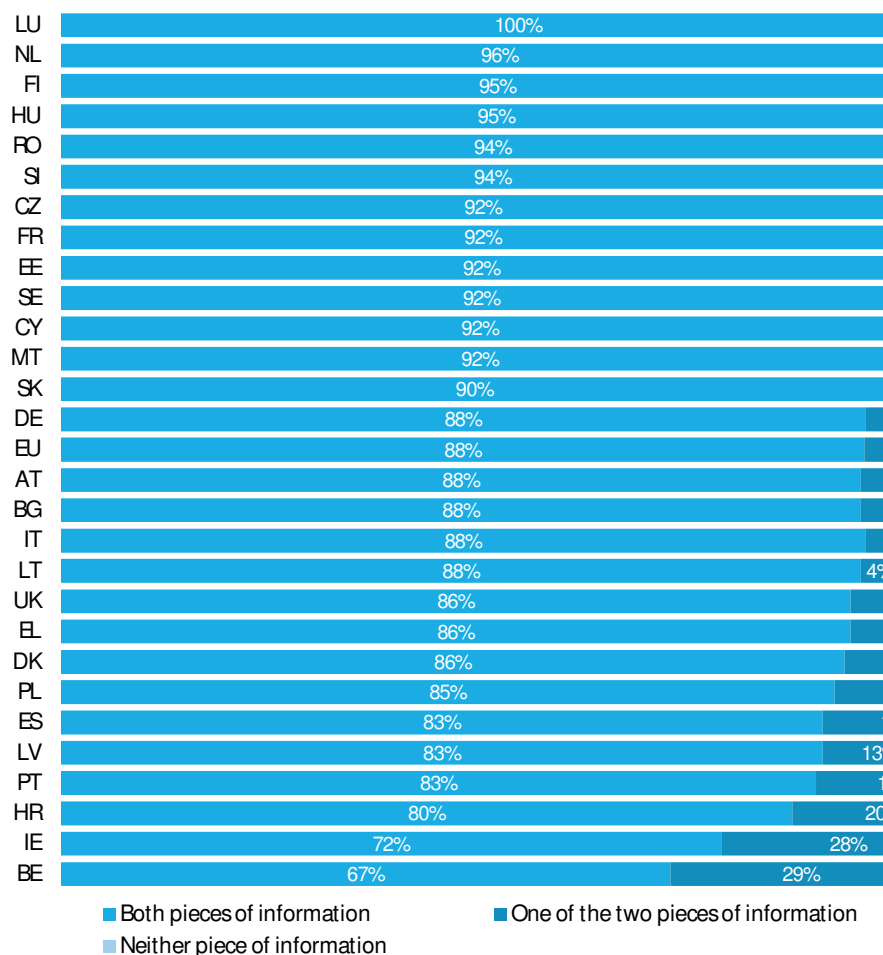
The detailed situation regarding product information for the selected example product was as follows:

- Nine tenths (90%) of all reviewed websites selling electronic goods provided information about the display resolution of the selected tablet computer. One in every ten (10%) did not.
- Almost all (97%) of the reviewed websites selling electronic goods provided information about the internal storage of the selected tablet computer. Only 3% did not.

The following figure presents the results by country. As it demonstrates there is some variation between Member States on whether key information about the product is present. Luxembourg scores highest, with all reviewed websites containing both pieces of information, while sampled websites in the Netherlands (96%) and Finland (95%) also scored highly. In contrast, the websites sampled in Belgium (67%) scored lowest for both pieces of information being present. Only five countries had any websites in our sample that contained neither piece of information for the example product.²⁵⁵

²⁵⁵ Belgium (5%), Finland (5%), France (4%), Germany (4%) Latvia (4%) and Lithuania (8%)

Figure A7.11 Proportion of websites providing key product information for example tablet computer (display resolution, storage) – results by country



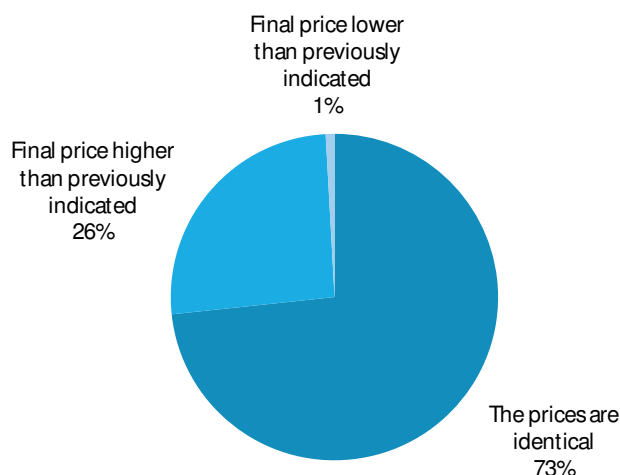
Source: Civic Consulting website review, Question 18: Is information on the resolution of the display provided? (for example, 1280 x 800 pixels); Question 19: Is information on the amount of on-board storage (in Gigabytes / GB) provided?

A7.3.4 Price information

Just under three-quarters (73%) of all the websites for electronic goods in our sample gave a final price to pay which matched the initial price offered for the tablet computer in question. This was based on a comparison of the price that was initially displayed on the product page, and the price that was displayed on the last page the researchers could access before they were required to provide payment details. One in four (26%) however was found to provide a final price to pay that was higher than the initial price offered. On the whole, this rise in price tended to be due to delivery/shipping costs which were not included in the initial price offer, or which were not specified when the initial price was indicated.²⁵⁶ Only 1% of websites selling electronic goods actually presented a lower final price to pay than the initial price offered.

²⁵⁶ Where delivery costs were specified next to the initial price offer, or a link was provided with the initial price to the applicable delivery costs, these were considered when assessing whether or not initial and final prices were the same. For example, if the initial price was presented as €19.99* (*€3.50 delivery charge applies) and the final price was presented as €23.49, the two prices were considered to be the same.

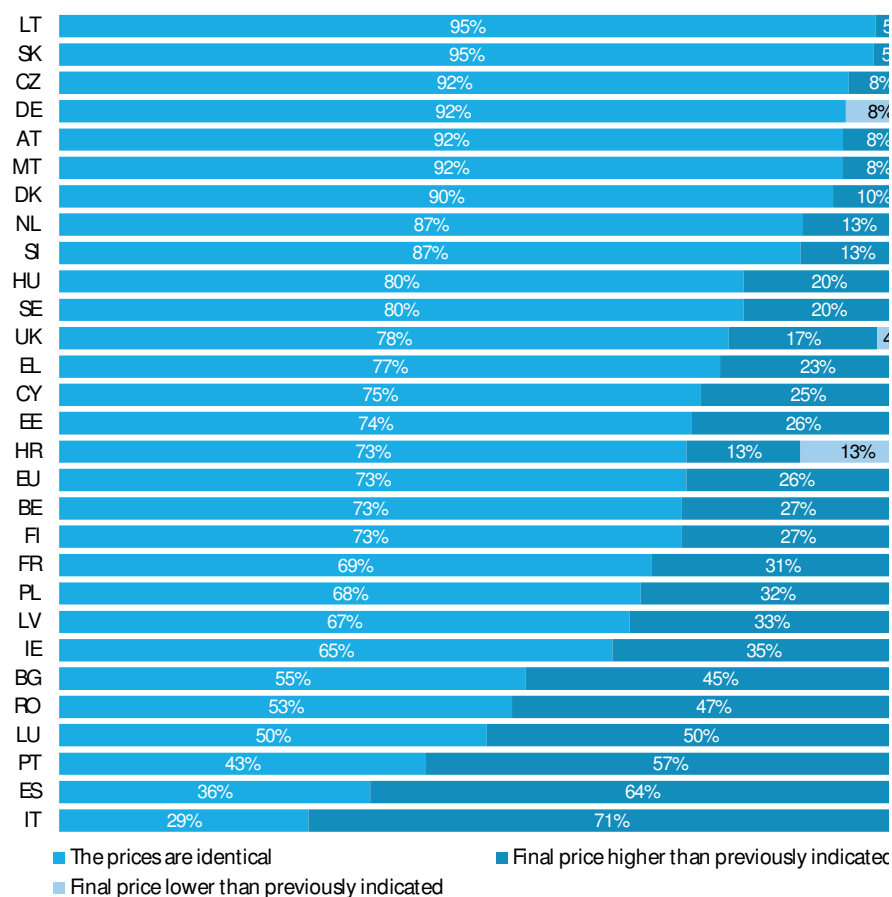
Figure A7.12 Is the final price to pay the same as the initial price offer?



Source: Civic Consulting website review, Question 22

The following figure presents the results by country. As it shows, the proportion of websites on which the final price to pay was higher than the initial price offered was highest on the sampled websites in Italy (71%), Spain (64%) and Portugal (57%) and lowest on the sampled websites in Lithuania (5%), Slovakia (5%) and Germany (0%).

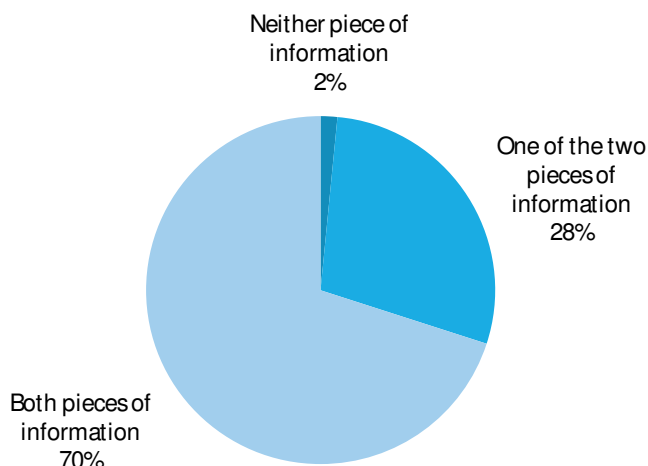
Figure A7.13 Is the final price to pay the same as the initial price offer? – results by country



Source: Civic Consulting website review, Question 22

In terms of what makes up the final price to pay when buying the example tablet computer, extra costs such as taxes and delivery costs were examined to see if they were made clear. The figure below presents the results. The majority of websites reviewed selling electronic goods (70%) provided both pieces of information clearly, while over a quarter (28%) provided one of the two.

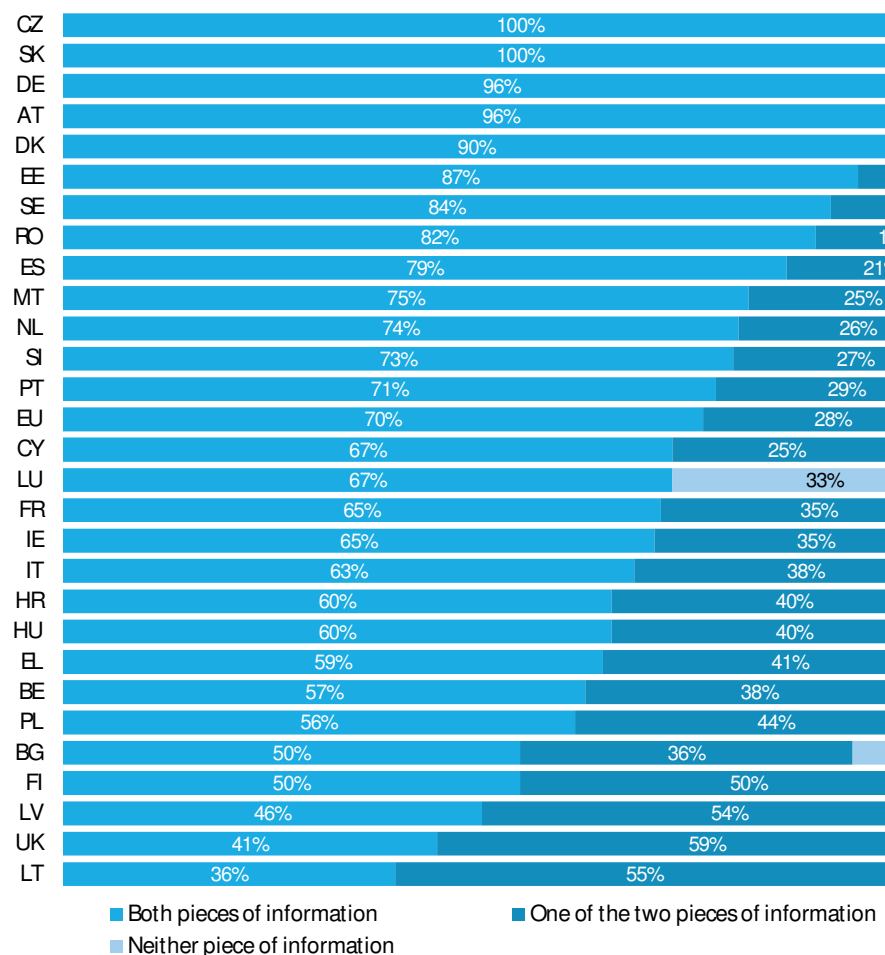
Figure A7.14 Proportion of websites selling electronic goods with key price information (inclusion of taxes, delivery charges)



Source: Civic Consulting website review, Question 21: Are taxes (e.g. sales taxes) included in the final price? Question 23: Are all additional freight, delivery or postal charges provided?

The next figure presents the results by country. The countries in which the highest proportion of reviewed websites provided both pieces of information on costs (inclusion of taxes and delivery charges) were Czech Republic and Slovakia, where all reviewed websites contained both pieces of information. The lowest score was Lithuania with only 36% of reviewed websites containing both pieces of information.

Figure A7.15 Proportion of websites selling electronic goods with key price information (inclusion of taxes, delivery charges) – results by country



Source: Civic Consulting website review, Question 21: Are taxes (e.g. sales taxes) included in the final price? Question 23 Are all additional freight, delivery or postal charges provided?

The detailed situation regarding key price information for the selected example product was as follows:

- **Taxes:** For nearly three-quarters (73%) of the overall sample of reviewed websites taxes were indicated as being included in the final price to pay, while only 1% indicated that taxes were not included. In the remaining quarter (27%) taxes were not mentioned on the final payment page.
- There was wide variation between countries in this respect. This largely seems to reflect general differences between the ways that countries generally present prices and varies from taxes being clearly included on the payment page of 100% of websites serving the Czech Republic to only 41% of websites reviewed in the UK. It should be noted that some of the websites that did not present this information during the payment process may well have had the information elsewhere on the website (e.g. in the terms and conditions).
- **Delivery costs:** The situation regarding delivery costs was clearer cut. 95% of websites selling electronic goods made it clear if there were delivery costs or not for the tablet computer. Only one in every 20 websites (5%) was unclear as to whether delivery costs applied or not (this designation was applied if no information was provided about delivery costs, or the information provided was assessed by the researchers as confusing). In

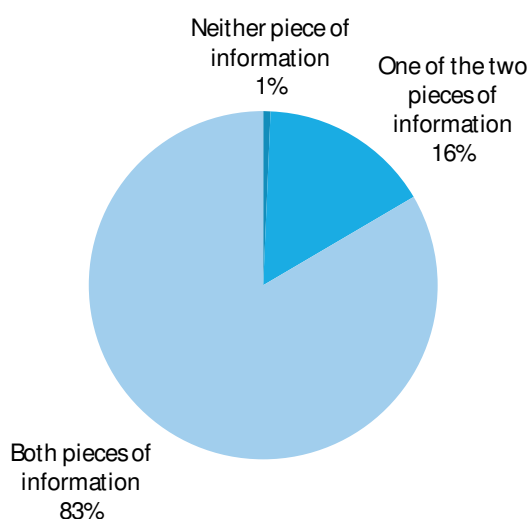
terms of country differences, the picture is as follows: In half of all Member States,²⁵⁷ researchers found that the presence or not of delivery charges was clear on every website reviewed from that country. On the other hand, Luxembourg (67%), Belgium (77%) and Bulgaria (79%) were the three countries with the lowest scores in terms of clarity of charges.

A7.3.5 Purchase information

Researchers also searched for key information that helps consumers make purchases on the website. The details that were searched for in particular were whether information on payment methods was present, and whether it was easy to find, and whether information regarding expected delivery time was present, and whether it was easy to find. Researchers also looked for information on whether the websites shipped electronic goods to other countries.

In terms of the two key pieces of information (about payment methods and delivery time), the majority of websites selling electronic goods (83%) contained both pieces of information, while 16% contained just one. 1% of websites contained neither pieces of information.

Figure A7.16 Proportion of websites selling electronic goods with information on payment methods and expected delivery time

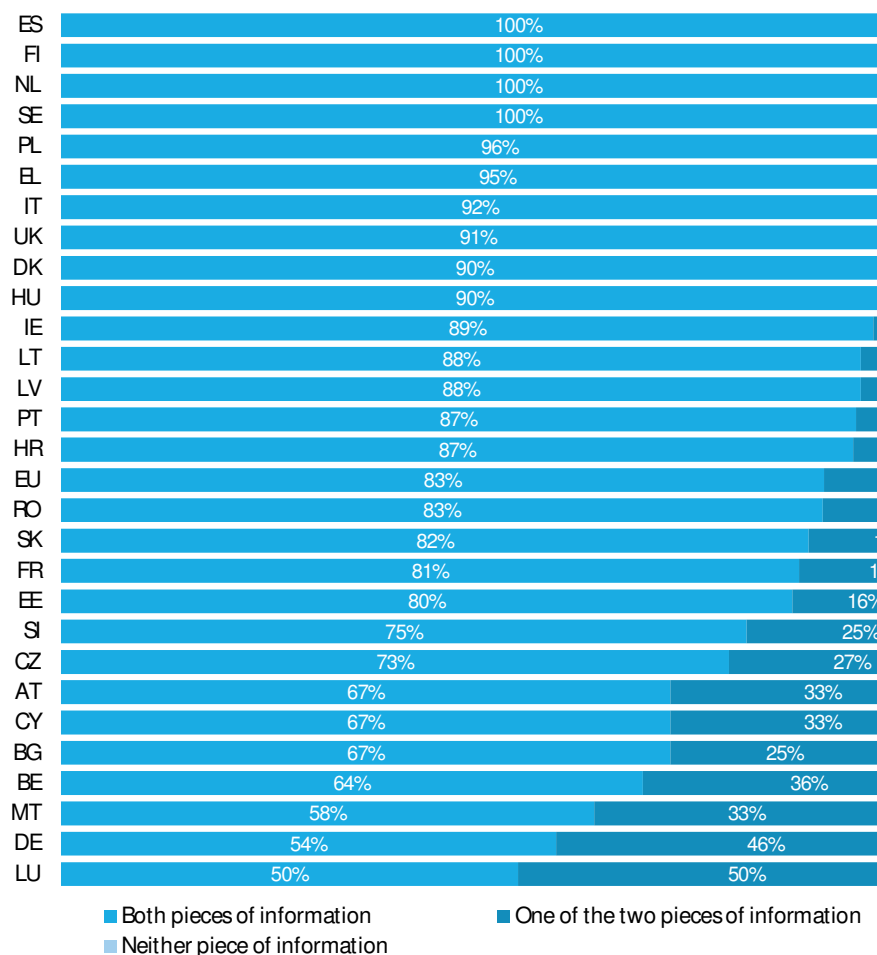


Source: Civic Consulting website review, Question 24: Is the consumer provided with information on the available payment methods?; Question 25: Is the consumer provided with information on the expected delivery time?

The following figure presents the results by country. As it shows, four countries (Spain, Finland, the Netherlands and Sweden) had 100% of the websites in our sample containing both pieces of information. The countries with reviewed websites least likely to contain both pieces of information were Germany (54%) and Luxembourg (50%).

²⁵⁷ Austria, Croatia, Czech Republic, Denmark, Finland, Germany, Ireland, Italy, Latvia, Portugal, Romania, Slovakia, Sweden and the UK.

Figure A7.17 Proportion of websites selling electronic goods with information on payment methods and expected delivery time – results by country



Source: Civic Consulting website review, Question 24: Is the consumer provided with information on the available payment methods?; Question 25: Is the consumer provided with information on the expected delivery time?

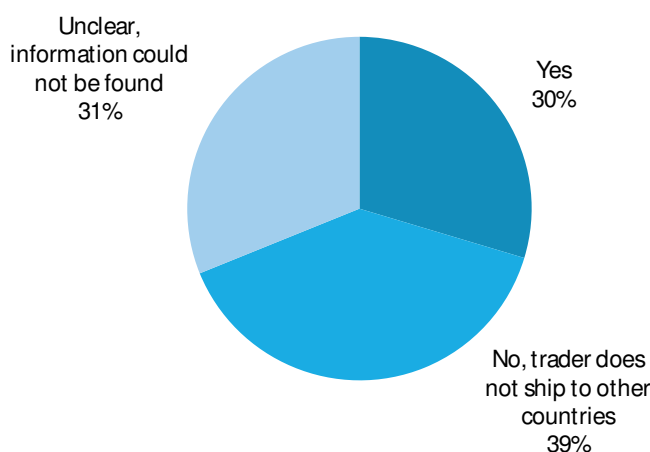
The detailed situation regarding key pieces of information (about payment methods and delivery time) was as follows:

- **Payment methods:** Only 2% of websites selling electronic goods did not display any information about payment methods. The vast majority (92%) displayed information that researchers found easy to find, while 7% of websites did contain the relevant information but researchers found it difficult to find.
- **Delivery time:** A higher percentage (15%) of sampled websites did not display any information about expected delivery time. Nearly three-quarters (73%) of reviewed websites selling electronic goods did contain the information and it was easy to find, while 12% did contain the information but researchers found it difficult to locate.

Three out of every ten websites selling electronic goods (30%) sold products to other countries. A slightly higher proportion (39%) did not, while in another 31% of the websites, researchers could not find information one way or the other and therefore said it was unclear whether the website sold products in other countries. Certain guidelines were laid down as to how the researchers should answer this question - for example, if the website did not explicitly explain that this was possible, but provided a list of international delivery costs, this was counted as selling products to other countries. Likewise, this option was also selected if

the website offered consumers a link to take them to a version of the website for their country. The following graph presents these overall results.

Figure A7.18 Does the trader ship to other countries? (other than the country for which you are conducting the website check)



Source: Civic Consulting website review, Question 26

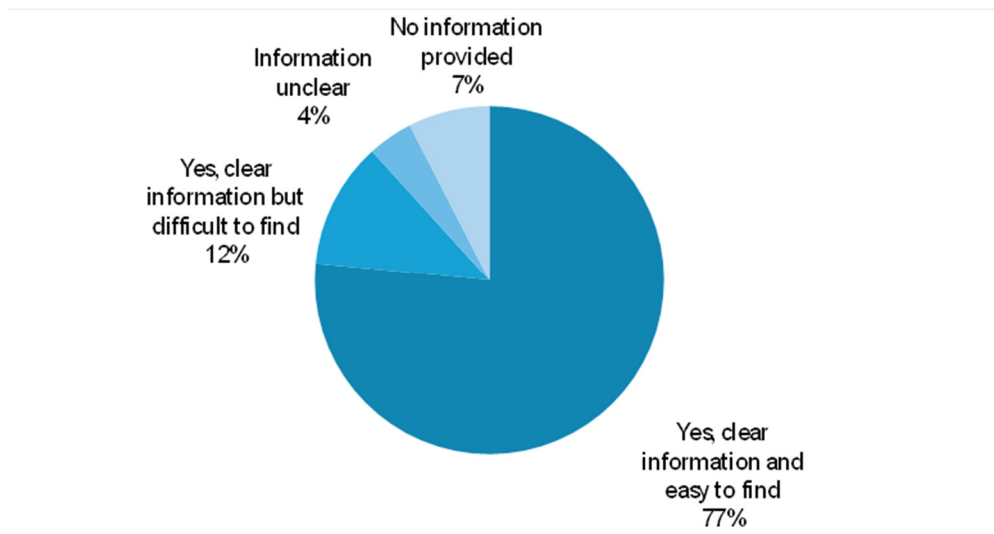
From our research the country with the highest proportion of websites that ship to another country was Germany (71%) and the lowest was Hungary with 0%. In terms of clarity, Member States' scores range from Germany and Latvia in which researchers were always able to determine whether the website shipped to a different country, to Slovenia, where the researcher found the information unclear on 89% of websites selling electronic goods. Other countries in which the information was largely unclear were Italy (67%), Cyprus (67%) and Czech Republic (62%).

A7.3.6 Right to withdraw

More than three-quarters (77%) of the sampled websites selling electronic goods contained clearly worded information that was easy to find regarding the customer's right to withdraw (i.e. return the product within a minimum of seven days).²⁵⁸ 12% of websites were found to have clear information but researchers said it was difficult to find on the website. 4% were judged to only provide unclear information, while 7% of websites were found to have no information on this right. The designation 'unclear' was used in those cases where some information was given regarding the customer's right to return the product, but it was unclear under what conditions and/or within which timeframe.

Figure A7.19 Are consumers provided with clearly worded information on their right to withdraw (i.e. return the product within a minimum of 7 days)?

²⁵⁸ While from June 2014 the withdrawal period will uniformly be 14 days, for this document the minimum in force at the time of research was used as the criteria.

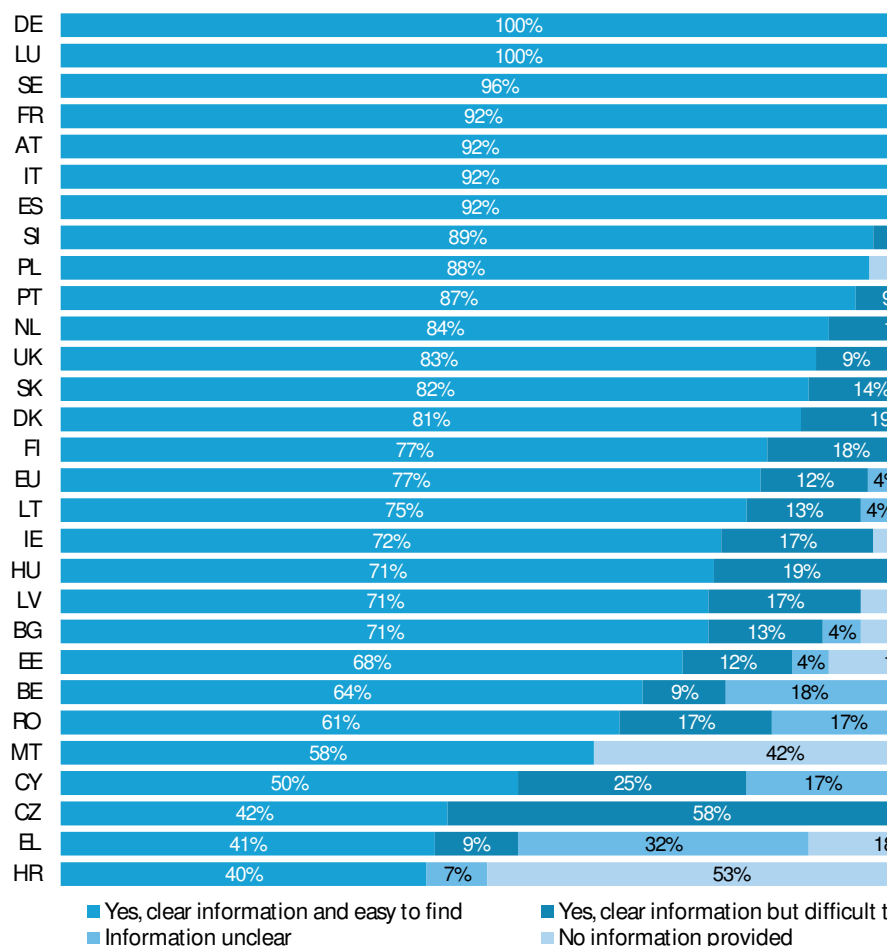


Source: Civic Consulting website review, Question 27

Most of the websites that were found to have no information simply did not provide such information on their pages. Others seemed to be temporarily without such information, for example a Latvian website on which the 'right to return' section of the website did not work, and a Polish website that said its section was undergoing revision. Others required consumers to contact the company specifically to find out about their rights. A large proportion of those that contained no information mentioned rights in relation to returning faulty goods but not the customers' right to return an unwanted product. More seriously, some websites stated customers have no rights in this situation, while others stated that consumers had less than seven days to return unwanted goods.

The scores vary greatly across Member States, as the figure below shows.

Figure A7.20 Are consumers provided with clearly worded information on their right to withdraw (i.e. return the product within a minimum of 7 days)? – results by country



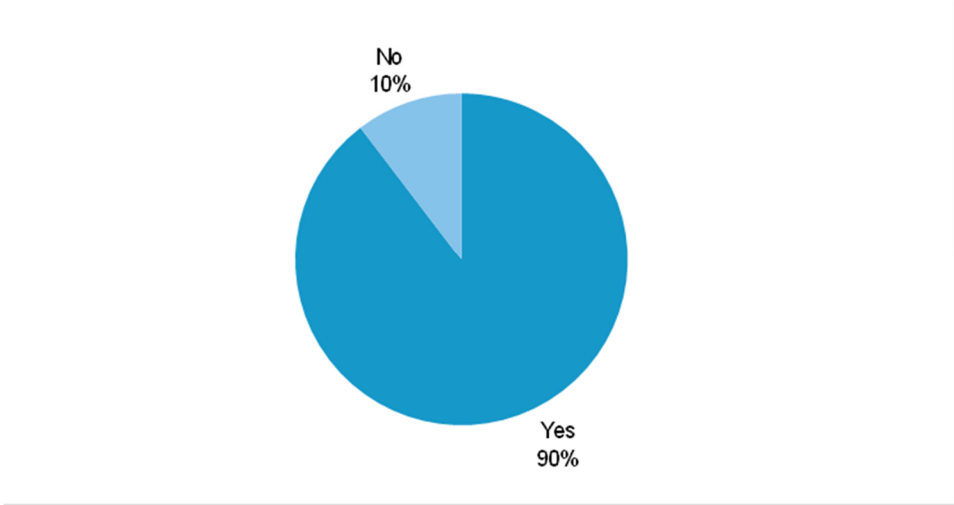
Source: Civic Consulting website review, Question 27

As the figure above indicates, in both Germany and Luxembourg every website in our sample provided this information in a clear and easy to find way. The lowest score comes from websites reviewed in Croatia (40%). Every website in the Czech Republic also contained this information, but on over half (58%) of the websites reviewed the information was judged to be difficult to find.

A7.3.7 Terms and Conditions

On average one out of every ten websites selling electronic goods reviewed (10%) did not contain terms and conditions, while 90% did, as the figure below illustrates.

Figure A7.21 Are Terms and Conditions provided?

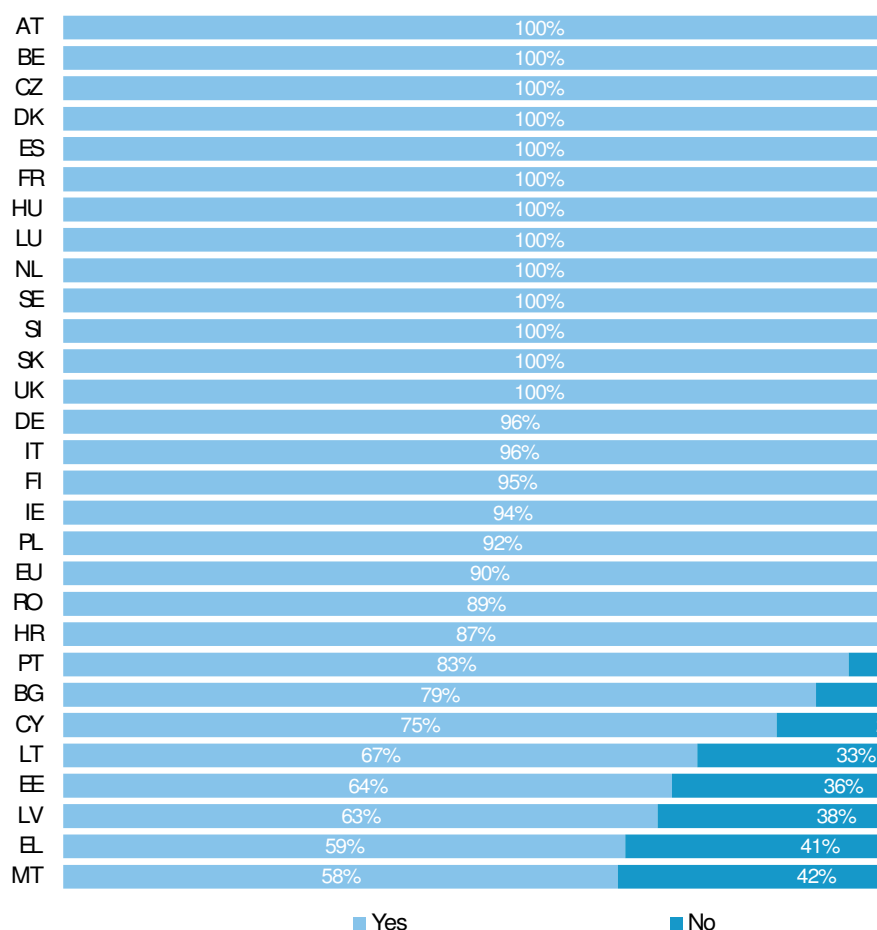


Source: Civic Consulting website review, Question 28

The following figure shows the results by Member State. As can be seen, the proportion of websites selling electronic goods which contain terms and conditions varies from 100% in 13 Member States²⁵⁹ to Malta in which only 58% of reviewed websites in this market sector contained terms and conditions.

²⁵⁹ Austria, Belgium, Czech Republic, Denmark, France, Hungary, Luxembourg, the Netherlands, Slovakia, Slovenia, Spain, Sweden and the UK.

Figure A7.22 Are Terms and Conditions provided? – results by country



Source: Civic Consulting website review, Question 28

Other aspects researched in the context of terms and conditions included their language, and whether it was possible to print or download them. Key results include:

- **Language of terms and conditions:**²⁶⁰ Of those of the reviewed websites which did contain terms and conditions, only three countries showed any variation in their language from the rest of the website.²⁶¹
- **Print or download function:** Researchers found that a fifth (19%) of websites selling electronic goods with terms and conditions had a print or download function which allows consumers to easily keep a copy of the terms and conditions. A further three-quarters (76%) had terms and conditions which could be printed easily through the browser function. Just over one twentieth (5%) of websites with terms and conditions did not provide any way to print easily.

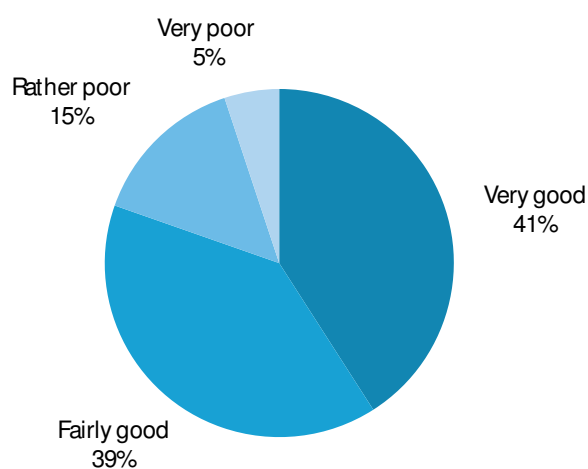
²⁶⁰ Websites from countries that have more than one official language were counted as if they were in the same language even if they were in another of the country's official languages. For example, if a Belgian website is mostly in French but has terms and conditions in Flemish, researchers were instructed to indicate that the language was the same.

²⁶¹ Belgium (5%), Cyprus (11%) and Latvia (7%).

A7.3.8 Overall experience of website

Researchers were overall more positive about websites selling electronic goods in terms of informing consumers of their rights than the total scores across all markets, with two fifths (41%) of websites in our sample reviewed as 'very good', and a similar proportion (39%) seen as 'fairly good'. 15% were seen as 'rather poor', while only one in twenty (5%) were seen as 'very poor'. Overall, four fifths of websites selling electronic goods (80%) in our sample were assessed positively in terms of informing consumers about their rights. On the other hand, one fifth (20%) of websites selling electronic goods were seen negatively by our researchers after the review was completed. The following figure summarises these results.

Figure A7.23 Overall, in terms of informing consumers of their rights, how would you rate your experience of this website?



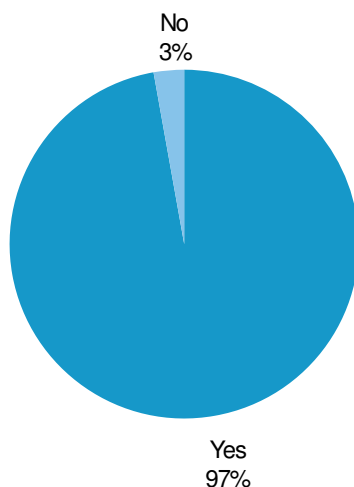
Source: Civic Consulting website review, Question 76

A7.4 Package Travel

A7.4.1 Identification

As shown by the figure below, the overwhelming majority (97%) of the package travel websites sampled presented a postal business address by which the company running the website could be identified. On 3% of websites, this information could not be found.

Figure A7.24 Is the geographical business address provided?



Source: Civic Consulting website review, Question 9

Of the reviewed websites that did contain a postal business address, 93% were situated in the same country that the website was targeted at. In contrast, 7% of websites with an address were situated in different countries.

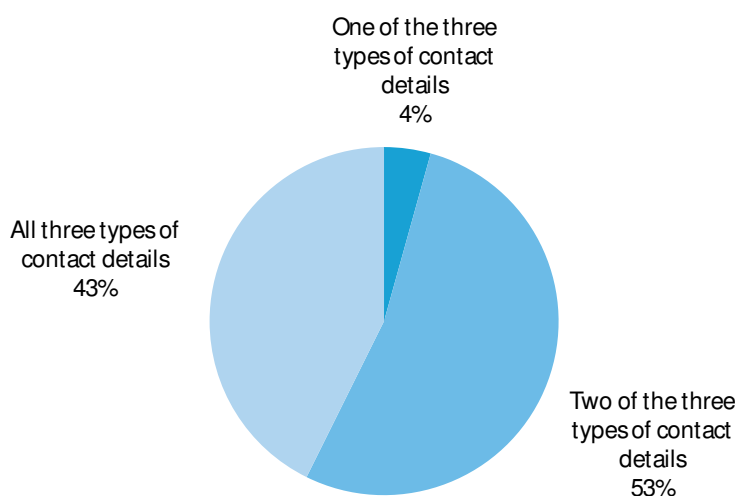
A7.4.2 Contact details

Researchers searched for three types of contact details: an email address, a telephone number and a web contact form.²⁶²

Just more than two fifths (43%) of package travel websites contained all three types of contact details. More than half of all package travel websites (53%) contained two out of three types. A small minority (4%) only contained one contact type, while there were no websites which contained none at all. The figure below illustrates these results.

²⁶² Web contact forms were defined as webpages which allowed input of contact details (name, email address, etc.) as well as space for a message to the company. Therefore email sign-up forms were not included, nor were 'chat' functions which are often automated.

Figure A7.25 Proportion of package travel websites that supplied contact details (email, phone number, contact form)



Source: Civic Consulting website review, Question 12: Email address to contact trader; Question 14: Telephone number to contact trader; Question 16: Is a contact form provided on the website?

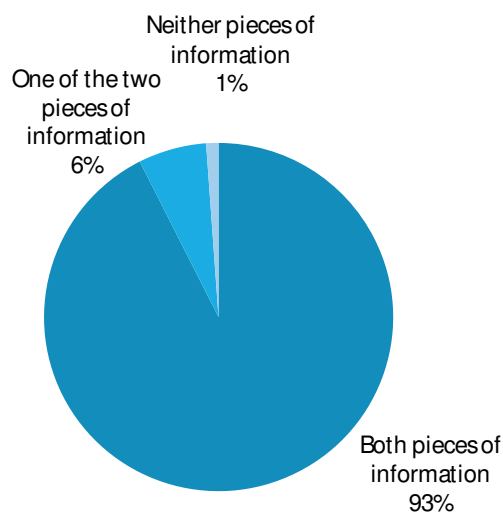
The detailed situation regarding type of contact details was as follows:

- *Telephone number*: 98% of sampled package travel websites contained a contact telephone number; 2% did not.
- *Email address*: 87% of sampled package travel websites contained a contact email address; 13% did not.
- *Web contact form*: 54% of sampled package travel websites contained a web contact form for contacting the company; 46% did not.

A7.4.3 Product information

In order to make an informed purchase, consumers need to be aware of key aspects of the product they are purchasing. We therefore asked researchers to search for two pieces of information regarding a randomly chosen holiday from the pre-defined product category (package holidays): whether there is information about the total length of the trip; and whether there is information about the meals or excursions that are included in the package, both of which are important for consumers making purchase decisions. The following figure presents the overall results for package travel websites. Overall, the vast majority of sampled websites (93%) contained both pieces of information for the example holiday in question. A further 6% contained only one; while a tiny proportion (1%) did not contain either pieces of information.

Figure A7.26 Proportion of websites providing key product information for example package holiday (length of trip, which meals/excursions are included)



Source: Civic Consulting website review, Question 32: Is information on the total length of the trip (including flight days) provided?; Question 33 Is information provided on which meals/excursions are included in the package (e.g. no meals included, breakfast only, half board, full board, all inclusive)?

The detailed situation regarding product information for the selected example holiday was as follows:

- Almost all (98%) reviewed package travel websites provided information about the total length of the selected package trip in question. Only 3% did not.²⁶³
- More than nine tenths (94%) of all reviewed package travel websites provided information about the meals/excursions that are provided with the selected package holiday. Only 6% did not.

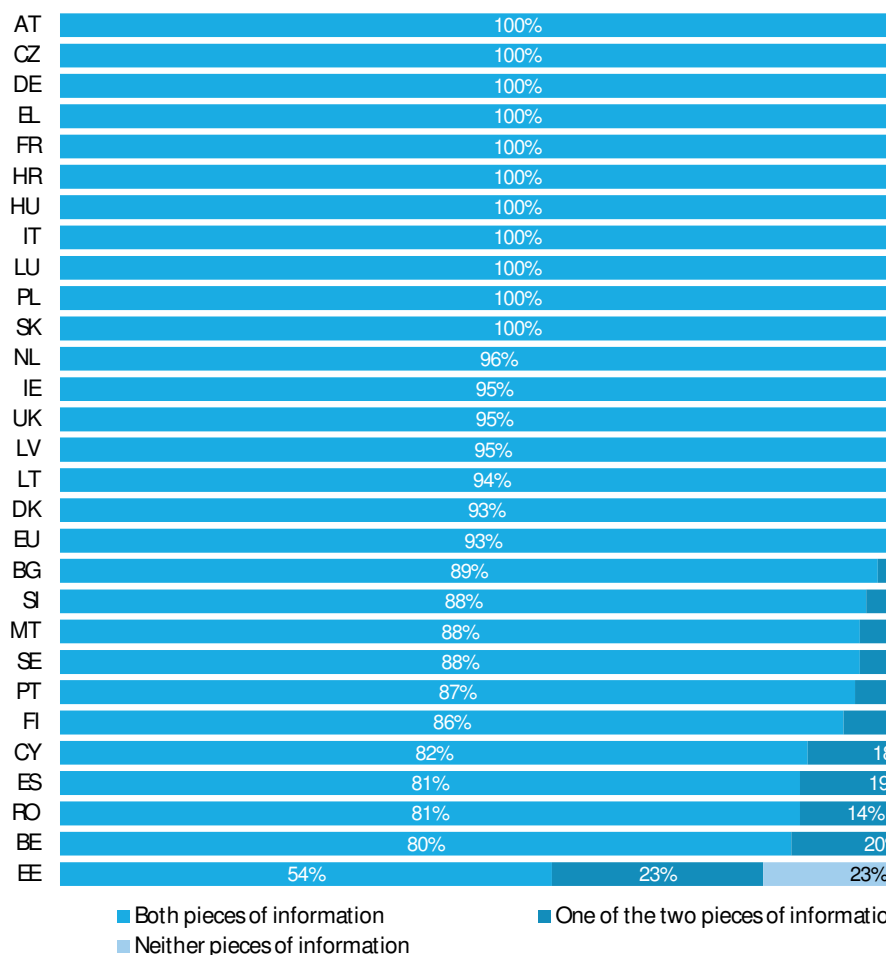
The following figure presents the results by country. As it demonstrates there is some variation between Member States on whether key information about the package holiday is present. In 11 countries all sampled package travel websites contained both pieces of information.²⁶⁴ Estonia (54%) scored lowest for both pieces of information being present in sampled websites. Only four countries contained any websites that presented neither piece of information for the example holiday.²⁶⁵

²⁶³ All figures are rounded to the nearest whole number, meaning that some totals do not add up to 100%.

²⁶⁴ Austria, Croatia, Czech Republic, France, Germany, Greece, Hungary, Italy, Luxembourg, Poland and Slovakia.

²⁶⁵ Estonia (23%), Romania (5%), Latvia (5%) and the Netherlands (4%).

Figure A7.27 Proportion of websites providing key product information for example package holiday (length of trip, which meals/excursions are included)- results by country

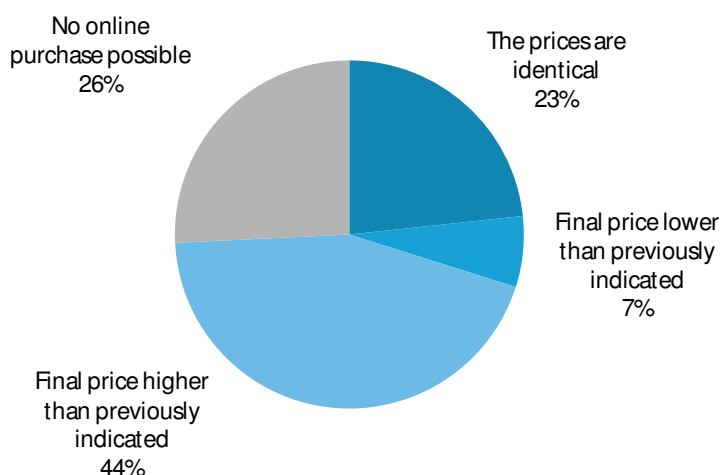


Source: Civic Consulting website review, Question 32: Is information on the total length of the trip (including flight days) provided? Question 33 Is information provided on which meals/excursions are included in the package (e.g. no meals included, breakfast only, half board, full board, all inclusive)?

A7.4.4 Price information

As the following graph shows, on less than a quarter (23%) of package travel websites in our sample was the final price to pay stated for the holiday in question the same as the initial price offered. 44% of all package travel websites in our sample provided a higher final price to pay than initially offered, while 7% gave a lower final price to pay.

Figure A7.28 Is the final price to pay the same as the initial price offer?



Source: Civic Consulting website review, Question 36

When it came to examining price issues in the package travel sector, researchers faced some difficulties. In certain Member States (e.g. Bulgaria, Croatia, Cyprus, Estonia, Romania and Slovenia) it was rarely possible to purchase travel packages online. While particularly prevalent in these countries, this issue affected 26% of the total sample of package travel websites, as the above figure illustrates.

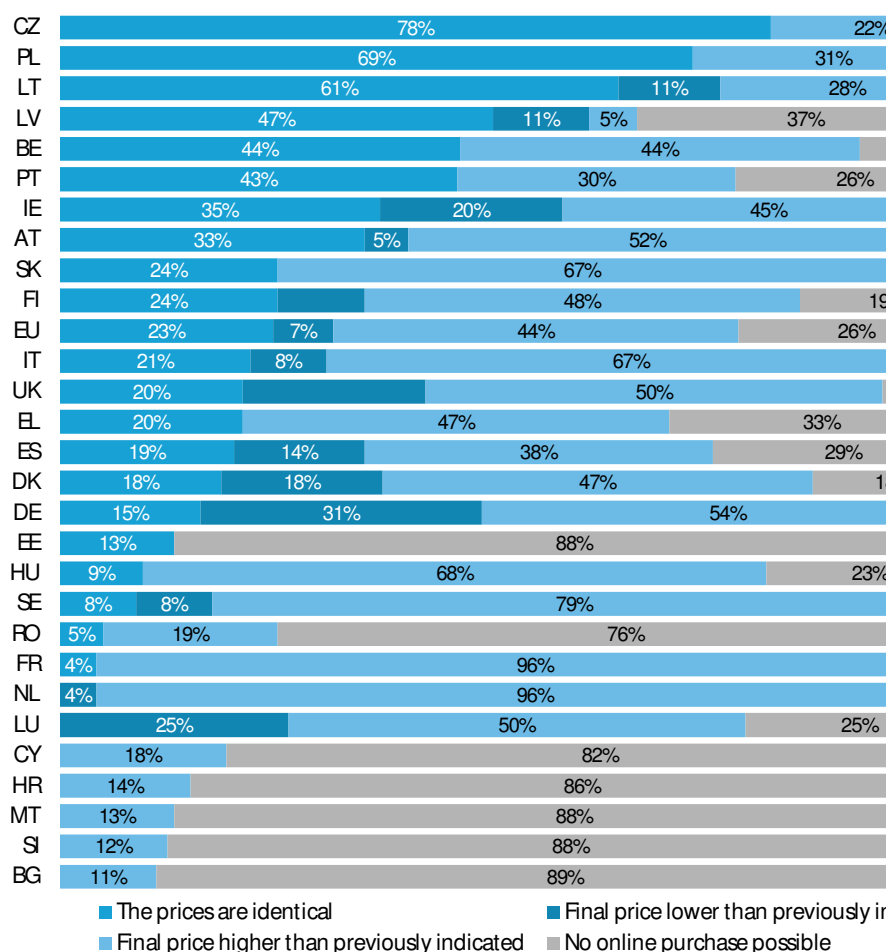
Researchers found that a common reason for the majority of sampled websites having a higher final price than the initial offer was that the initially offered price applied to specific dates which were no longer available and therefore the researcher had to choose a holiday with a higher final price to pay. Another commonly found reason was that the initial price offered by package travel websites is often a 'per-person price' but is based on a group (two or more) people travelling. Furthermore, many package travel websites charged a 'single occupancy premium' which made the final price to pay higher than the initially offered price.²⁶⁶

The following figure presents the results by Member State. As it shows, the majority of sampled websites in seven countries did not display a final price.²⁶⁷

²⁶⁶ In order to standardise our results between Member States, and to allow comparison between the initial 'per person price' and the final price, researchers were asked to identify the price for an example package holiday for one person.

²⁶⁷ Estonia (88%), Romania (76%), Bulgaria (89%), Slovenia (88%), Malta (88%), Croatia (86%) and Cyprus (82%).

Figure A7.29 Is the final price to pay the same as the initial price offer? – results by country



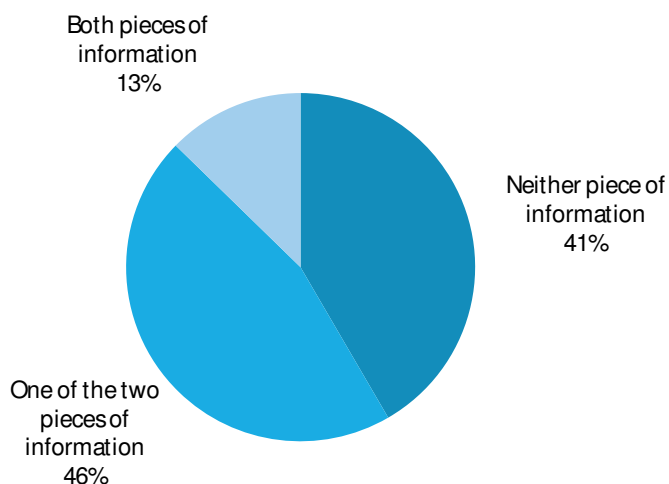
Source: Civic Consulting website review, Question 36

As the above figure shows, sampled websites from the Czech Republic (78%) were most likely to have identical initial and final prices, while seven countries contained no websites with identical prices for the selected example holiday in their samples.²⁶⁸ Sampled websites in France and the Netherlands (both 96%) were the most likely to have a final price higher than previously indicated, while on no website in Estonia was this the case.

In terms of what makes up the final price to pay when buying the example package holiday, extra costs such as taxes and delivery costs for tickets and/or vouchers were examined to see if they were made clear. The figure below presents the results. Only just over one in ten (13%) of reviewed package travel websites on which online purchase was possible contained both pieces of information, while 46% contained one of the two. 41% of reviewed package travel websites on which online purchase was possible contained neither pieces of information.

²⁶⁸ Bulgaria, Slovenia, Malta, Croatia, Cyprus, Luxembourg and the Netherlands.

Figure A7.30 Proportion of package travel websites with key price information (inclusion of taxes, delivery charges)



Source: Civic Consulting website review, Question 35: Are taxes (e.g. sales taxes) included in the final price?; Question 37: Are all additional delivery or postal charges (e.g. for delivery of tickets/voucher by mail) provided?

The detailed situation regarding key price information for the selected example holiday was as follows:

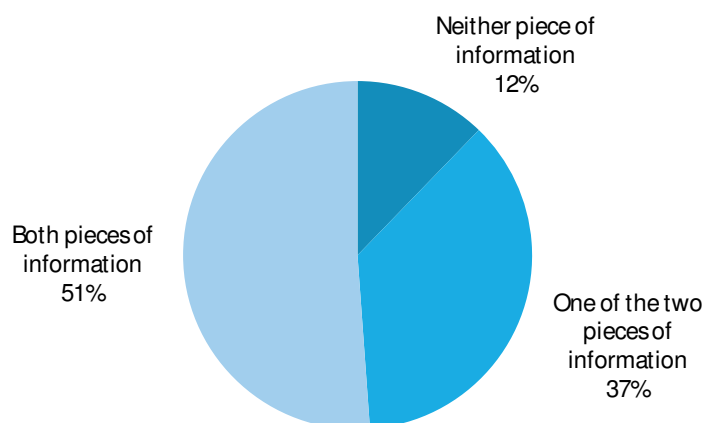
- **Taxes:** The majority of reviewed package travel websites on which online purchase was possible did not make it clear whether taxes were included or not during the purchase process. On nearly three fifths (58%) of reviewed websites on which online purchase was possible researchers found no information regarding taxes in the purchasing process. Nearly two fifths (39%) of reviewed websites on which online purchase was possible made it clear that taxes were included in the final price to pay while only 3% found that taxes were not included in the final price to pay.
- **Delivery costs:** Over two thirds (73%) of reviewed websites on which online purchase was possible did not make it clear in the purchase process whether delivery costs applied, while 27% either set out delivery costs or made it clear that none applied. In a number of reviewed websites this information was not presented during the purchase process, it was available in the terms and conditions or 'frequently asked questions' pages.

A7.4.5 Purchase information

Researchers also searched for key information that helps consumers make purchases on the website. The first question in this section asked whether information on payment methods was present, and if it was easy to find. The following question asked if information regarding delivery arrangements of tickets or vouchers was present, and if it was easy to find.

In terms of the two key pieces of information (about payment methods and delivery arrangements), the figure below illustrates these results for all sampled package travel websites on which online purchase was possible. Just over half of sampled package travel websites on which online purchase was possible (51%) contained both pieces of information. Over a third (37%) contained just one of the pieces of information while 12% contained neither piece of information.

Figure A7.31 Proportion of package travel websites with information on payment methods and delivery arrangements



Source: Civic Consulting website review, Question 38: Is the consumer provided with information on the available payment methods?; Question 39: Is the consumer provided with information about the arrangements for delivery of tickets/voucher?

The detailed situation regarding key pieces of information (about payment methods and delivery time) was as follows:

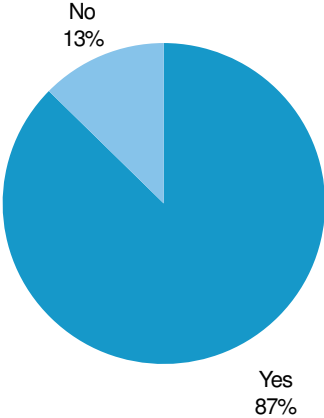
- **Payment methods:** 24% of reviewed package travel websites on which online purchase was possible did not provide any information about payment methods. Nearly two thirds (64%) however were found to have information that was easy to find, while just over a tenth (12%) had information that researchers considered difficult to find.²⁶⁹
- **Delivery arrangements:** More than half of reviewed package travel websites on which online purchase was possible (53%) did not provide any information about the delivery arrangements of tickets. On the other hand, about a third (34%) did so in a way that researchers found easy to locate. The remaining 13% provided information but in a way that researchers found difficult to find.

A7.4.6 Terms and Conditions

Slightly more than one out of every ten reviewed package travel websites (13%) did not contain terms and conditions, while 87% did, as the figure below indicates.

²⁶⁹ All figures are rounded to the nearest whole number, meaning that some totals do not add up to 100%.

Figure A7.32 Are Terms and Conditions provided?

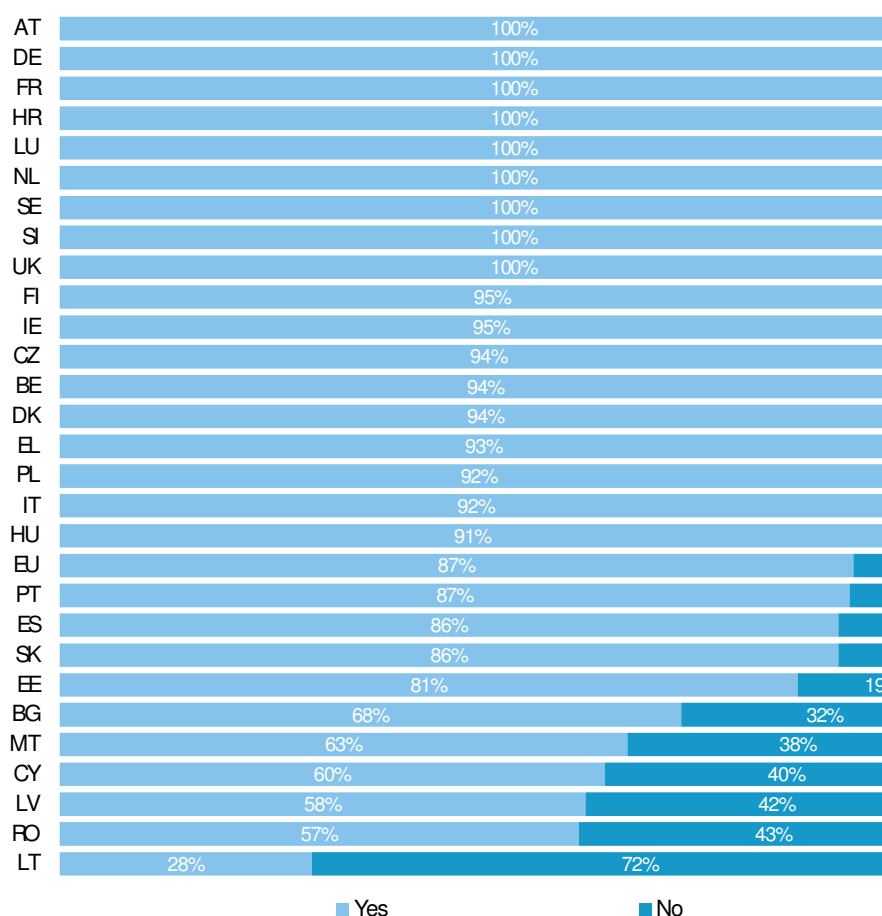


Source: Civic Consulting website review, Question 40

The following figure shows the results by Member State. As can be seen, the proportion of package travel websites which contain terms and conditions varies from all sampled websites in eight Member States²⁷⁰ to Lithuania in which 72% of sampled websites in this market sector did not contain terms and conditions.

²⁷⁰ Austria, Croatia, France, Germany, Luxembourg, the Netherlands, Slovenia, Sweden and the UK.

Figure A7.33 Are Terms and Conditions provided? - results by country



Source: Civic Consulting website review, Question 40

Other aspects researched in the context of terms and conditions included their language, and whether it was possible to print or download them. Key results include:

- *Language of terms and conditions:* Of those of the reviewed websites which did contain terms and conditions, only four countries showed any variation in their language from the rest of the website.²⁷¹
- *Print or download function:* Researchers found that two fifths (41%) of reviewed package travel websites with terms and conditions had a print or download function which allows consumers to easily keep a copy of the terms and conditions. A further half (54%) had terms and conditions which could be printed easily through the browser function. Just over one twentieth (4%) of websites with terms and conditions did not provide any way to print easily.

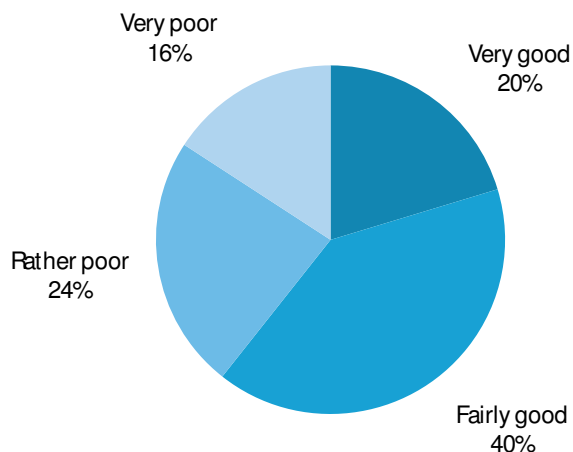
A7.4.7 Overall experience of website

Researchers were overall more negative about sampled package travel websites than any of the other sectors, in terms of the informing consumers of their rights. As the figure below illustrates, one fifth (20%) of websites sampled were rated as 'very good', by far the lowest in any sector. Double this proportion (40%) was seen as 'fairly good'. A quarter (24%) was seen as 'rather poor', while 16% were seen as 'very poor'. Overall, two fifths of package travel websites (40%) in our sample were assessed negatively in terms of their informing

²⁷¹ See footnote 13. Cyprus (14%), Denmark (13%), Estonia (8%), and Greece (7%).

consumers about their rights. On the other hand, three fifths (60%) of package travel websites were seen positively by our researchers after the review was completed. The following figure summarises these results.

Figure A7.34 Overall, in terms of informing consumers of their rights, how would you rate your experience of this website?



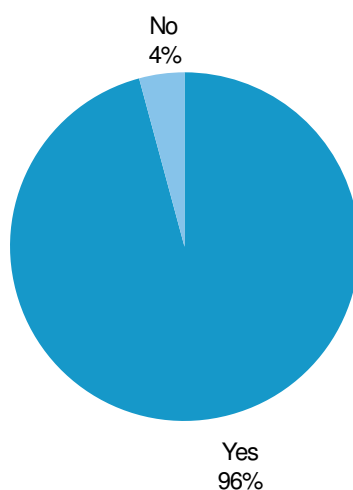
Source: Civic Consulting website review, Question 76

A7.5 Recreation and Culture

A7.5.1 Identification

The overwhelming majority (96%) of the recreation and culture websites examined presented a postal business address by which the company running the website could be identified. On 4% of websites sampled, this information could not be found.

Figure A7.35 Is the geographical business address provided?



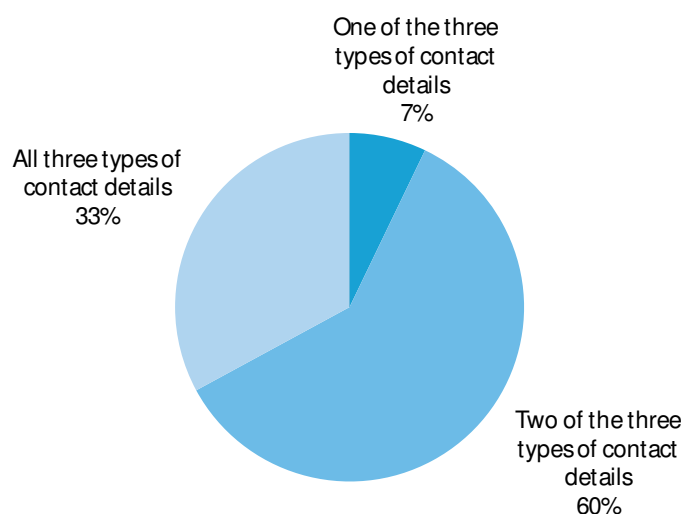
Source: Civic Consulting website review, Question 9

Of the sampled websites that did contain a postal business address, 95% were situated in the same country that the website was targeted at. Conversely, 5% of websites with an address were situated in different countries.

A7.5.2 Contact details

Researchers were asked to search for three types of contact details: an email address, a telephone number and a web contact form.²⁷² The following figure presents the overall results for the reviewed recreation and culture websites. A third (33%) of reviewed recreation and culture websites contained all three types of contact details - the lowest score across all five market sectors. Three fifths (60%) of all recreation and culture websites in our sample contained two out of three types. Fewer than one in ten (7%) only contained one contact type, while no websites contained none at all.

Figure A7.36 Proportion of recreation and culture websites that supplied contact details (e-mail, phone number, contact form)



Source: Civic Consulting website review, Question 12: Email address to contact trader; Question 14: Telephone number to contact trader; Question 16: Is a contact form provided on the website?

The detailed situation regarding type of contact details was as follows:

- **Telephone number:** 90% of sampled recreation and culture websites contained a contact telephone number; 10% did not.
- **Email address:** 88% of sampled recreation and culture websites contained a contact email address; 12% did not.²⁷³
- **Web contact form:** 47% of sample recreation and culture websites contained a web contact form for contacting the company; 53% did not. The recreation and culture sector saw the lowest frequency of the presence of web contact forms among all the sectors reviewed in this study.

4.6.2 Product information

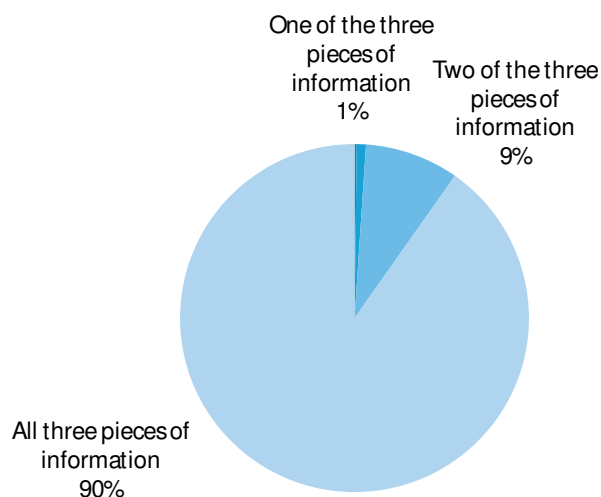
In order to make an informed purchase, consumers need to be aware of key aspects of the product they are purchasing. We therefore asked researchers to search for three pieces of key information regarding a ticket for a randomly chosen event: whether the date and time of the event are stated; whether the location of the event is stated; and whether there is information about seat category of the ticket (or whether it makes clear there is only one category of seat). The following figure presents the results. The vast majority (90%) of

²⁷² Web contact forms were defined as webpages which allowed input of contact details (name, email address, etc.) as well as space for a message to the company. Therefore email sign-up forms were not included, nor were 'chat' functions which are often automated.

²⁷³ All figures are rounded to the nearest whole number, meaning that some totals do not add up to 100%.

recreation and culture websites sampled contained all three pieces of information for the example event in question. Just under one in ten (9%) contained two of the three pieces of information, while very few websites contained only one (1%) or none (less than 1%).

Figure A7.37 Proportion of websites providing key product information for example event (start time, location, price/seat category)



Source: Civic Consulting website review, Question 44: Is information on the starting time of the event provided?; Question 45: Is information on the location of the event provided?; Question 46: Is the information on the price/seat category provided?

The detailed situation regarding product information for the selected example event was as follows:

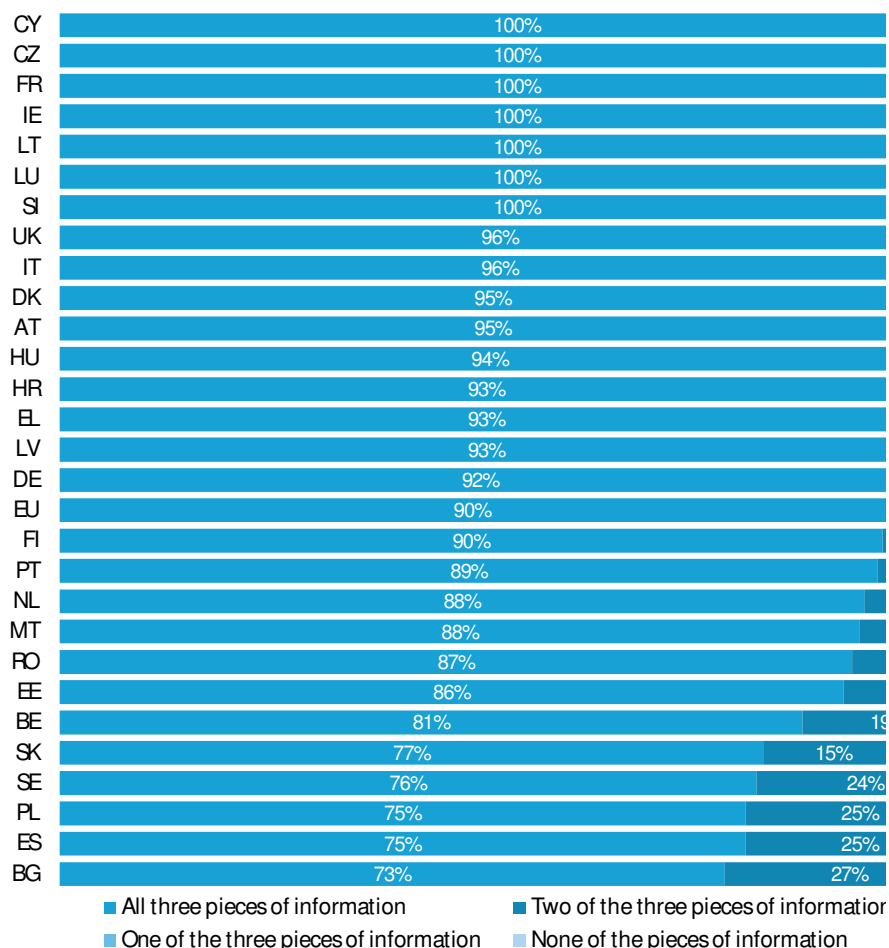
- Almost all (97%) of all reviewed recreation and culture websites provided information about the date and start time of the selected event. Only 3% did not.
- Almost all (97%) of all reviewed recreation and culture websites provided information about the location of the selected event. Only 3% did not.
- 94% of all reviewed recreation and culture websites provided information about seat categories available for the selected event. 6% did not.

The following figure presents the results by country. As it demonstrates there is not a great deal of variation between Member States on whether key information about the product is present. Seven Member States scored highest, with all sampled websites from these countries containing all three pieces of information,²⁷⁴ while in a further ten Member States at least 90% of sampled websites contained all three pieces of information.²⁷⁵ In contrast, the websites sampled in Bulgaria (73%) scored lowest for all three pieces of information for the selected event being present. The one website that did not contain any of the information for the selected event was from Portugal.

²⁷⁴ Cyprus, Czech Republic, France, Ireland, Lithuania, Luxembourg and Slovenia. Please note low sample sizes for Cyprus, Luxembourg and Slovenia for this market sector.

²⁷⁵ Austria (95%), Croatia (93%), Denmark (95%), Finland (90%), Germany (92%), Greece (93%), Hungary (94%), Italy (96%), Latvia (93%) and the UK (96%).

Figure A7.38 Proportion of websites providing key product information for example event (start time, location, price/seat category) – results by country

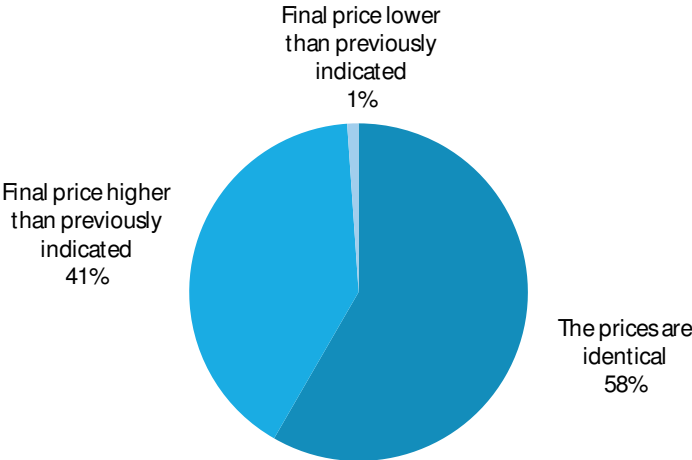


Source: Civic Consulting website review, Question 44: Is information on the starting time of the event provided? Question 45: Is information on the location of the event provided?; Question 46: Is the information on the price/seat category provided?

A7.5.3 Price information

The majority (58%) of sampled websites offered a final price to pay that was identical to the initial price offered for the event ticket in question. Two fifths (41%) however were found to provide a final price to pay that was higher than the initial price offered. This is largely due to widespread use of administration fees that are sometimes not specified when the initial price was indicated but only made clear once the exact date and time of event has been specified. In some cases, delivery costs for the tickets were added, and not specified with the initial price, therefore increasing the final price to pay. On 1% of sampled websites the final price to pay was actually lower than the initial price offered.

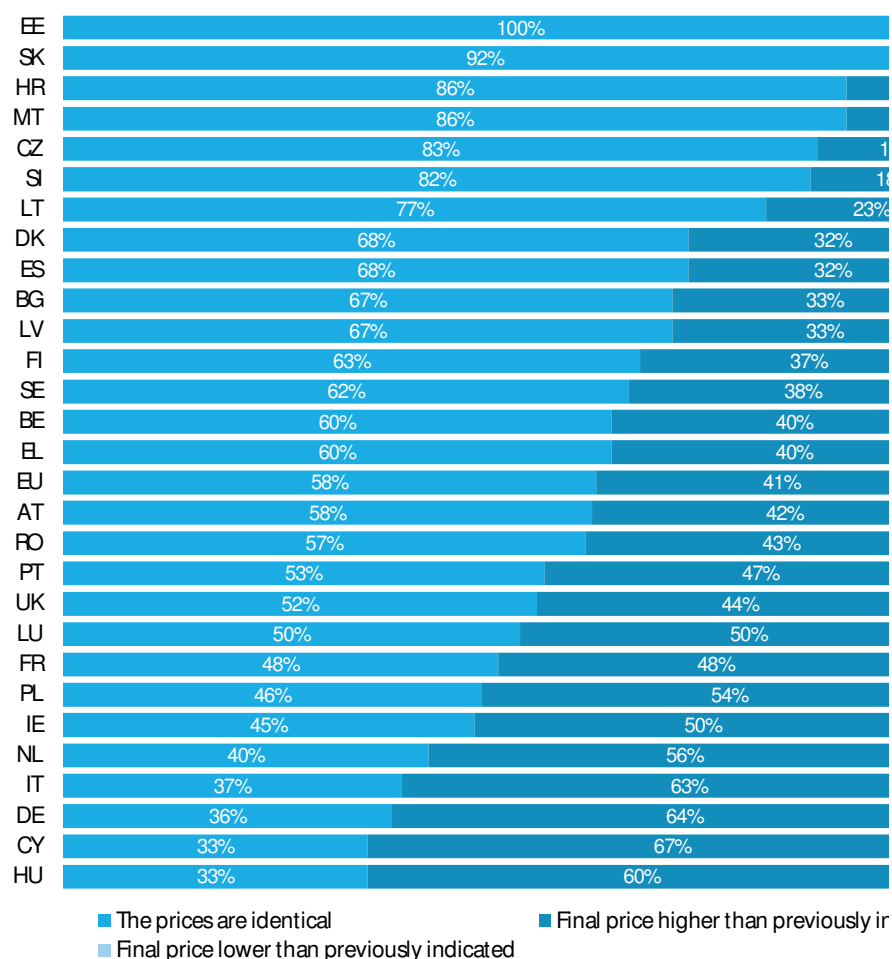
Figure A7.39 Is the final price to pay the same as the initial price offer?



Source: Civic Consulting website review, Question 49

The following figure presents the results by country. As it shows, the proportion of websites on which the final price to pay was higher than the initial price offered was highest on the sampled websites in Cyprus (67%), Germany (64%) and Italy (63%) and lowest on the sampled websites in Estonia (0%), Slovakia (8%) and Croatia and Malta (both 14%).

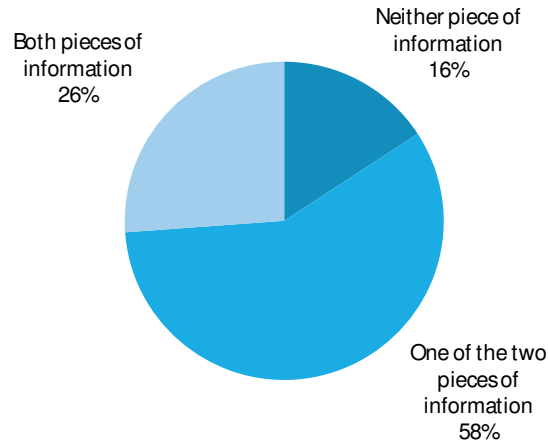
Figure A7.40 Is the final price to pay the same as the initial price offer? – results by country



Source: Civic Consulting website review, Question 49

In terms of what makes up the final price to pay when buying the example event ticket, extra costs such as taxes and delivery costs for tickets were examined to see if they were made clear. The figure below presents the results. Only a quarter (26%) of recreation and culture websites reviewed contained both pieces of information, while just under two fifths (58%) contained one of the pieces. A sizeable minority (16%) of the reviewed websites contained neither pieces of information.

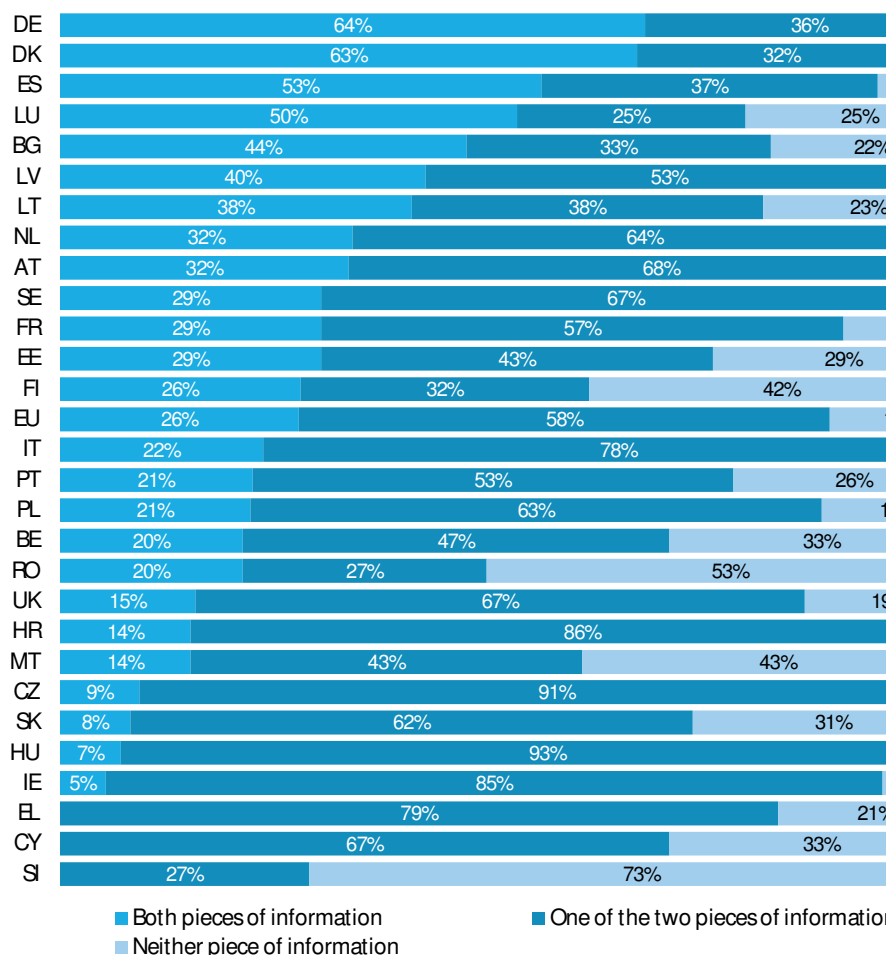
Figure A7.41 Proportion of recreation and culture websites with key price information (inclusion of taxes, delivery charges)



Source: Civic Consulting website review, Question 48: Are taxes (e.g. sales taxes) included in the final price?; Question 50: Are all additional delivery or postal charges (e.g. for delivery of tickets by mail) provided?

The next figure presents the results by country. The countries in which the highest proportion of reviewed websites provided both pieces of information on costs regarding the selected example event (for taxes and delivery of tickets) were Germany and Denmark, where 64% and 63% of reviewed websites contained both pieces of information, respectively. Cyprus, Greece and Slovenia all contained no websites in their samples that contained both pieces of information. Indeed, 73% of reviewed websites in Slovenia contained neither piece of information.

Figure A7.42 Proportion of recreation and culture websites with key price information (inclusion of taxes, delivery charges) - results by country



Source: Civic Consulting website review, Question 48: Are taxes (e.g. sales taxes) included in the final price?; Question 50: Are all additional delivery or postal charges (e.g. for delivery of tickets by mail) provided?

The detailed situation regarding key price information for the selected example event was as follows:

- **Taxes:** Two thirds (67%) of reviewed recreation and culture websites did not make it clear whether taxes were included or not in the price of the example event during the purchase process. A third (33%) of reviewed websites made it clear that taxes were included in the final price to pay while only 3% of reviewed websites presented prices explicitly excluding taxes.²⁷⁶ There was wide variation in whether recreation and culture websites made it clear whether taxes were included or not. Only eight Member States had a majority of websites sampled which stated whether taxes were included or not.²⁷⁷
- **Delivery costs:** A fifth of reviewed recreation and culture websites (21%) did not make it clear whether delivery costs applied, while 79% either set out delivery costs or made it

²⁷⁶ All figures are rounded to the nearest whole number, meaning that some totals do not add up to 100%.

²⁷⁷ Belgium (53%), Bulgaria (56%), Denmark (68%), Germany (64%), Lithuania (54%), Luxembourg (75%), Portugal (53%) and Spain (58%).

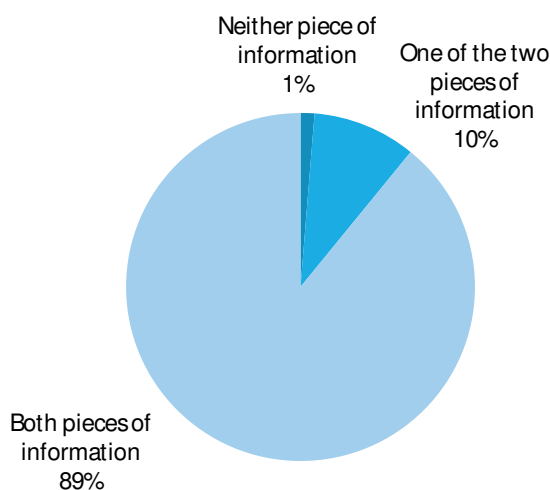
clear that none applied.²⁷⁸ In five Member States every website sampled made delivery costs clear,²⁷⁹ while in Slovenia only 9% of websites sampled did so.

A7.5.4 Purchase information

Researchers also searched for key information that helps consumers make purchases on the website. The details that were searched for in particular were whether information on payment methods is present, and whether it was easy to find, and whether information regarding delivery arrangements for tickets was present, and whether it was easy to find.

In terms of the two key pieces of information (about payment methods and delivery arrangements), the vast majority (89%) of sampled recreation and culture websites contained both pieces of information. Approximately one in ten websites (10%) contained just one of the pieces of information while very few (1%) contained neither pieces of information.

Figure A7.43 Proportion of recreation and culture websites with information on payment methods and expected delivery time



Source: Civic Consulting website review, Question 51: Is the consumer provided with information about the arrangements for delivery of the tickets? Question 52: Is the consumer provided with information on the available payment methods?

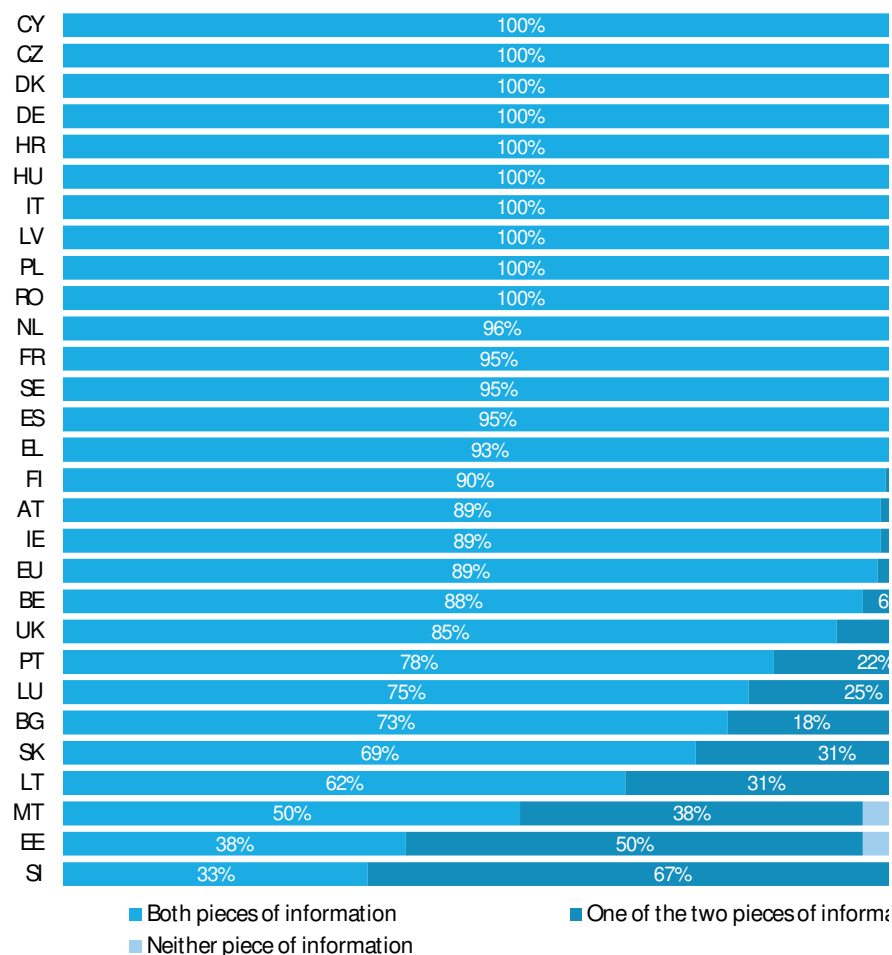
The following figure presents the results by country. As it shows, in ten countries every website in our sample contained both pieces of information.²⁸⁰ The country with websites least likely to contain both pieces of information was Slovenia with 33%.

²⁷⁸ The question regarding delivery costs refers to this information appearing at any point during the purchase process. It does not specifically refer to the initial or final price, so delivery costs could be made clear but only at a later stage so that the final price is higher than the initial price.

²⁷⁹ Austria, Croatia, Czech Republic, Germany and Hungary.

²⁸⁰ Croatia, Cyprus, Czech Republic, Denmark, Germany, Hungary, Italy, Latvia, Poland and Romania.

Figure A7.44 Proportion of recreation and culture websites with information on payment methods and expected delivery time – results by country



Source: Civic Consulting website review, Question 51: Is the consumer provided with information about the arrangements for delivery of the tickets? Question 52: Is the consumer provided with information on the available payment methods?

The detailed situation regarding key pieces of information (about payment methods and delivery arrangements for tickets) was as follows:

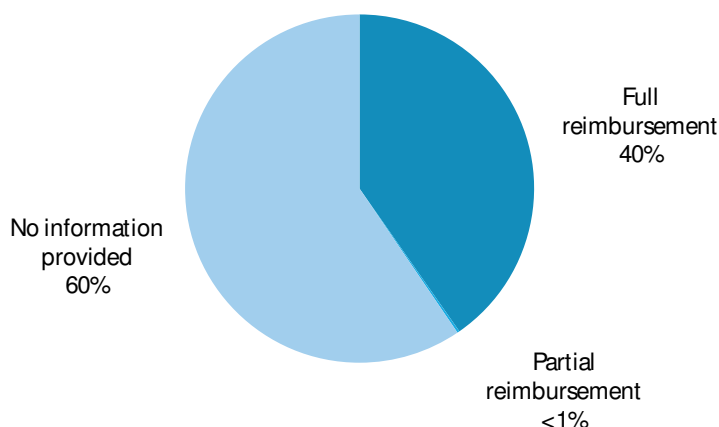
- **Payment methods:** Most reviewed websites in the recreation and culture sector provided information that was easy to find about consumers' payment options. 96% of websites were adjudged to contain easy to find information of this kind. A further 2% of reviewed websites did contain this information, but researchers found it difficult to locate. 2% did not contain payment methods information.
- **Delivery arrangements:** A tenth (10%) of reviewed recreation and culture websites did not provide any information at all on the arrangements for delivery of tickets. A further 8% did contain information, but the researchers found it difficult to find. However, once again the majority (82%) of reviewed websites were found to provide consumers with information on delivery of tickets in a way that researchers found easy to locate.

A7.5.5 Right to reimbursement

Researchers were asked to examine how the recreation and culture websites inform consumers about their rights in case an event is postponed or cancelled. This was done as a way of reviewing how informative websites selling tickets are and also whether any websites are misleading consumers about their rights. For example, if the website indicated that

consumers only have a partial right to reimbursement in such situations, this could be interpreted as misleading. As the figure below shows, the majority of sampled websites contained no such information, while 40% of sampled websites stated a policy of full reimbursement for a cancelled or postponed event. The overwhelming majority of sampled websites (more than 99%) did not contain a misleading term regarding partial rights to reimbursement.²⁸¹ In fact only one website (from Croatia) was found to contain information referring to partial reimbursement.

Figure A7.45 Does the website contain any of the following statements about your rights if an event is cancelled or postponed?



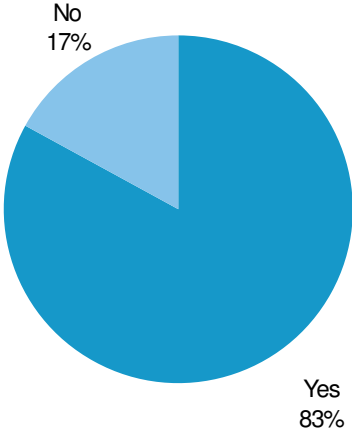
Source: Civic Consulting website review, Question 53

A7.5.6 Terms and Conditions

Nearly one in every five (17%) recreation and culture websites reviewed did not contain terms and conditions, as the following figure shows, while 83% did.

²⁸¹ Full reimbursement was taken to mean the full price of the ticket, but excluding all administration and delivery fees. Partial reimbursement was taken to mean less than the face value of the ticket. For example, if a ticket cost €10 and a €2 administration fee, then full reimbursement would be €10 (or more), while less than €10 would count as partial reimbursement.

Figure A7.46 Are Terms and Conditions provided?

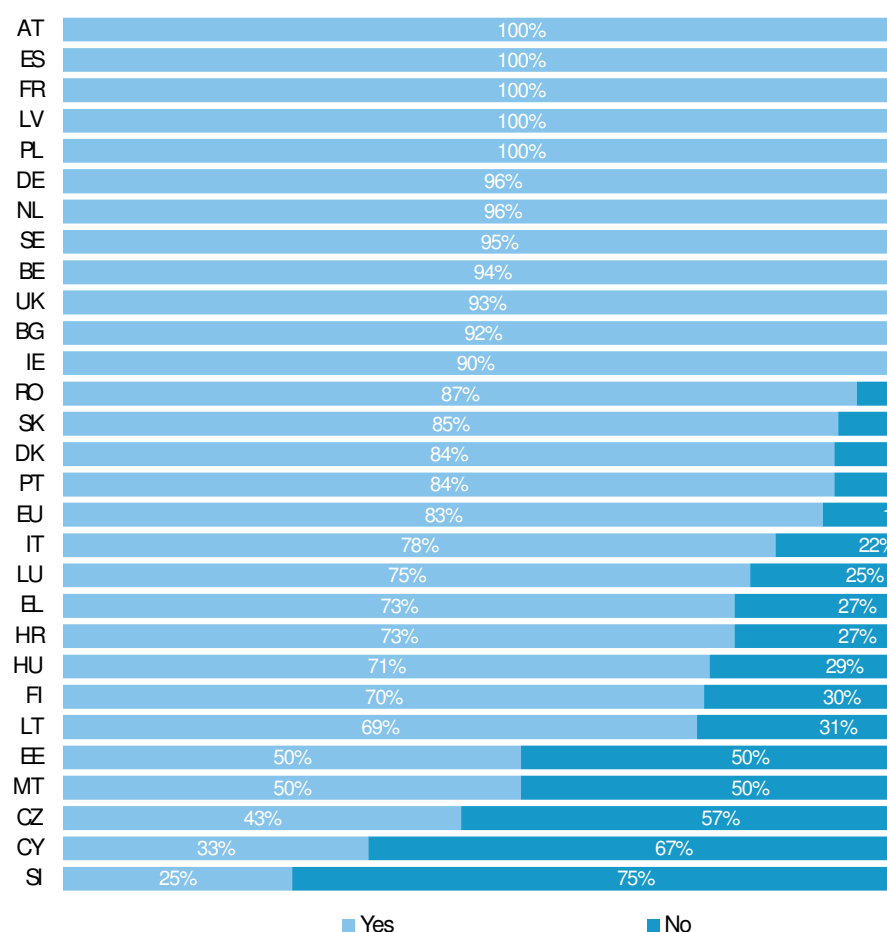


Source: Civic Consulting website review, Question 54

The following figure shows the results by Member State. As can be seen, the proportion of recreation and culture websites reviewed which contain terms and conditions varied from every sampled website in five Member States²⁸² to Slovenia, in which 75% of websites did not contain terms and conditions.

²⁸² Austria, France, Latvia, Poland and Spain.

Figure A7.47 Are Terms and Conditions provided? - results by country



Source: Civic Consulting website review, Question 54

Other aspects researched in the context of terms and conditions included their language, and whether it was possible to print or download them. Key results include:

- **Language of terms and conditions:** Of those of the reviewed websites which did contain terms and conditions, researchers in eight countries found that some were presented in a language that differed from the rest of the website.²⁸³
- **Print or download function:** Researchers found that 14% of reviewed recreation and culture websites with terms and conditions had a print or download function which allows consumers to easily keep a copy of the terms and conditions. A further three-quarters (78%) had terms and conditions which could be printed easily through the browser function. Just under one tenth (8%) of reviewed websites with terms and conditions did not provide any way to print easily.

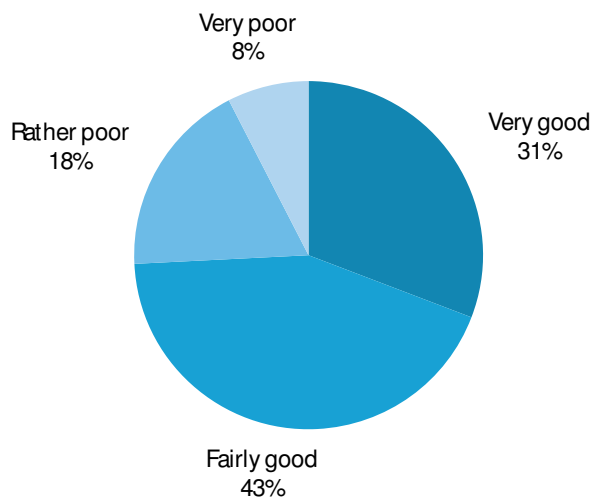
A7.5.7 Overall experience of website

Nearly a third (31%) of all recreation and culture websites in our sample were rated by researchers as 'very good' and more than two fifths (43)% were seen as 'fairly good' in terms of informing consumers of their rights. Just under one in five (18%) were seen as 'rather poor', while only 8% were viewed as 'very poor'. Overall, just fewer than three quarters (74%)

²⁸³ Belgium (7%), Denmark (6%), Estonia (25%), Finland (14%), France (5%), Italy (10%), Spain (10%) and Sweden (5%). See footnote 13 for an explanation of this.

of recreation and culture websites in our sample were positively rated, while just over one quarter (26%) of reviewed recreation and culture websites were viewed negatively by researchers after the review was completed. The following figure summarises these results.

Figure A7.48 Overall, in terms of informing consumers of their rights, how would you rate your experience of this website?



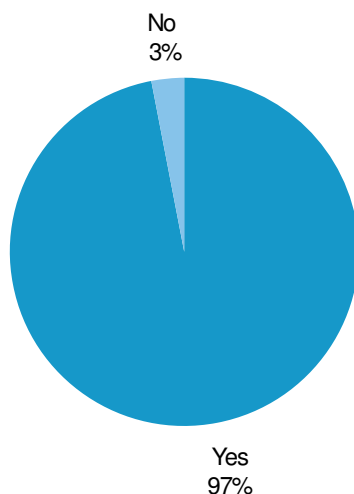
Source: Civic Consulting website review, Question76

A7.6 Clothes and Sports Goods

A7.6.1 Identification

As the figure below shows, the overwhelming majority (97%) of the websites selling clothes and sports goods examined presented a postal business address by which the company running the website could be identified. On the remaining 3% of websites, this information could not be found.

Figure A7.49 Is the geographical business address provided?



Source: Civic Consulting website review, Question 9

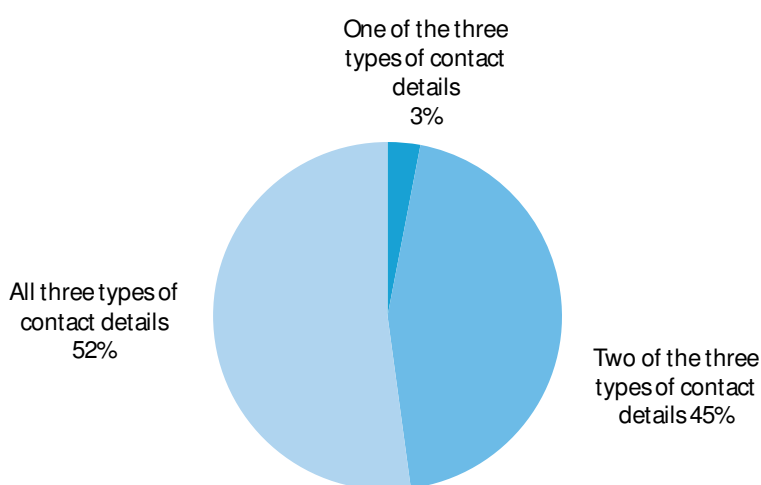
Of the reviewed websites that did contain a postal business address, 85% were situated in the same country that the website was targeted at. Conversely, 16% of websites with an

address were situated in different countries - by far the highest proportion for the five market sectors that were reviewed.²⁸⁴

A7.6.2 Contact details

Researchers were asked to search for three types of contact details: an email address, a telephone number and a web contact form.²⁸⁵ The following figure presents the overall results for the reviewed websites selling clothes and sports goods. More than half of reviewed websites (52%) contained all three types of contact details - the highest score across all five market sectors. 45% of reviewed websites selling clothes and sports goods contained two out of three types, while a small minority (3%) contained only one contact type. There were no websites that contained no contact details at all.

Figure A7.50 Proportion of websites selling clothes and sports goods that supplied contact details (e-mail, phone number, contact form)



Source: Civic Consulting website review, Question 12: Email address to contact trader; Question 14: Telephone number to contact trader; Question 16: Is a contact form provided on the website?

The detailed situation regarding type of contact details was as follows:

- **Telephone number:** 96% of reviewed websites selling clothes and sports goods contained a contact telephone number; 4% did not.
- **Email address:** 87% of reviewed websites selling clothes and sports goods contained a contact email address; 14% did not.²⁸⁶
- **Web contact form:** 67% of reviewed websites selling clothes and sports goods contained a web contact form for contacting the company; 33% did not - the lowest proportion of any of the market sectors reviewed in this study.

A7.6.3 Product information

In order to make an informed purchase, consumers need to be aware of key aspects of the product they are purchasing. We therefore asked researchers to search for two pieces of key information regarding a randomly chosen product from the pre-defined product category (sports shoes): whether there is information about the colour of the sports shoe that the researcher was purchasing; and whether there is information about the materials that make

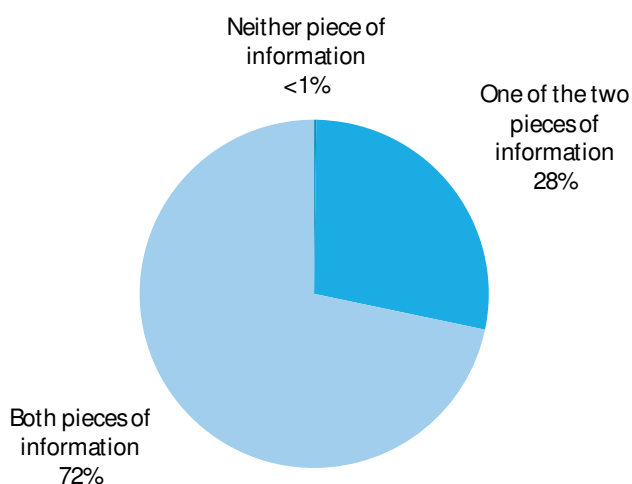
²⁸⁴ All figures are rounded to the nearest whole number, meaning that some totals do not add up to 100%.

²⁸⁵ Web contact forms were defined as webpages which allowed input of contact details (name, email address, etc.) as well as space for a message to the company. Therefore email sign-up forms were not included, nor were 'chat' functions which are often automated.

²⁸⁶ All figures are rounded to the nearest whole number, meaning that some totals do not add up to 100%.

up the shoes. The following figure presents the overall results. Nearly three-quarters (72%) of sampled websites selling clothes and sports goods contained both pieces of information for the example product in question. More than a quarter (28%) contained only one of the two pieces, while a small fraction (less than 1%) contained neither.

Figure A7.51 Proportion of websites providing key product information for example sports shoes (available colours, main material)



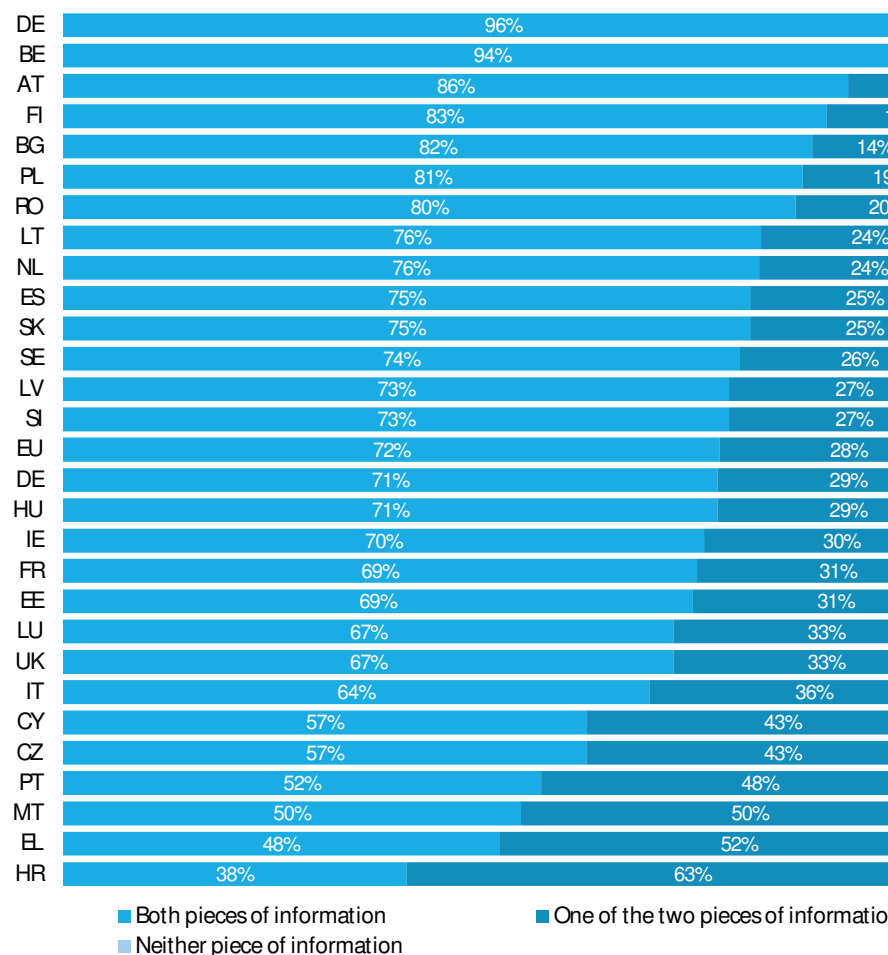
Source: Civic Consulting website review, Question 58: Are the colours in which the shoes are available specified? Question 59: Is information on the main material used in the shoe provided?

The detailed situation regarding product information for the selected example product was as follows:

- Practically all of reviewed websites selling clothes and sports goods in our sample (over 99%) specified the colours in which the shoes in question were available.
- However, websites selling clothes and sports goods were much less consistent in presenting the main material used in the shoe. More than a quarter (28%) of reviewed websites did not specify this information about the selected shoes, while 72% did.

The following figure presents the results by country. As it demonstrates there is some variation between Member States on whether key information about the product is present. Germany scores highest, with 96% of reviewed websites containing both pieces of information, while sampled websites in Belgium (94%), Austria (86%) and Finland (83%) also scored highly. In contrast, the websites sampled in Croatia (38%) scored lowest for both pieces of information being present. Only Bulgaria contained any websites which provided neither piece of information about the selected product.

Figure A7.52 Proportion of websites providing key product information for example sports shoes (available colours, main material) – results by country



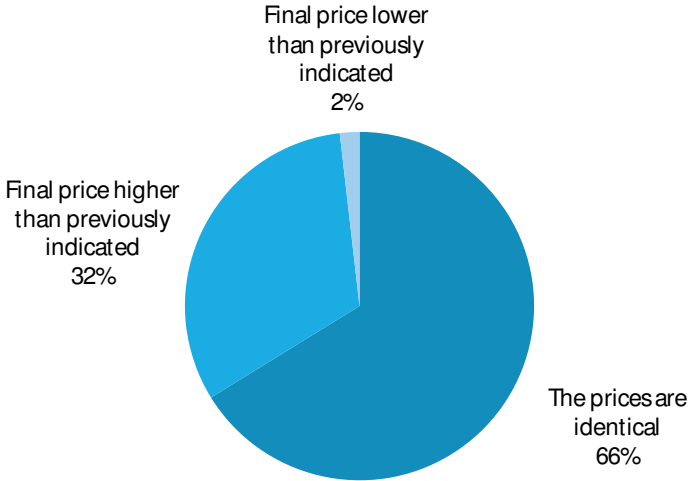
Source: Civic Consulting website review, Question 58: Are the colours in which the shoes are available specified? Question 59: Is information on the main material used in the shoe provided?

A7.6.4 Price information

As the following figure shows, two thirds (66%) of all the websites for clothes and sports goods in our sample gave a final price to pay which matched the initial price offered for the sports shoes in question. A third (32%) however were found to charge a final price to pay that was higher than the initial price offered. On the whole, this rise in price tended to be due to delivery/shipping costs which were not included in the initial price offer, or which were not specified when the initial price was indicated.²⁸⁷ Only 2% of websites selling clothes and sports goods actually presented a lower final price to pay than initially offered.

²⁸⁷Where delivery costs were specified next to the initial price offer, or a link was provided with the initial price to the applicable delivery costs, these were considered when assessing whether or not initial and final prices were the same. For example, if the initial price was presented as €19.99* (*€3.50 delivery charge applies)" and the final price was presented as €23.49, the two prices were considered to be the same.

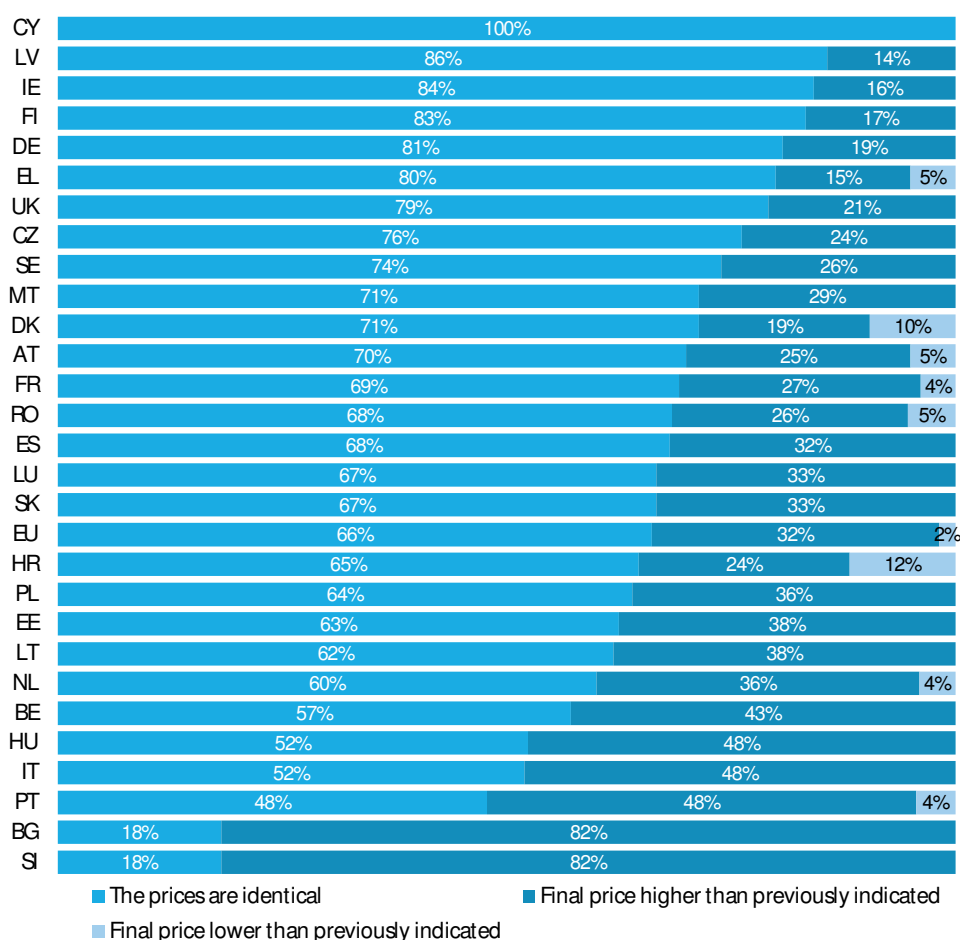
Figure A7.53 Is the final price to pay the same as the initial price offer?



Source: Civic Consulting website review, Question 62

The following figure presents the results by country. As it shows, the proportion of websites on which the final price to pay was higher than the initial price offered was highest for the sampled websites in Bulgaria (82%), Slovenia (82%) and Portugal, Italy and Hungary (all 48%) and lowest for the sampled websites in Cyprus (0%), Latvia (14%) and Greece (15%).

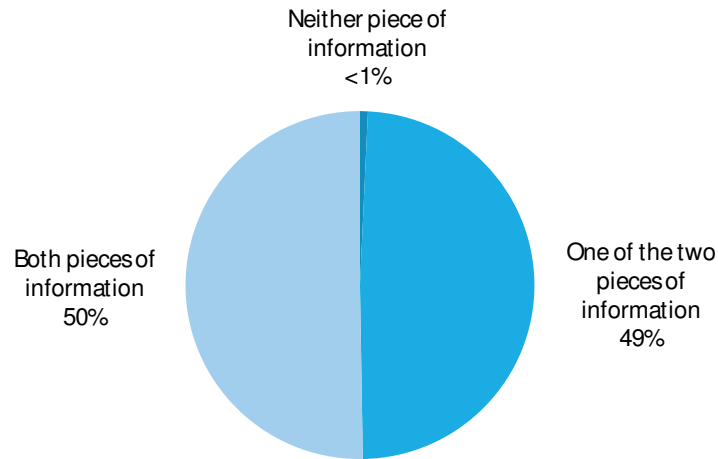
Figure A7.54 Is the final price to pay the same as the initial price offer? – results by country



Source: Civic Consulting website review, Question 62

In terms of what makes up the final price to pay when buying the example sports shoes, extra costs such as taxes and delivery costs were examined to see if they were made clear. The figure below presents the results. Half of websites sampled selling clothes and sports goods (50%) contained both pieces of information. Fractionally less (49%) contained just one of the pieces of information while very few (less than 1%) contained neither pieces of information.

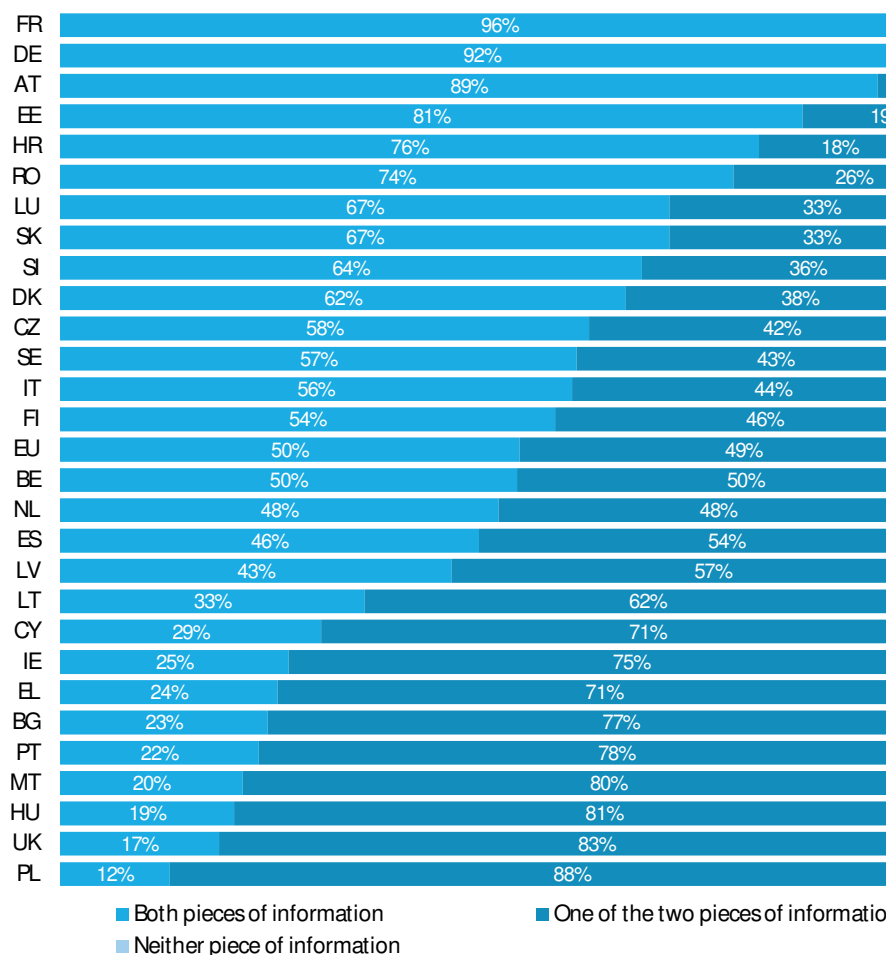
Figure A7.55 Proportion of websites selling clothes and sports goods with key price information (inclusion of taxes, delivery charges)



Source: Source: Civic Consulting website review, Question 61: Are taxes (e.g. sales taxes) included in the final price? Question 63: Are all additional freight, delivery or postal charges provided?

The next figure presents the results by country. The countries in which the highest proportion of reviewed websites provided both pieces of information on costs (inclusion of taxes and delivery charges) were France and Germany, where 96% and 92% of respective samples contained both pieces of information. The lowest scores were for Poland with only 12% of reviewed websites containing both pieces of information, and the UK with only 17% doing so.

Figure A7.56 Proportion of websites selling clothes and sports goods with key price information (inclusion of taxes, delivery charges) – results by country



Source: Civic Consulting website review, Question 61: Are taxes (e.g. sales taxes) included in the final price? Question 63: Are all additional freight, delivery or postal charges provided?

The detailed situation regarding key price information provided for the example product was as follows:

- Taxes:** Just over half the websites in our sample (51%) included taxes in the final price to pay for the example sports shoes, while only on 1% of websites taxes were not included. In the remaining half of websites selling clothes and sports goods (48%) researchers found that taxes were not mentioned on the final payment page. There was wide variation between countries in this respect. This largely seems to reflect general differences between the ways that countries generally present prices and varies from taxes being clearly included on every website sampled serving France to only 12% of websites reviewed in Poland making it clear. It should be noted that some of the websites that did not present this information during the payment process may well have had the information elsewhere on the website (e.g. in the terms and conditions).
- Delivery costs:** The situation regarding delivery costs was clearer cut. Nearly all (98%) reviewed websites selling clothes and sports goods made it clear whether delivery costs applied for the sports shoes in question. In only 2% of cases researchers found this information not present. In the majority of Member States (23) every website sampled

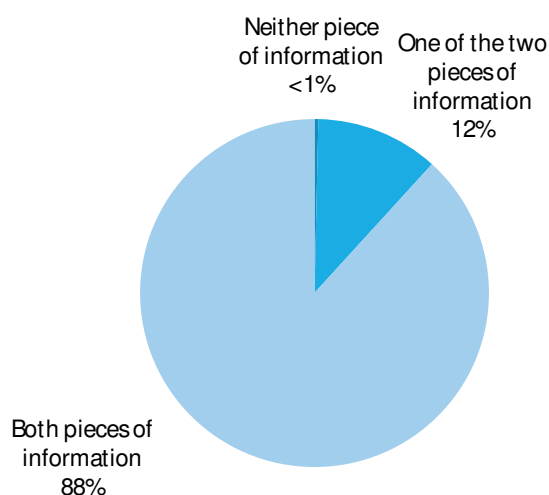
made delivery costs clear.²⁸⁸ On the other hand, Croatia (82%), Greece (91%) and the Netherlands (92%) were the three countries with the lowest scores in terms of clarity of delivery charges.

A7.6.5 Purchase information

Researchers also searched for key information that helps consumers make purchases on the website. The details that were searched for in particular were whether information on payment methods is present, and whether it was easy to find, and whether information regarding expected delivery time was present, and whether it was easy to find. Researchers also looked for information on whether the websites shipped clothes and sports goods to other countries.

In terms of the two key pieces of information (about payment method and delivery time), the following figure presents the results. As it shows, the majority of websites selling clothes and sports goods in our sample (88%) contained both pieces of information, while 12% contained just one. Less than 1% of websites sampled contained neither pieces of information.

Figure A7.57 Proportion of websites selling clothes and sports goods with information on payment methods and expected delivery time



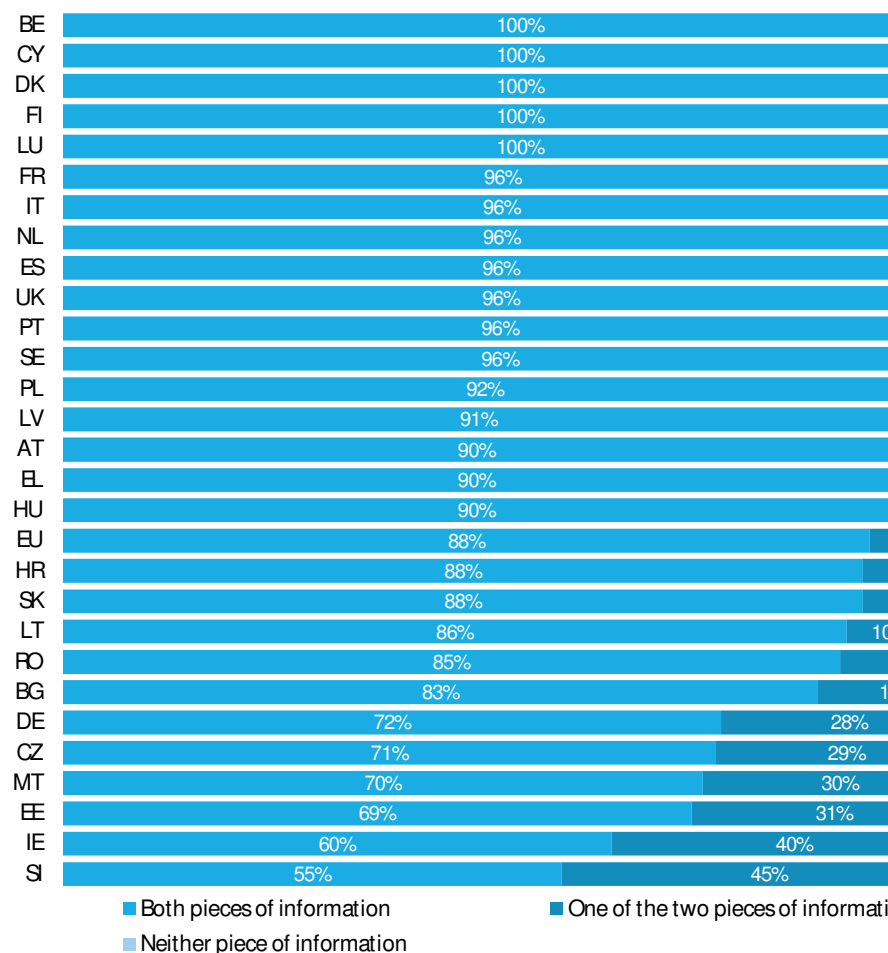
Source: Civic Consulting website review, Question 64: Is the consumer provided with information on the available payment methods? Question 65: Is the consumer provided with information on the expected delivery time?

The following figure presents the results by country. As it shows, in five countries every website in our sample contained both pieces of information.²⁸⁹ The country with sampled websites least likely to contain both pieces of information was Slovenia with 55%.

²⁸⁸ Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Luxembourg, Malta, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.

²⁸⁹ Belgium, Cyprus, Denmark, Finland and Luxembourg.

Figure A7.58 Proportion of websites selling clothes and sports goods with information on payment methods and expected delivery time - results by country



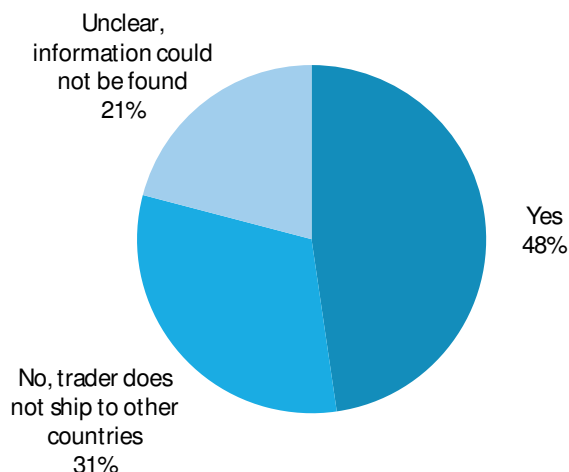
Source: Civic Consulting website review, Question 64: Is the consumer provided with information on the available payment methods?; Question 65: Is the consumer provided with information on the expected delivery time?

The detailed situation regarding key pieces of information (about payment methods and delivery time) was as follows:

- **Payment methods:** Only 1% of reviewed websites selling clothes and sports goods did not display any information about payment methods. The vast majority (97%) displayed information that researchers found easy to find, while 2% of reviewed websites did contain the relevant information but researchers found it difficult to find.
- **Delivery time:** A higher percentage (11%) of sampled websites did not display any information about expected delivery time. Over four fifths (82%) of reviewed websites selling clothes and sports goods did contain the information and it was easy to find, while 7% did contain the information but researchers found it difficult to locate.

As the figure below shows, nearly half of clothes and sports shoes websites in our sample (48%) sold products to other countries. Just under a third (31%) did not, while in another 21% of the websites sampled, researchers could not find information one way or the other and therefore said it was unclear whether the website sold products in other countries.

Figure A7.59 Does the trader ship to other countries? (other than the country for which you are conducting the website check)



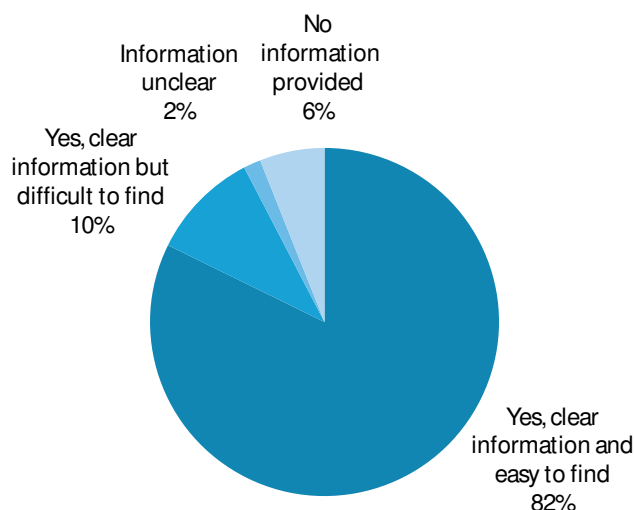
Source: Civic Consulting website review, Question 66

From our research the country with the highest proportion of reviewed websites that ship to another country was Cyprus (100%) and the lowest was Romania with only 5%. In terms of clarity, Member States' scores range from Austria, Cyprus, Germany and Latvia, in which researchers were always able to determine whether the reviewed websites shipped to a different country, to Bulgaria, where the researcher found the information unclear on 57% of websites selling clothes and sports goods in the sample.

A7.6.6 Right to withdraw

More than four fifths (82%) of the sampled websites selling clothes and sports goods contained clearly worded information that was easy to find regarding the customer's right to withdraw (i.e. return the product within a minimum of seven days). A further 10% of sampled websites were found to have clear information but researchers said it was difficult to find on the website. 2% were judged to only provide unclear information, while 6% of sampled websites were found to have no information on this right.

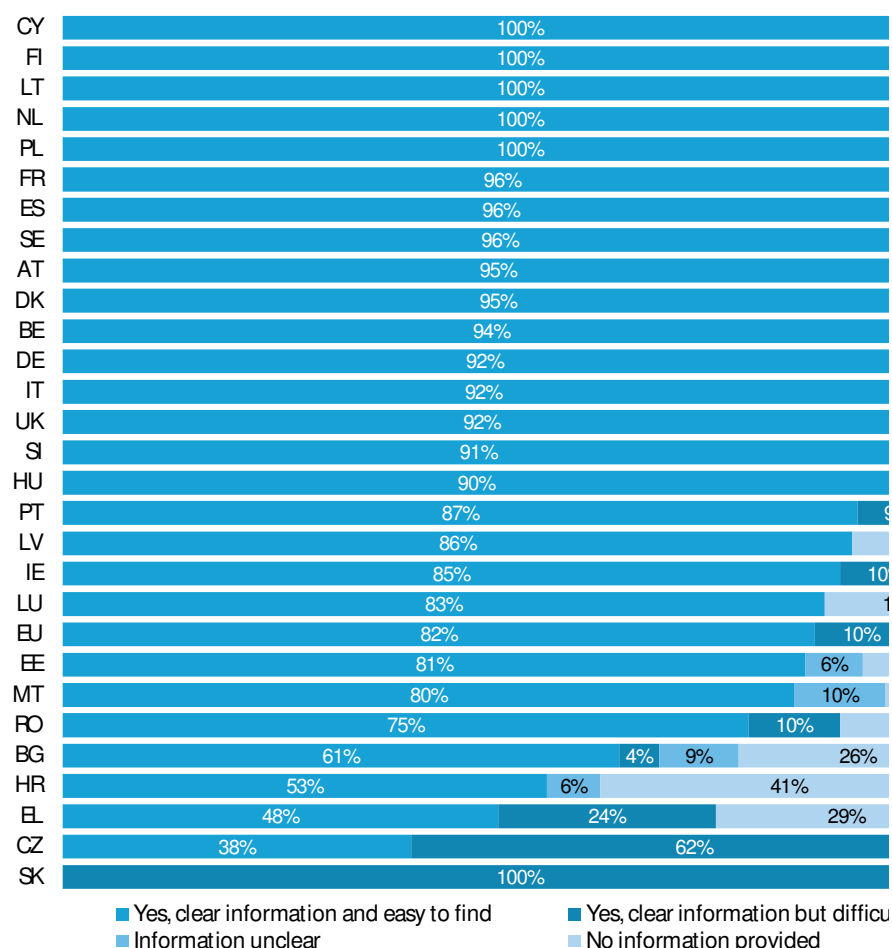
Figure A7.60 Are consumers provided with clearly worded information on their right to withdraw (i.e. return the product within a minimum of 7 days?)



Source: Civic Consulting website review, Question 67

The figure below shows the variation between Member States in this respect.

Figure A7.61 Are consumers provided with clearly worded information on their right to withdraw (i.e. return the product within a minimum of 7 days?) - results by country



Source: Civic Consulting website review, Question 67

As the figure above indicates, in five countries every website sampled presented information about consumers' right to withdraw in a clear way that was easy to find.²⁹⁰ In eight other countries, clear information was found 100% of the time, but it was sometimes difficult to locate, with Slovakia being the country with the highest proportion of information that was difficult to find (100%).²⁹¹ There was also variation between the proportions of websites in each country that did not provide any information, ranging from 41% in Croatia to 0% in 16 Member States.²⁹²

²⁹⁰ Cyprus, Finland, Lithuania, Netherlands, Poland.

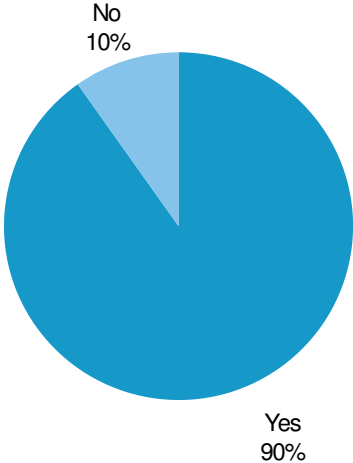
²⁹¹ Austria (5% difficult), Belgium (6% difficult), Czech Republic (62% difficult), Denmark (5% difficult), Germany (8% difficult), Slovakia (100% difficult), Slovenia (9% difficult) and Sweden (4% difficult).

²⁹² Austria, Belgium, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Lithuania, the Netherlands, Poland, Slovakia, Slovenia, Spain, Sweden and the UK.

A7.6.7 Terms and Conditions

On average one out of every ten (10%) websites selling clothes and sports goods reviewed did not contain terms and conditions, while 90% did, as the figure below illustrates.

Figure A7.62 Are Terms and Conditions provided?

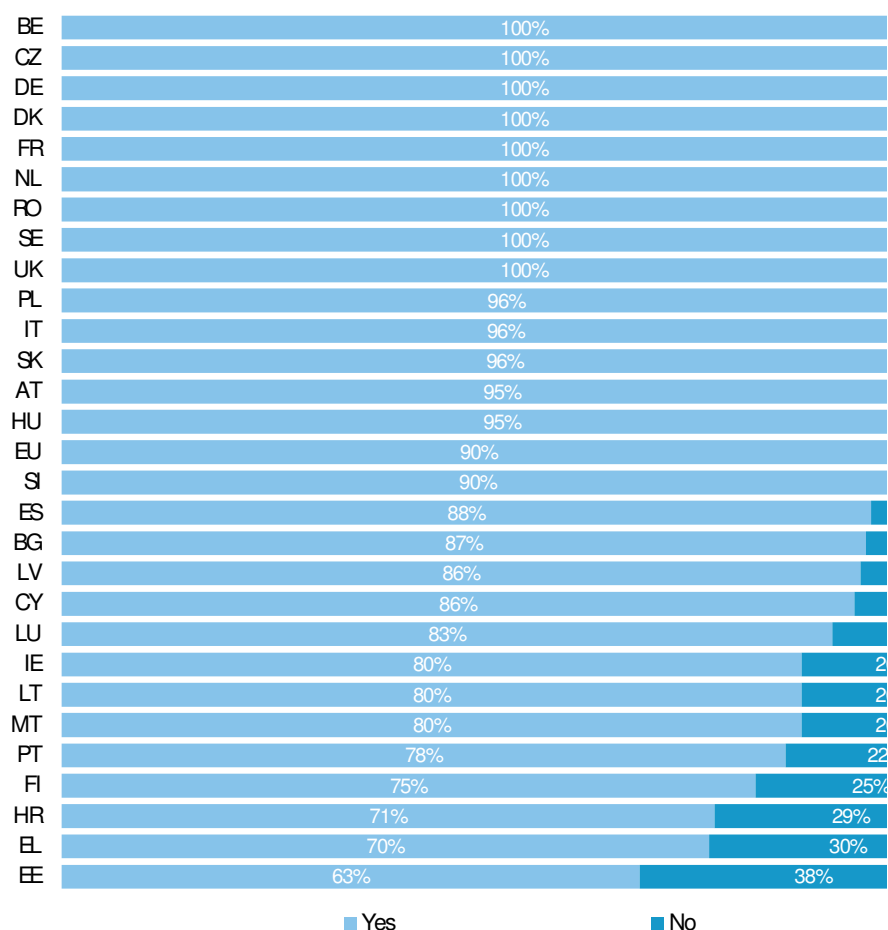


Source: Civic Consulting website review, Question 68

The following figure shows the results by Member State. As can be seen, the proportion of reviewed websites selling clothes and sports goods which contain terms and conditions varies from 100% in nine Member States²⁹³ to Estonia in which only 63% of reviewed websites in this market sector contained terms and conditions.

²⁹³ Belgium, Czech Republic, Denmark, France, Germany, the Netherlands, Romania, Sweden and the UK.

Figure A7.63 Are Terms and Conditions provided? - results by country



Source: Civic Consulting website review, Question 68

Other aspects researched in the context of terms and conditions included their language, and whether it was possible to print or download them. Key results include:

- **Language of terms and conditions:** Of the reviewed websites which did contain terms and conditions, only two countries showed any variation in their language from the rest of the website.²⁹⁴
- **Print or download function:** Researchers found that a tenth (11%) of reviewed websites selling clothes and sports goods with terms and conditions had a print or download function which allowed consumers to easily keep a copy of the terms and conditions. A further four fifths (81%) had terms and conditions which could be printed easily through the browser function. Less than one tenth (8%) of websites with terms and conditions did not provide any way to print easily.

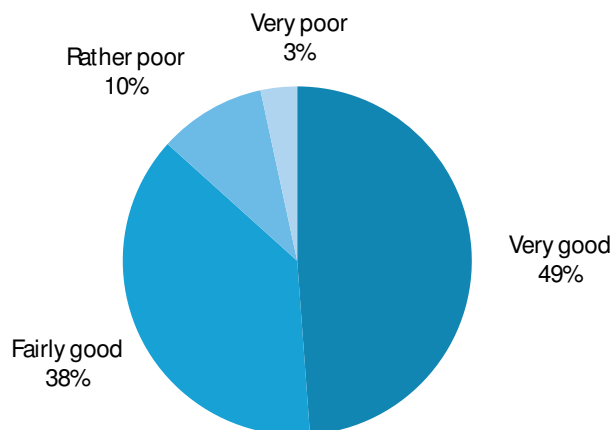
A7.6.8 Overall experience of website

Nearly half (49%) of all websites selling clothes and sports goods were rated by researchers as 'very good' and more than a third (38%) were seen as 'fairly good' in terms of informing consumers about their rights. 10% were seen as 'rather poor', while only 3% were seen as 'very poor'. Websites selling clothes and sports goods were the most positively rated of all the sectors in this respect. Overall, more than four fifths of reviewed websites selling clothes

²⁹⁴ Greece (7%) and Lithuania (6%). See footnote 13 for an explanation of this.

and sports goods (87%) were viewed positively. On the other hand, just over one in ten (13%) of websites selling clothes and sports goods were seen negatively by our researchers after the review was completed. The following figure summarises these results.

Figure A7.64 Overall, in terms of informing consumers of their rights, how would you rate your experience of this website?



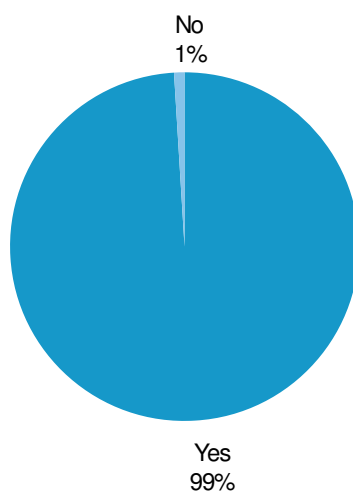
Source: Civic Consulting website review, Question76

A7.7 Consumer Credit

A7.7.1 Identification

The overwhelming majority (99%) of the consumer credit websites examined presented a postal business address by which the company running the website could be identified. On 1% of websites, this information could not be found.

Figure A7.65 Is the geographical business address provided?



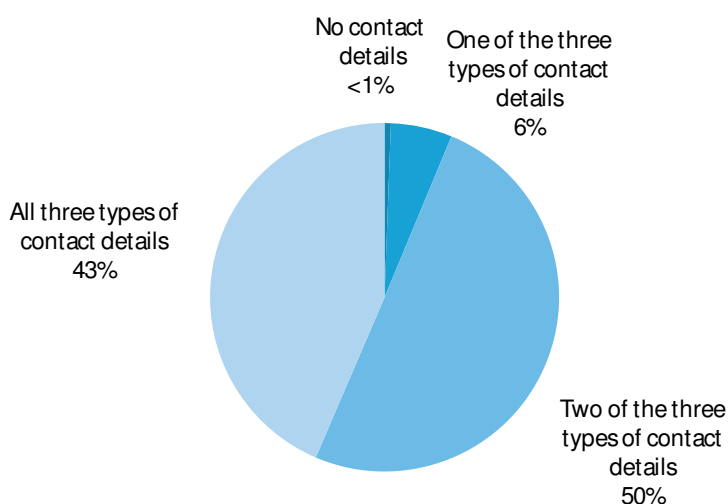
Source: Civic Consulting website review, Question 9

Of the reviewed websites that did contain a postal business address, 99% were situated in the same country that the website was targeted at. In only 1% of websites which provided an address, was the address situated in different countries.

A7.7.2 Contact details

Researchers were asked to search for three types of contact details: an email address, a telephone number and a web contact form.²⁹⁵ The following figure presents overall results for the reviewed consumer credit websites. As it shows, 43% of reviewed consumer credit websites contained all three types of contact details. The majority however (50%) contained two out of three types, while a small minority (6%) contained only one contact type. Less than 1% of consumer credit websites contained no contact details at all.

Figure A7.66 Proportion of consumer credit websites that supplied contact details (e-mail, phone number, contact form)



Source: Civic Consulting website review, Question 12: Email address to contact trader; Question 14: Telephone number to contact trader; Question 16: Is a contact form provided on the website?

The detailed situation regarding type of contact details was as follows:

- **Telephone number:** 98% of reviewed consumer credit websites contained a contact telephone number; 2% did not.
- **Email address:** 80% of reviewed consumer credit websites contained a contact email address; 20% did not.
- **Web contact form:** 59% of reviewed consumer credit websites contained a web contact form for contacting the company; 41% did not. Consumer credit websites were the most likely (15%) to use web contact forms instead of email addresses.

A7.7.3 Product information

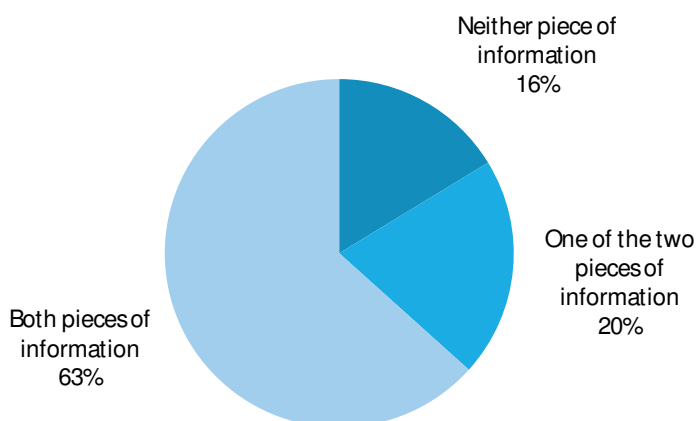
In order to be able to find the best loan, consumers wanting to take out credit need comparable information that is both simple to understand and easy to compare. We therefore asked researchers to search for two pieces of key information regarding consumer credit: the Annual Percentage Rate of Charge (APR); and an indication of the total cost of credit that a loan at a certain APR would incur.²⁹⁶ We therefore asked researchers to search for both these pieces of information on consumer credit websites. As can be seen below, just under two thirds (63%) of the consumer credit websites in our sample contained both pieces

²⁹⁵ Web contact forms were defined as webpages which allowed input of contact details (name, email address, etc.) as well as space for a message to the company. Therefore email sign-up forms were not included, nor were 'chat' functions which are often automated.

²⁹⁶ These figures do not have to apply to the exact amount that the consumer wants to borrow; they need only be presented for an example loan. Therefore researchers were asked to search the website for these pieces of information, but not attempt to submit a request for credit.

of information, while a fifth (20%) contained just one. 16% did not contain either. The following figure presents these results.

Figure A7.67 Proportion of websites providing key product information for loans (annual percentage rate of charge, total amount to repay)



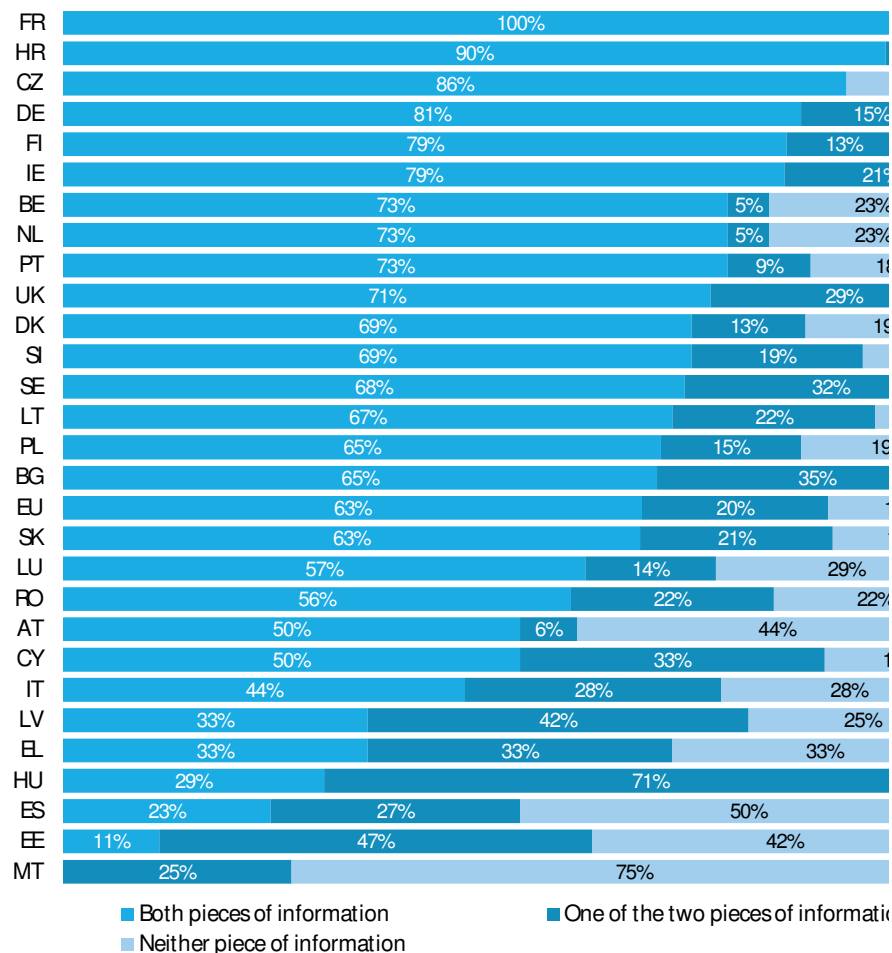
Source: Civic Consulting website review, Question 71: Is the Annual Percentage Rate of Charge specified?; Question 72: Is there information about the total amount you will have to pay displayed?

The detailed situation regarding product information was as follows:

- One in five consumer credit websites in our sample (19%) did not display the Annual Percentage Rate of Charge (APR) when describing their loan offers. Four fifths (81%) did so.
- More than a third (34%) of consumer credit websites in our sample did not display the total cost of credit either with an example loan or for an amount specified by the consumer, while 66% did.

The following figures break down these results by country. As the first shows, there is considerable variation between Member States. France scored highest, with all reviewed websites containing both pieces of information, while in Malta none of the sampled websites contained both.

Figure A7.68 Proportion of websites providing key product information for loans (annual percentage rate of charge, total amount to repay) – results by country

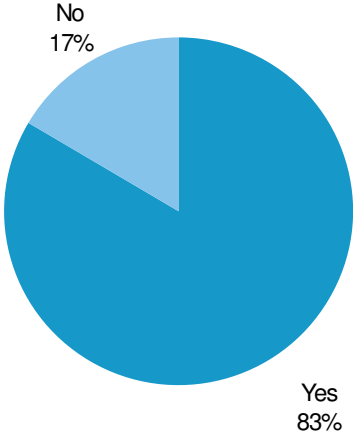


Source: Civic Consulting website review, Question 71: Is the Annual Percentage Rate of Charge specified?; Question 72: Is there information about the total amount you will have to pay displayed?

A7.7.4 Terms and Conditions

On average, roughly one in six (17%) consumer credit websites from our sample did not contain terms and conditions, while 83% did, as the figure below illustrates.

Figure A7.69 Are Terms and Conditions provided?

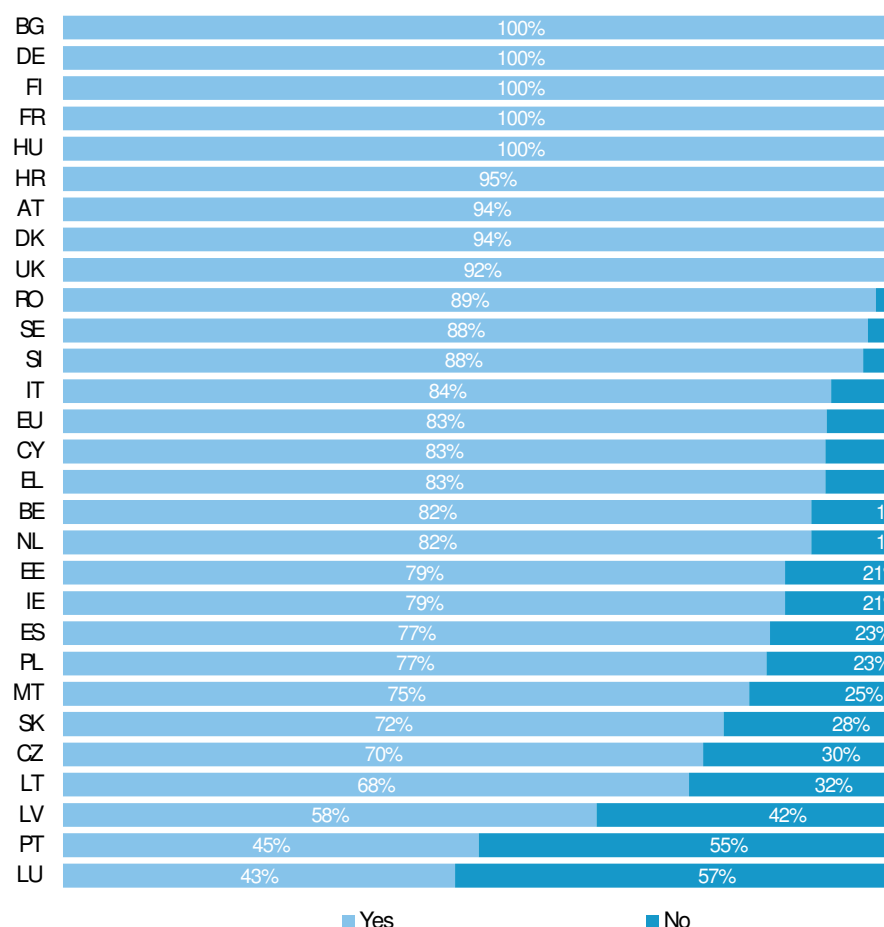


Source: Civic Consulting website review, Question 73

The following graph shows the results by Member State. As can be seen, the proportion of reviewed consumer credit websites which contained terms and conditions varied from every website reviewed in five Member States²⁹⁷ to Luxembourg in which 57% of websites reviewed in this market sector did not contain terms and conditions.

²⁹⁷ Bulgaria, Finland, France, Germany and Hungary.

Figure A7.70 Are Terms and Conditions provided? - results by country



Source: Civic Consulting website review, Question 73

Other aspects researched in the context of terms and conditions included their language, and whether it was possible to print or download them. Key results include:

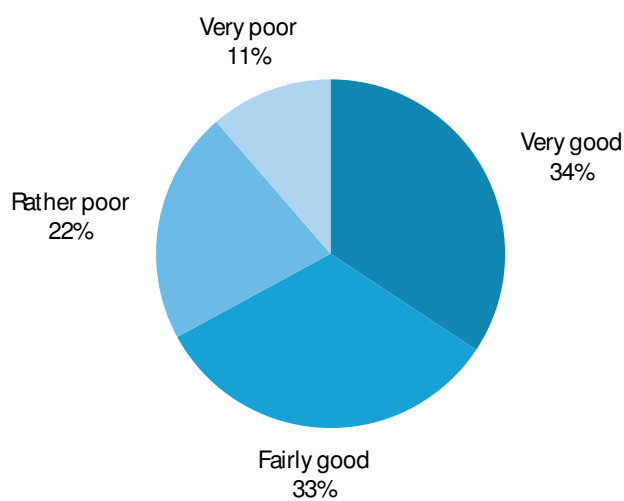
- **Language of terms and conditions:** Of those reviewed websites which did contain terms and conditions, only two countries showed any variation in their language from the rest of the website.²⁹⁸
- **Print or download function:** Researchers found that nearly two thirds (65%) of reviewed consumer credit websites with terms and conditions had a print or download function which allowed consumers to easily keep a copy of the terms and conditions. A further third (31%) had terms and conditions which could be printed easily through the browser function. One twentieth (4%) of reviewed consumer credit websites with terms and conditions did not provide any way to print easily.

²⁹⁸ Austria (7%), and Hungary (14%) . Websites from countries that have more than one official language were counted as if they were in the same language even if they were in another of the country's official languages. For example, if a Belgian website is mostly in French but has terms and conditions in Flemish, researchers were instructed to indicate that the language was the same.

A7.7.5 Overall experience of website

Consumer credit websites were rated more negatively by researchers than the total scores across all markets in terms of how well they inform consumers about their rights, although not as negatively as the package travel sector. One third (34%) of all consumer credit websites in our sample were rated by researchers as 'very good' and the same proportion (33%) were seen as 'fairly good'. A fifth (22%) was seen as 'rather poor', while more than a tenth (11%) was viewed as 'very poor'. Overall, one third of reviewed consumer credit websites (33%) were seen negatively by our researchers after the review was completed. Conversely, two thirds (67%) were rated positively. The following figure summarises these results.

Figure A7.71 Overall, in terms of informing consumers of their rights, how would you rate your experience of this website?



Source: Civic Consulting website review, Question76

Annex 8 Overview of Member State enforcement systems and decentralisation

Table A8.1 Summary mapping of Member State enforcement systems

Member State	Centralised/ De-centralised	Public enforcement*		
		Administrative	Civil	Criminal
AT	Decentralised (provinces responsible for enforcement)	Some administrative	Mainly civil	Criminal possible in cases of fraud
BE	Single competent authority with 7 regional directorates. Enforcement by local courts Decentralised	Increasingly administrative use of fines, if fails then case handled by public prosecutor	Mainly civil	Penalties for non-compliance
BG	Centralised, with some enforcement and consumer advice provided by municipal authorities	Mainly administrative	The Commission for Consumer Protection must apply to the court for some enforcement powers	
CY	Centralised, also competition authority	Mainly administrative	Appeal to court to enforce mandatory/interim order	
CZ	Centralised (Art. 4(2) operate at regional level)	Mainly administrative	Some civil proceedings, ie. to sanction	
DE	Decentralised Operates regionally in 16 Lander	No administrative as public interest resolved through private law and no central public authority	Mainly through courts by consumer organisations and local authorities, although this related to private enforcement	
DK	Centralised around national authority and consumer ombudsman	Consumer ombudsmen have some administrative powers	Mainly civil due to consumer ombudsmen and private enforcement tradition	
EE	Centralised	Mainly administrative	Administrative actions can be contested in court	

Member State	Centralised/ De-centralised	Public enforcement*		
		Administrative	Civil	Criminal
ES	Centralised in the autonomous regions	Some administrative	Mainly civil	
FI	Centralised, integrated in the Competition and Consumer Authority	Mainly administrative	Administrative actions can be contested in court	Consumer Act 1978 indicates criminal sanctions. Data protection can incur criminal sanctions
FR	Centralised	Increasingly administrative	Court action for some powers of enforcement	Fraud
GR	Centralised	Some administrative	Mainly civil	
HR	Centralised – Consumer Protection Act	Limited administrative	Mainly civil	
HU	Centralised	Mainly administrative	Civil based system	False marking of goods, deception of consumer, fraud (3 years max)
IE	Centralised	Mainly administrative	Some civil, specifically if decision contested	
IT	Centralised	Almost solely administrative	Limited civil	
LT	Centralised	Almost solely administrative		
LU	Centralised	Administrative power introduced with CPC	Mainly civil	
LV	Centralised	Almost solely administrative		
MT	Centralised	Mainly administrative	Some civil	
NL	Centralised	Some administrative (i.e. fines)	Mainly Civil for injunctions/ cease and desist orders	
PL	Centralised	Mostly administrative	Some civil	
PT	Centralised	Some administrative	Mainly civil	
RO	Decentralised	Almost solely administrative		
SE	Centralised	Some administrative	Mainly civil	
SK	Centralised	Mainly administrative	Some use of courts	



Member State	Centralised/ De-centralised	Public enforcement*		
		Administrative	Civil	Criminal
SL	Centralised	Mainly administrative	Some civil	
UK	Decentralised	Administrative fines, penalties	Civil - injunction/ cease and desist orders	Criminal – fraud

Source: ICF Analysis

Annex 9 Overview of main entry, inspection and enforcement powers

Table A9.1 Overview of the main investigation powers

Member State	Investigation powers available under national law		
	Power to make test purchases	Power to conduct mystery shopping	Other
AT	No	No	
BE	No	No	conduct valid investigations independently and hear any witness; draw up reports having probative force; monitor any form of transport; seize goods and documents; affix seals; make requisition orders; request assistance from experts or law enforcement agencies; carry out home visits; appear before courts as a witness
BG	Yes	Yes	inspect business documents; analyse terms contained in contracts containing general clauses offered to consumers
CY	Yes	No	enter premises; inspect and seize goods and documents
CZ	Yes	Yes	seize products or goods; enter business premises; identify individuals; request that subjects of inspection present the necessary documents, data and written and oral explanations; take samples of products or goods;
DE	Yes ²⁹⁹	No	access documents

²⁹⁹ medicinal products for human use only



Member State	Investigation powers available under national law		
	Power to make test purchases	Power to conduct mystery shopping	Other
DK	Yes	Yes	access to a company’s premises and means of transport; make copies of all information, including marketing materials, accounts and other business records, regardless of the information medium; request oral explanations of the facts in connection with the inspection
EE	Yes	No	access to premises used for the business or professional activities; in the presence of the trader, a representative of the trader or a police officer, open means of transport used to transport goods; demand that traders or producers submit relevant documents, materials and explanations and other relevant information
ES	Yes	Yes	
FI	Yes	Yes	
FR	Yes ³⁰⁰	Yes	operate on the public highway; enter business premises and premises in which a service is being rendered; demand sight of, or seize, documents; access to whatever facilities they may require to carry out their inspections; consult any document relevant to the performance of their duties
GR	No	No	ask for information
HR	Yes	No	

³⁰⁰ misleading comparative advertising only



Member State	Investigation powers available under national law		
	Power to make test purchases	Power to conduct mystery shopping	Other
HU	Yes	Yes	take samples from products for inspection
IE	Yes	Yes	summon witnesses to attend before it; examine on oath the witnesses attending before it; require any such witness to produce any books, documents and records in his or her power or control; by notice in writing, require any person or undertaking to provide written information
IT	No	No	require the trader to furnish evidence as to the accuracy of factual claims in advertising
LT	No	Yes	obtain information and documents; take samples of advertised goods; carry out on-site inspections; request explanations orally or in writing; set up commissions, working groups
LU	No	No	access documents; require information; carry out on-site inspections;
LV	Yes	Yes	request information, documents and other evidence; arrive at the manufacturer, trader or service provider any time, without prior notification
MT	No	No	enter and search any premises other than premises used exclusively as a place of residence; make any inspection, conduct any test and on paying or making tender therefor, take any goods; take any books, documents or records however kept or



Member State	Investigation powers available under national law		
	Power to make test purchases	Power to conduct mystery shopping	Other
			stored; require any person to provide any information in any manner
NL	Yes	Yes	enter premises; ask for information; demand inspection of documents; take data (these apply to both private homes and business locations)
PL	No	Yes	access the site and the buildings, other premises and means of transportation held by the inspected party; request presentation of files, books, all kinds of documents and data carriers related to the subject of the inspection as well as true copies and extracts thereof and to make notes of their content; request oral explanations on the subject of the inspection; search the premises or objects (subject to the consent of the court of competition and consumer protection, provided upon the request of the President of the Office); seize objects
PT	Yes	No	Request information, documents and whatever diligences it deems necessary;
RO	Yes	Yes	inspect producers, importers, retailers, sellers, service performers as well as custom houses; perform analyses and tests in laboratories; perform or finance studies and comparative tests regarding the quality of products and



Member State	Investigation powers available under national law		
	Power to make test purchases	Power to conduct mystery shopping	Other
			services offered to consumers, and inform the public;
SE	No	No	
SK	Yes	Yes	enter the operating premises, land and other facilities of the person being inspected, provided that these relate to manufacturing or selling products or to providing services (but the inspectors are not entitled to enter private residences); verify the identity of the persons being inspected; request necessary documents, data and written or oral explanations from the persons being inspected
SL	Yes	No	
UK	Yes	Yes	Trading Standards' personnel can enter any premises (except those used solely as a dwelling) to inspect at all reasonable times: require traders to produce documents relating to their business and powers; seize and detain goods and documents CMA may: require any person to answer questions in writing, or provide information; produce specified documents relevant to an investigation; gain access to premises without a warrant; require persons to produce goods or documents; require persons to give an explanation



Member State	Investigation powers available under national law		
	Power to make test purchases	Power to conduct mystery shopping	Other
			about goods or documents, during inspections with and without a warrant; seize goods or documents; enter and search premises under a warrant

Table A9.2 Overview the main enforcement powers

Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
AT	Yes (in case the Austrian authorities sue and get a final decision clarifying an infringement, the data of the trader and the description of the infringement may be published)	No	No	No	No	No	Yes	finer; cease-and-desist order; payment of damages
BE	Yes (but names and details only published after a judgement or in case of an engagement to stop the infringement)	Yes	No	No	No	No	Yes	finer; Imprisonment
BG	Yes (after the administrative procedure is completed)	No	Yes	No	Yes (for the period needed ban the placing on the market of any	No (it is only possible to take actions in court for the protection of collective	Yes	finer; prohibit or impose conditions on the marketing of



Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
					product or service that could be dangerous)	interests of consumers)		goods and services; order the withdrawal of goods posing risks for the consumer's health and safety from the market; order the closing of business premises until irregularities are eliminated
CY	Yes (but only when the legal proceedings are concluded)	Yes	Yes	No	No (but the court may issue an interim order)	No	Yes	fines; imprisonment
CZ	No (the legislation does not enable the enforcement authorities to make public the names of controlled person	No	Yes	No	Yes (following the inspection and until the relevant corrective measures have been taken, inspectors may	No	No	issue binding instructions for the purpose of rectifying any shortcomings ascertained;



Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
	even if the administrative procedure is closed due to the fact that an appeal against an administrative decision may be lodged)				ban the marketing and distribution, sale or use of products or goods, or the use of unverified measuring instruments)			
DE	No (only the court can decide to make public the decision and to disclose names of companies, but not of individuals)	No	Yes(the trade licensing office or court may remove licence)	No	No	No	Yes	fines; penalty
DK	Yes	Yes	No	No	Yes (interim measures can be applied in situations where it is crucial to sustain a case against a trader as awaiting a court order)	No (consumer complaints are considered by an independent body, the Consumer Complaints Board)	Yes	fines; issue an injunction if an action is clearly in conflict with the Marketing Practices Act and cannot be



Member State	Enforcement powers based on national law							Other
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	
								changed by negotiation; imprisonment
EE	Yes	Yes (in case of a criminal offence)	Yes	No	No	Yes	Yes	suspend the offering and sale of goods; issue oral warnings to traders; make proposals for suspension or termination of the activities of a trader; demand that the offence be terminated and, if possible, that the initial situation be restored; require the offering and sale of goods or services which do not meet the requirements to be suspended and prescribe a



Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
								term for bringing the goods or services into compliance with the requirements
ES	Yes (but only if the infringement procedure has concluded that the decision must be publicised as part of the penalty)	Yes	Yes	No	Yes (suspension of operations until defects are rectified or the requirements are satisfied in respect of public health, hygiene or safety)	Yes	Yes	fine; temporary close down of the company for a period of five years; shutdown establishments which do not have the mandatory public health authorisations or records; seizure of merchandise
FI	Yes (once the case is closed)	Yes (Finnish Consumer Agency may obtain a ban (if website is not taken down	No (only the court has the power to revoke licence)	No	Yes (the Consumer Ombudsman may issue a temporary prohibition if the	No	Yes	criminal sanctions (fines and even imprisonment)

Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
		voluntarily) from the Market Court			actions of the company need to be ceased urgently, due to the scope of the issue or its quick impact)			
FR	No	No	Yes	No	Yes (upon the occasion of proceedings, the unfair nature of a contractual term is alleged interim measures may be adopted)	No	Yes	fines
GR	Yes	No	Yes	No	Yes	No	Yes	fines
HR	No	No	No	No	Yes (under certain conditions, the inspector may temporarily prohibit sales; the inspector is authorised to issue a	No	Yes	fines



Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
					temporary decision, pending a valid court decision, to discontinue the commenced or prohibit the as yet not published advertising when suspected of being misleading or unpermitted comparative advertising)			
HU	Yes	No	No (the notary or the Financial Supervisory Authority can withdraw the traders license)	No	Yes (order a business establishment to be closed in the event of sales conditions endangering the life or health of consumers or affecting a wide range of consumers and/or	No (compensation in relation to contractual relationships can only be ordered by the court)	No	impose a fine; prohibit unlawful practices; order the entity to remedy the discovered faults by a set deadline; prohibit sales until the discovered faults have been remedied; order the goods imposing hazards



Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
					causing substantial damages)			to the life, health or physical safety of consumers to be removed from the market and destroyed when applicable;
IE	Yes	No	No	No	No	Yes	Yes	prosecution; compliance notices; undertakings; prohibition orders; fixed payment notices
IT	Yes	Yes	Yes	No	Yes (issue a reasoned measure ordering the provisional suspension of unfair commercial practices	Yes ³⁰¹	Yes	fine; prohibit the continuation of any unfair commercial practices and eliminate their effects;.

³⁰¹ Compensation is used to finance consumer projects and does not go to the consumer



Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
					whenever there is a particularly urgent need)			
LT	Yes (but only after the conclusion of the administrative or legal procedures and only if they fail to comply with the decision or do not implement peaceful settlement agreements)	No	Yes	No	Yes (in urgent cases, when there is enough data about the infringement, seeking to avoid substantial damage or adverse consequences to the consumers' interest)	No	Yes	finer; warning
LU	Yes (but must be limited to administrative or Court decisions and can only be provided after they are firm)	Yes	Yes	No	No	No	No	fine
LV	Yes	No	Yes	No	Yes (if the authority has a reason to believe that a violation of	Yes	Yes	propose a commitment in writing to rectify the violation



Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
					consumer rights has been or may be committed and it may cause immediate and significant harm to the economic interests of the particular consumer group)			within the specified time period; take a decision requiring to cease the violation, and to perform specific activities
MT	Yes	No	Yes	No	Yes (in cases of urgency due to the risk of immediate and serious harm to the collective interests of consumers)	No (the MCCAAs role is limited to mediation)	Yes	fine; daily fine (for non-compliance); compensation for "moral damages" caused by any pain, distress, anxiety and inconvenience suffered; when a claim or defence offered is considered vexatious or frivolous, the Tribunal may condemn the



Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
								offending party to pay the other party
NL	Yes (after a written decision of the Consumers Authority to impose a punitive sanction)	No	No	No	No	No (consumers can get compensation on the basis of the general provision on unlawful acts)	Yes	administrative penalty or an order subject to a penalty; civil enforcement to request the cessation of an infringement
PL	Yes (but only after finishing conducting administrative actions)	No (may only inform the host provider of the unlawful character of the data stored)	No	No	No	No (consumers may seek redress before civil courts)	Yes	finer; order to withdraw dangerous products from the market
PT	No	Yes	Yes	No	No	No	Yes	penalty
RO	Yes (the authority may inform permanently consumers about the products and	No	No (the authority may only propose to emitting bodies to suspend or to withdraw the	Yes	Yes	No	Yes	fine



Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
	services which present risks for their health or safety, or which could affect their economic interests)		functioning authorisation, the manufacture license or the certification of classification)					
SE	Yes (unless there is sensitive material to be protected under the Swedish Secrecy Act)	Yes (in case of a criminal offence)	No	No	No	No	Yes	fine
SK	Yes	No	Yes (trade licensing office may remove licence)	No	Yes	No (consumer have to turn to the court for compensation)	No	prescribe an immediate recall of a product from the market and, if necessary, the liquidation of the product
SL	Yes	No	No	No	Yes (in terms of some advertising practices)	No	Yes	forbids sales or advertising of a product or service; issue a decision, ordering the



Member State	Enforcement powers based on national law							
	Naming of infringing traders	Take down of website	Withdrawal of traders license	Interim measure: Power to freeze assets	Interim measure: Power to withdraw a trade license or temporarily ban an activity	Power to order consumer compensation	Settlement	Other
								company to meet legal obligations; fine (if the action is considered a criminal offence)
UK	Yes	Yes	Yes	Yes	Yes (interim measures may be taken to prevent significant damage)	Yes	Yes	criminal action; civil action; penalties;

Table A9.3 Overview of the main pecuniary sanction and authorities with the power to impose them

Member State	Availability of pecuniary sanctions			Details of pecuniary sanction	
	Lump sum payments	Turnover based fines	Periodic payments	Min-max administrative lump-sum fine (€)	Which authorities have power
AT	Yes			Up to €8,000-€36,000 per case	Austrian Communications Authority and Federal Communications Board
BE	Yes			€500-€100,000 (up to €1,000,000 for boarding denial under 261/2004/EC)	Federal Ministry of Labour, Social Affairs and Consumer Protection
BG	Yes			€60-€12,000	Commission for Consumer Protection; Bulgarian Drugs Agency; Council for Electronic Media; Civil Aviation Administration of the Ministry of Transport
CY	Yes	Yes	Yes	€8,543 or 10% turnover under 261/2004/EC Up to €40,000 – medical products (€340 per day) €8,543 – E-commerce €170,860 or 5% turnover – consumer credit €256,000 for other legislation	Drugs Council; Ministry of Commerce, Industry and Tourism; Competition and Consumer Protection Service
CZ	Yes			Up to €36,000, €108,000 or €180,000 €1.8m depending on violation Up to €400,000 (data protection) Up to €80,000 (medical products)	Czech Trade Inspection Czech National Bank Public Health Authority
DE				Administrative fine - €10,000	Ministry of Justice

Member State	Availability of pecuniary sanctions			Details of pecuniary sanction	
	Lump sum payments	Turnover based fines	Periodic payments	Min-max administrative lump-sum fine (€)	Which authorities have power
				Penalty payment of up to €250,000 can be claimed by private enforcement bodies on subsequent violations from undertaking	Local courts
DK	Yes			Not available	Danish Consumer Ombudsman
EE	Yes			Up to €640 for infringement, increases to €3,200 for UCP Up to 9,600	Consumer Protection Board of Estonia Data Protection
ES	Yes	Yes	Yes	Up to €3,000 for minor infringement €3,000-€30,000 for more serious offences, €30,000-€60,000 for the most serious Can increase to x5 value of products or services sold in latter two cases	Local Authorities
FI	Yes			Not available	Consumer Ombudsman and Market Court
FR	Yes			Up to €500 for natural person and €7,500 for legal entity administrative fine Up to €150,000 for all other offences	Directorate General Competition, Consumer Affairs and Fraud Prevention
GR	Yes			€500-€1,000,000 €500-€3,000 per passenger in relation to 261/2004/EC	General Secretariat of Consumer Affairs, Greek National Tourism Organisation Hellenic Civil Aviation Authority
HR	Yes			€6,500-€13,000 misleading advertising €260-€1,300 natural person (all other offences) €400-€3,900 trader (all other offences)	The Office of Consumer Protection in Croatia

Member State	Availability of pecuniary sanctions			Details of pecuniary sanction	
	Lump sum payments	Turnover based fines	Periodic payments	Min-max administrative lump-sum fine (€)	Which authorities have power
HU	Yes	Yes		50,000-1% of net turnover in previous year	Hungarian authority for consumer protection (administrative fine) Hungarian Competition Authority Hungarian Financial Supervisory Authority
IE	Yes			€5,000-€150,000 €500,000-€5,000,000	Commission for Aviation Regulation Financial regulator (individual- corporate)
IT	Yes			€5,000-€500,000 for UCP	Italian Competition Authority
LT	Yes			€300-€9,000 for UCP and air passenger rights	State Consumer Rights Protection Authority; Civil Aviation Administration; State Medicines Control Agency
LU	Yes			€251-€50,000 in case of non-compliance with court decision	Ministry of Economy and Foreign Trade
LV	Yes			€14,200	Consumer Rights Protection Centre; Competition council; Health Inspectorate; National Broadcasting Council of Latvia, Food and Veterinary Service
MT	Yes			€466-€46,000	Director Consumer Affairs
NL	Yes		Yes	Max. €78,000 per infringement, (€450,000 for UCP) €30,000-€150,000 (medical)	Netherlands Consumer Authority Netherlands Health Care Inspectorate
PL	Yes	Yes	Yes	€50-€1,900 10% of revenue in single accounting year	Civil Aviation Office

Member State	Availability of pecuniary sanctions			Details of pecuniary sanction	
	Lump sum payments	Turnover based fines	Periodic payments	Min-max administrative lump-sum fine (€)	Which authorities have power
					Consumer and Competition Protection Authority
PT	Yes			-Not available	
RO	Yes			€465- €14,000	National Authority for Consumer Protection
SE	Yes			Rarely exceed €5,000	Swedish Consumer Ombudsman through Market Court
SK	Yes			Up to €66,400 Up to €166,000 €166,000	Slovak Trade Inspection Consumer protection Unfair commercial practices Advertising
SL	Yes			Up to €3,000-€40,000 depending on if individual/sole trader or legal entity	Consumer Protection Office
UK	Yes	Yes		Up to €5,000 for most offences (statutory) €6,000 UCP 10% of turnover – consumer credit	Competition and Markets Authority; Civil Aviation Authority, Medicines and Healthcare Products Regulatory Agency

Annex 10 Mapping of the institutional set-up for enforcement of consumer protection legislation

There are other elements of legal systems to consider in the construction of the baseline. The following have been identified and captured in Table XX, to provide an indication of the structures which may influence the costs of the proposed policy options, the factors considered are:

- Institutional set-up – provides an indication of the degree of fragmentation between the national authorities competent for the legislation denoted in the Annex to the CPC Regulation. The metric used is the number of authorities responsible in each Member State.
- Self-regulation and co-regulation – indicates the presence of self-regulation mechanisms in Member state legal systems. This is a simple yes/no indicator.
- Presence of private collective enforcement – indicates whether the tradition of private collective enforcement can be found in the Member State
- Influence of the CPC Regulation in the division of powers of Member States – attempts to review in the absence of primary evidence collected from Member States, the role of CPC in national legal frameworks. This indicator tries to capture: i) whether the implementation of CPC led to the reallocation of powers to competent authorities (i.e. powers and/or frameworks prior to CPC did not exist and therefore present structures are directly reference the obligations of the CPC ; and ii) whether changes to the CPC Regulation proposed in the policy options would due the role of CPC in national systems, require amendments to a single or multiple legislative texts (i.e. transposition of CPC could be contained in a single ‘Consumer protection act’, or could have required amendment to multiple legislative acts, governing the framework of each individual national authority). In the latter example, changes to the CPC regulation consequently take longer and be more costly as the legislative system in each Member State would take time to revise all legislation.

Table A10.1 Summary mapping of institutional set-up and availability of other enforcement mechanisms

Member State	Single or multiple legal acts implementing obligations of CPC Regulation	Institutional set-up (No. competent authorities)	Self-regulation / co-regulation	Private collective enforcement
AT	Single – Consumer Authorities Cooperation Act 2006 (No. 148/2006)	9 enforcement bodies + 9 public agencies responsible for enforcement	Yes, for advertising and labelling (food, textiles)	Yes, consumer associations active
BE	Multiple – 5 implementing decrees introduced. Main amendment was to the Commercial Practices and Consumer Information and Protection Act 1991	1	Yes, consumer council produces codes of conduct	Unclear
BG	Multiple – 5 implementing acts introduced. Consumer Protection Act main legislative change	4	Yes, code of ethics in banking	Yes, consumer associations are active
CY		5	No	Yes, consumer organisations may apply to court on consumer's behalf
CZ	Multiple- 10 amending pieces of legislation introduced. Act 160/2007 amending field in consumer protection and Act 120/2008, Act 182/2008 and 36/2008 amended powers of authorities	10 + Art 4(2) bodies - Regional trade licensing and pricing authorities (214+)	Yes, in relation to advertising and marketing	Yes, consumer organisations active, strong element of private law in some legislative areas
DE	Single – EC Consumer Protection Implementing Act of 21 December 2006 which set-p the administrative structures necessary for SLOs and CAs, including the creation of the BVL and assigning its powers	4 federal authorities + 57 Lander authorities	Yes, strong self-regulation in respect of advertising and unfair competition	Yes , consumer associations primary enforcers of consumer protection by taking private action

Member State	Single or multiple legal acts implementing obligations of CPC Regulation	Institutional set-up (No. competent authorities)	Self-regulation / co-regulation	Private collective enforcement
DK	Multiple – minor amendments made to legislation, specifically Marketing Practices Act	4	Yes, self-regulation is fundamental to enforcement	Yes, consumer ombudsmen
EE	Single Legislative Act	3	No self-regulation	Little private enforcement, consumer authorities act on behalf of consumers in ADR as preferred route of redress
ES	Multiple- required changes to constitutional law and that of autonomous communities. Main revision came in Royal Decree 1133/2008 establishing the structure and powers of national authorities	33 (25 Regional, 8 national)	Advertising	Yes, consumer association initiate infringement proceedings before courts
FI	Single – provision added to the consumer Agency Act in 2007 to enable consumer ombudsmen to carry out inspections with respect to intra-community infringements	8 (+6 are regional authorities with no investigation /enforcement role, focussed on promoting awareness, etc.)	Advertising	Individual and class action are both promoted. Consumer organisations have substantive role
FR	Single – Order of 1 September 2005 increasing the powers of the DGCCRF SLO/CA.	1 (+2 relating authorities on food and health/safety)	Advertising, encouraged in other sectors through ombudsmen	Limited collective action, 18 consumer associations can take infringements to court – joint, civil or main plaintiff
GR	Single – Joint Ministerial Decision 827/13.7.2006 on th adoption of supplementary measures to implement EC Regulation 2006/2004	7	Advertising and banking	Consumer organisations can take collective actions and encouraged to do so
HR	Single - Law amending the Consumer Protection Law of 24 June 2009	1	N/A	Consumer associations

Member State	Single or multiple legal acts implementing obligations of CPC Regulation	Institutional set-up (No. competent authorities)	Self-regulation / co-regulation	Private collective enforcement
HU	Single – government Decree 2083/2006	5	Financial services	By consumer organisations
IE	Single - Consumer Protection Act 2007 amended to increase powers of authorities	10	Advertising and financial services, pensions, etc. widespread use of self-regulation mechanisms	No
IT	Multiple – Main powers implemented through "Disposizioni per l'adempimento di obblighi derivanti dall'appartenenza dell'Italia alle Comunità europee -Comunitaria 2008	9	Advertising, banking, etc. widespread	Consumer associations can take class action
LT	Single – The Law of the Republic of Lithuania on consumer Protection No.12488/2007	8	Insurance , brewers, advertising	Consumer associations
LU	N/A	4	Codes of conduct have emerged, but no traditional of self/co-regulation compared to other Member States	Consumer associations
LV	Single - Regulation No.632 of the Cabinet of Ministers "By-law of the Consumer Rights Protection Centre".	6	Advertising and banks	No rights for associations to bring cases before courts
MT	Single – Consumer Affairs Act	7	No self-regulation in Malta	No, but consumer associations have role on boards
NL	Multiple – revisions to powers in the Act for the Enforcement of Consumer Protection Regulations ??	7	Establish sector boards to promote co-regulation, standards, etc.	Consumer associations

Member State	Single or multiple legal acts implementing obligations of CPC Regulation	Institutional set-up (No. competent authorities)	Self-regulation / co-regulation	Private collective enforcement
PL	Single – Act of 16 February 2007 on Competition and Consumer Protection (Journal of law No.50 331)	4	Advertising and finance	Group proceedings permitted/ introduced
PT	Multiple – Joint Order No. 357/2006 implemented CPC in to national law and decree Law No. 126-c/209115 extended powers	12	No	No
RO	Multiple – Government Decisions No. 244/2007 and No. 784/2008	8 (42 regional/local bodies)	Codes of conduct have been implemented	No
SE	Single – limited supplementary procedures required implementation, specifically investigatory powers of consumer ombudsmen revised in Bill 2006/07:6	3	Advertising, finance	Yes
SK	-	9	-	-
SL	Multiple	6	No	Consumer associations
UK	Multiple- main changes contained the Enterprise Act of 2002 and 2006	6-7 + (trading standards)	Codes of conduct, advertising, etc.	Yes, new consumer bill of rights

