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## Sweep Investigations. Frequently Asked Questions: 2010 Sweep on tickets for cultural and sporting events (first phase)

### 2010 SWEEP ON TICKETS FOR CULTURAL AND SPORTING EVENTS

#### FIRST PHASE RESULTS

27 EU Member States plus Norway and Iceland participated in the fourth EU led Sweep investigation to check websites selling tickets for cultural and sporting events for compliance with EU consumer rules. Co-ordinated by the European Commission, the simultaneous check was carried out between 31st May and 4th June 2010 by the enforcement authorities.

Of 414 sites checked, 247 were flagged for further investigation to verify if they are in breach of EU consumer rules. 188 were national cases, 59 were cross border cases. These cases will now be followed up by national enforcement authorities to verify.

#### Results per country

Table 1. Websites checked and N° of sites needing further investigation per country

Country name	Total number of websites checked	Sites flagged for further investigation		
		Flagged national cases	Flagged cross-border cases	Total no. sites flagged for investigation
Austria (AT)	10	6	2	8
Belgium (BE)	59	8	19	27
Bulgaria (BG)	9	0	0	0
Cyprus (CY)	4	2	0	2
Czech Republic (CZ)	11	3	0	3
Denmark (DK) <sup>1</sup>	9	6	3	9
Estonia (EE)	2	0	0	0
Finland (FI)	10	10	0	10
France (FR)	20	14	5	19
Germany (DE)	29	22	6	28

<sup>1</sup>The preliminary results from Denmark seem to indicate potential minor breaches only and the Danish Consumer Ombudsman is currently investigating the implications of these results

Greece (GR)	6	2	0	2
Hungary (HU)	8	8	0	8
Iceland (IS)	6	2	0	2
Ireland (IE)	16	8	0	8
Italy (IT)	6	4	1	5
Latvia (LV)	8	6	0	6
Lithuania (LT)	5	2	0	2
Luxembourg (LU)	6	4	1	5
Malta (MT)	6	2	3	5
Netherlands (NL)	10	10	0	10
Norway (NO)	10	5	5	10
Poland (PL)	6	6	0	6
Portugal (PT)	13	2	0	2
Romania (RO)	10	7	0	7
Slovakia (SK)	10	5	1	6
Slovenia (SI)	4	0	0	0
Spain (ES)	40	17	11	28
Sweden (SE)	8	6	1	7
United Kingdom (GB)	73	21	1	22
<b>TOTAL</b>	<b>414</b>	<b>188</b>	<b>59</b>	<b>247</b>

### **Why were online sales of tickets for cultural and sporting events picked for the fourth sweep?**

People are using the internet more and more to check their entertainment options - to see what's on, when it's on, and to compare prices and offers for the best deals or the deal that suits them best. In 2009, about 35% of EU consumers who ever purchased anything online bought tickets either for a cultural or sporting event<sup>2</sup>. This trend results in better deals and more choice for many buyers. But one of the consequences is also a large number of consumer complaints in this product category. The European Consumer Centres (ECCs) report that 30% of the complaints about online shopping which they handled concerned Recreation and Culture services, of which Cultural and Sport Events form a great part (2009 data). These were the key reasons why the network of national enforcement authorities (CPC) decided to pick this product category for their present joint exercise.

### **Which countries participated in the sweep?**

27 EU Member States plus Norway and Iceland participated. The full list of participating authorities, and their press contacts, can be found under the link provided below.

<sup>2</sup> "Internet Usage in 2009", Eurostat, [http://epp.eurostat.ec.europa.eu/portal/page/portal/product\\_details/publication?p\\_product\\_code=KS-QA-09-046](http://epp.eurostat.ec.europa.eu/portal/page/portal/product_details/publication?p_product_code=KS-QA-09-046)

### Which product categories were concerned?

The sites that were targeted were those selling tickets for cultural events –i.e. concert, movies, theatre plays, and for sporting events –football matches, Formula 1 races.

### SWEEP PLUS

Seven countries (Belgium, France, Ireland, Romania, Spain, Sweden, United Kingdom) conducted an additional Sweep Plus exercise, which involved undertaking further investigation on the targeted websites, during the same days of the sweep, for example contacting the trader by phone. In particular it was checked if the tickets were non-transferable, (since while non-transferable tickets are allowed this must be clearly stated on the website before purchase), and if the trader sold tickets for non-existent events.

Countries participating in the Sweep Plus	Websites checked with Sweep Plus	Tickets non Transferable	Tickets for non existing events
Belgium	51	8	2
France	20	0	0
Ireland	16	7	0
Romania	10	0	0
Spain	3	0	1
Sweden	7	4	4
United Kingdom	57	14	0
<b>TOTAL</b>	<b>164</b>	<b>33</b>	<b>7</b>

### What are the EU consumer rules that the traders need to comply with for this sweep?

The following EU laws provide the legal basis for the sweep:

- **E-Commerce Directive 2000/31/EC.** This Directive defines some of the minimum information which online traders must provide, including the identity and contact details of the trader. Furthermore, it sets some additional information requirements (e.g. it establishes that the trader must confirm receipt of the order promptly and by electronic means accessible to the consumer. (Under the competence of DG Internal Market)<sup>3</sup>.
- **Unfair Commercial Practices Directive 2005/29/EC.** Under the UCP Directive, traders must display in a clear and intelligible way all the key information that consumers need to make an informed choice. This includes information on the main characteristics of the product, in this case the ticket (e.g. date and time of the event, price/seat category, venue, any restriction) and on the total cost including all extra delivery or postal charges wherever they can be reasonably calculated. (Under the competence of DG Justice)<sup>4</sup>.

<sup>3</sup> [http://ec.europa.eu/internal\\_market/e-commerce/index\\_en.htm](http://ec.europa.eu/internal_market/e-commerce/index_en.htm)

<sup>4</sup> [http://ec.europa.eu/consumers/rights/index\\_en.htm](http://ec.europa.eu/consumers/rights/index_en.htm)

- **Unfair Terms and Conditions Directive 1993/13/EC.** This Directive states that the terms and conditions of the sale contract must not be unfair, that is, must not cause a significant imbalance in the parties' rights and obligations to detriment of the consumer. It could happen, for example, if the seller states he will grant only a partial reimbursement if the event is cancelled or postponed. The Directive also includes an indicative and non-exhaustive list of terms which may be regarded as unfair. (Under the competence of DG Justice)<sup>5</sup>.

#### How many websites were investigated?

Of the 414 sites checked, 247 sites were flagged for further investigation to verify if they were in breach of specific provisions of the above consumer law.

#### What exactly was checked by the authorities?

Below is a checklist agreed upon by the network of national enforcement authorities before the sweep and used by all participating countries to check websites during the sweep.

- *Information about the trader*
  1. Are the name, geographical address and e-mail address of the trader provided?
- *Information about the offer*
  2. Is there clear information about the **main characteristics** of the product?
  3. Does the price **include taxes**?
  4. Is the consumer provided with information on **payment and delivery** arrangements?
- *Misleading practices*
  6. Is the information about the **trader** misleading?
  7. Is the information about the main characteristics of the **product** misleading?
  8. Is the presentation of the **final price to pay** the same as stated in the information provided before the purchase?
- *Unfair Terms and Conditions*
  9. Does the website contain any **unfair Terms and Conditions**?
    - 9a. Are the Terms and Conditions drafted in a **plain and intelligible** language?

**Table: Most common problems found on websites flagged for further investigation.**

Type of problem checked	Details of problem	Total number of websites where problems were detected	% of websites where problems were detected
<b>Missing, incomplete, or misleading information about the price</b>	-Price not inclusive of taxes (hidden taxes or charges), e.g. additional freight, delivery or postal charges -Information about the price is not provided in a clear, intelligible, unambiguous and timely manner	<b>181</b>	<b>74%</b>
<b>Unfair terms and</b>	-The terms and conditions appearing on the website are unfair (e.g. the trader excludes or	<b>178</b>	<b>73%</b>

<sup>5</sup> [http://ec.europa.eu/consumers/rights/gen\\_rights\\_en.htm#uct](http://ec.europa.eu/consumers/rights/gen_rights_en.htm#uct)

<b>conditions</b>	limits the right of the consumer to be refunded in case of cancellation of the event not due to extraordinary circumstances; delivery is not guaranteed on time (where it is not a case of extraordinary circumstances)  -Terms and conditions are unclear (e.g. not drafted in a plain and intelligible manner)		
<b>Missing, incomplete or misleading information about the trader</b>	-Identity, geographical address and e-mail address of the trader not provided  -information not provided in a clear, intelligible, unambiguous and timely manner  -misleading information provided about the trader (e.g. the trader is presenting himself as authorised by the promoter, when he is not)	<b>116</b>	<b>48%</b>

**\*Some websites contained one or several of the above problems**

### **How did the authorities pick the sites to check?**

The following alternative selection criteria were used:

- Website found through one of the popular search engines in the Country, which usually redirects to most popular websites selling tickets in that Country (a total of 359 sites checked on the basis of this criteria);
- The most problematic sites, based on consumer complaints received by the enforcement authority (a total of 24 sites checked on the basis of this criteria);
- Website found through offline advertising (a total of 31 sites checked on the basis of this criteria).

### **Were the same websites checked by different Member States?**

In general no. However, sometimes a website is used by people in different countries and some websites adapt the language regime to fit that reality.

### **What kinds of problems do consumers actually experience on this market?**

The example below is a real case reported by a European Consumer Centre (ECC). It illustrates the kind of problems that European consumers are frequently faced with.

#### **Case study**

*In May 2007 a Slovenian consumer bought two tickets from an Italian trader for Jammin festival in San Giuliano Park near Venice. The festival was supposed to be held from 14 to 17 June 2007. He bought tickets to the value of 215 euro. During the festival on 15 June there was a big storm, which caused the collapse of the whole sound construction, which hurt 25 people. The organizers were forced to stop the festival. People at the festival were told they would get reimbursement for their tickets. On 16 of June the consumer returning from the festival stopped in Trieste in order to get reimbursement. At the trader's premises he was told he could not be reimbursed his tickets as it was too early and the trader hadn't received the official notice from the organiser. The consumer insisted, claiming that the information about the closing of the festival was official and was posted on the organiser's website too. On 28 June the consumer went back to the trader's premises to get his tickets reimbursed. However, he was told that he was too late as the deadline for the reimbursement was one day earlier, the 27 of June. After the intervention of ECC Slovenia and ECC Italy the consumer received the reimbursement.<sup>6</sup>*

<sup>6</sup> Source "The European Consumer Centres Network – 2007 Annual Report"

### **What should consumers check when they go to buy tickets online?**

Consumers should:

- *Check that the contact details of the trader can be found on the site.*
- *Check that they have complete information about the price: price should be inclusive of all taxes, and information about the price should be provided in a clear, intelligible, unambiguous and timely manner.*
- *Check the terms and conditions, especially to see if delivery is guaranteed on time (except in the case of extraordinary circumstances) or if the trader guarantees full reimbursement in case of cancellation of the event not due to extraordinary circumstances.*

### **What is the cross-border dimension?**

The sweep identified 59 cross-border cases which have been flagged for further investigation. (24% of all the sites flagged). This could be interpreted as showing that online commerce in Europe is still largely confined within national borders. A report on e-commerce published by the Commission in March 2009 (see [IP/09/354](#))<sup>7</sup> shows that only about 7% of European consumers shop online across borders and only 21% of online retailers sell cross-border. Obstacles include language and regulatory barriers, as well as low consumer confidence on issues such as delivery and payment.

But the potential is clearly there: according to the findings, one out of three European consumers would consider buying a product or a service online from another EU country if it were cheaper or better. One of the ways to boost consumer confidence is through effective, co-ordinated enforcement action, of which the EU-wide sweeps are a prime example.

## **NEXT STEPS**

### **What happens next, as a follow-up to these findings?**

Following on from the initial findings, national enforcers will contact the traders responsible for the non-compliant websites, asking them to correct the irregularities or face legal sanctions. For cross-border cases, this enforcement phase will involve requesting investigative and enforcement assistance from enforcement authorities of other countries. Cases where the business and the consumer are situated in the same country will be followed by the relevant national authority.

Feedback on the first results of these enforcement actions is to be provided to the Commission by mid-2011.

### **What about enforcement in the future, how is this developing?**

In July of last year, the Commission adopted a Consumer Enforcement Package which identified ways of making enforcement more effective and coherent throughout the EU. The aim is to ensure that this blueprint is translated into concrete initiatives for the future.

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<sup>7</sup> "Report on cross-border e-commerce in the EU":  
[http://ec.europa.eu/consumers/strategy/docs/com\\_staff\\_wp2009\\_en.pdf](http://ec.europa.eu/consumers/strategy/docs/com_staff_wp2009_en.pdf)

This includes:

- Strengthening co-operation between national enforcers through developing a coordinated multi-annual Enforcement Action Plan; exchanging information and knowledge sharing; providing financial support to joint projects; and developing best practice through the endorsement of Handbooks and Guidelines;
- Developing transparency and visibility of enforcement activities through increased Communication activities and targeted media actions both at European and national level;
- Reinforcing market monitoring and evidence-based policies by developing enforcement indicators; the Consumer Markets Scoreboard; and harmonising the methodology for classifying complaints.

**National press contacts for the 2010 Sweep can be found under the following link:**

[http://ec.europa.eu/consumers/enforcement/sweep/online\\_ticket\\_sales/national\\_press\\_contact\\_en.htm](http://ec.europa.eu/consumers/enforcement/sweep/online_ticket_sales/national_press_contact_en.htm)

## **GENERAL BACKGROUND**

### **What is a sweep?**

An "EU sweep" is a joint EU investigation and enforcement action to check for compliance with consumer protection laws. It involves carrying out a targeted and coordinated check on a particular sector in order to see where consumer rights are being compromised or denied. National enforcement authorities then follow up on these findings, contacting the non-compliant companies and demanding that they come into line with the relevant requirements. Legal action can be taken against operators who violate EU consumer law.

### **How does a sweep work in practice?**

#### ***There are two phases:***

The first phase is the co-ordinated sweep action. National authorities systematically and simultaneously check a particular market for practices which breach EU consumer law. All the authorities use a common checklist of irregularities that they are looking for. For instance, it is against EU-wide consumer rules not to provide full contact details of the trader, or not to inform online buyers clearly about their right to withdraw from the transaction.

The second phase is the enforcement action. During the enforcement phase, authorities further investigate traders which are suspected of irregularities, and take follow-up actions to ensure that non-compliant conduct is corrected and to impose appropriate sanctions. National authorities investigate and take enforcement actions for national cases. For cross-border cases (where the trader operates from another country), enforcement authorities can ask for assistance from authorities in other countries. This is possible thanks to the Consumer Protection Co-operation (CPC) Network of national enforcement authorities from 27 EU Member States as well as Norway and Iceland. During this enforcement phase the companies have a right of reply and an opportunity to correct practices which are illegal. Those who fail to do so can face legal action leading to fines or to their websites being closed.

### **How long does enforcement take?**

It varies. Some companies are ready to correct mistakes after the first contact by the enforcers while others tend to postpone the necessary changes or even challenge the findings. The length of the enforcement phase depends on how complex the individual cases are or whether they require international coordination. Complex cases – e.g. those involving several sites in different countries – may last even longer than a year.

### **How do you contact websites that do not have contact details (which is one of the problems identified with many of these websites)?**

Authorities have the necessary powers and tools to establish the identity of operators – either those owning the site or at least those operating the server on which it is based. If the identity of the (legal or private) person operating a problematic website cannot be established and therefore enforcers cannot contact it, the authorities may request the webserver operator to shut it down.

### **Why does a sweep require EU co-operation?**

Online selling concerns a certain percentage of operators located in countries different from the consumers' country. Tackling rogue online traders across borders would be difficult without an EU-wide network. For example, a website selling to France may well be based in Belgium, and to challenge an illegal practice in this case France needs to ask Belgian authorities for co-operation. Handling such cases as part of a co-ordinated, simultaneous EU-wide check reduces the risk of a duplication of effort and is therefore good use of resources.

A co-ordinated EU-wide action also has clear added value at national level since the sweep is not just about cross-border cases but also about acquiring and sharing the experience of enforcing the legislation at national level. Experience gained by enforcement authorities at national level will also benefit them when handling cross-border cases. This is important as the CPC Network builds its capacity in its first years of operation.

### **What sanctions can be imposed?**

EU consumer laws are enforced – and sanctions and penalties are therefore set – at national level. Possible measures can include a request to a company demanding to change or cease a prevailing practice, imposing and collecting fines, or as a last resort, may ultimately lead to the closing down of the websites. Enforcement authorities are obliged to take measures (repeatedly if need be) until the infringement has ceased.