

Strengthening cross-border enforcement of consumer law in the EU

Recommendations of the Advisory Council for Consumer Affairs for a reform of the CPC Regulation

At a glance:

The Advisory Council for Consumer Affairs (SVRV) recommends strengthening the cross-border enforcement of consumer law through a reform of the CPC Regulation. The coordinated procedures of the CPC network should be better structured and accelerated in order to remedy cross-border infringements quickly and effectively.

The SVRV also advocates, in principle, that the European Commission should assume a stronger role in cross-border enforcement. To this end, the Commission should be granted its own investigative and enforcement powers for particularly serious infringements with EU-wide significance.

In the SVRV's view, the concerns expressed in this context regarding the conversion of the Unfair Commercial Practices Directive into a regulation can be addressed through appropriate legislative drafting. In doing so, it must be ensured that the well-established structures of private enforcement are not weakened. In particular, it should be explicitly clarified that the existing national rights of action held by consumer and competition associations, as well as competitors, are retained.

Effective consumer protection and the protection of fair competition can only function if consumer rights are enforced swiftly and effectively. In Germany, this is achieved primarily through private enforcement by consumer and competition associations, as well as competitors. At the national level, the private enforcement system is generally considered strong and effective.¹

However, cross-border enforcement within the European single market poses a particular challenge. In this regard, the Regulation on Cooperation in Consumer Protection² (CPC Regulation) sets out the conditions under which the competent authorities of the Member States cooperate with one another and with the European Commission to ensure compliance with European consumer law.

¹ See Podszun/Busch/Henning-Bodewig, Behördliche Durchsetzung des Verbraucherrechts? – Darstellung und Systematisierung von Möglichkeiten und Defiziten der privaten Rechtsdurchsetzung des Verbraucherschutzes sowie Einbeziehung der Kartellbehörden zu dessen Durchsetzung, Study commissioned by the Federal Ministry for Economic Affairs and Energy, February 2018; see also Podszun/Busch/Henning-Bodewig, GRUR 2018, 1004 et seq.; see further Poelzig, BKR 2021, 589 et seq.

² Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27 December 2017, p. 1).

Significant successes have been achieved in recent years in the context of cross-border cooperation on administrative enforcement. However, the evaluation³ of the CPC Regulation and the final report⁴ on the Digital Fairness Fitness Check from 2024 have revealed a number of shortcomings in enforcement. These include, amongst other things, lengthy proceedings, a lack of resources and difficulties in tackling infringements committed by companies based in third countries.

Against this backdrop, the European Commission announced a reform of the CPC Regulation in November 2025 as part of the Consumer Agenda 2030.⁵ A legislative proposal is expected in the fourth quarter of 2026. Although the details of the planned reform have not yet been finalised, the SVRV would like to take this opportunity to comment on some key points that have been discussed so far.

Effective enforcement of consumer law strengthens fair competition

The SVRV welcomes the European Commission's plans to reform the CPC Regulation. Effective cross-border enforcement serves to protect consumers whilst also strengthening fair competition. Businesses operating in compliance with the law must not be disadvantaged by enforcement that is too slow or fragmented.

In particular, the rapid growth of e-commerce, new digital business models and the increasing importance of suppliers from third countries are posing growing challenges for consumer law enforcement at European level.⁶ The forthcoming Digital Fairness Act is intended to close newly emerging gaps in protection by supplementing substantive consumer law.⁷ However, in addition to modernising substantive consumer law, it is also necessary to strengthen enforcement.

CPC proceedings must become faster

Rapid and effective enforcement is crucial for the effective protection of consumer rights. To date, however, proceedings within the CPC network have usually taken several months or years.⁸ This jeopardises not only consumer protection but also the competitiveness of businesses operating in compliance with the law.

The coordinated procedures of the CPC network should therefore be better structured and accelerated in order to swiftly and effectively remedy to cross-border infringements. In particular, consideration should be given to introducing binding time limits for individual procedural steps, such as responding to requests for administrative assistance, initiating coordinated measures or agreeing on a common position within the CPC network. When setting these deadlines, it must be taken into account that complex cases may sometimes require additional time. In justified cases, a flexible extension of the deadline should be possible.

Strengthening the European Commission's role through new enforcement powers

The enforcement regime under the CPC Regulation is based on coordination between national authorities. This decentralised model should be maintained in future. In certain cases, however, this approach reaches its limits. This applies in particular to the fight against EU-wide infringements committed by traders based outside of the EU. A further weakness of the decentralised enforcement system is that the CPC network can

³ Report from the Commission to the European Parliament and the Council on the application 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, 25 July 2024, COM(2024) 311 final (hereinafter: Evaluation Report on the CPC Regulation).

⁴ Commission Staff Working Document, Fitness Check of EU consumer law on digital fairness, 3 October 2024, SWD (2024) 230 final, p. 48 et seq.

⁵ European Commission, Consumer Agenda 2030, 19 November 2025, COM(2025) 848 final, p. 16 et seq.

⁶ Evaluation Report on the CPC Regulation, p. 7 et seq.

⁷ See also SVRV, 'Perspectives for a Digital Fairness Act', September 2025; SVRV, 'A moratorium on EU digital legislation is not a solution', June 2026.

⁸ Evaluation Report on the CPC Regulation, p. 19 ff.

conduct joint investigations, but it cannot impose joint sanctions, such as fines.⁹ This weakens the deterrent effect of the enforcement regime.

Against this background, the European Commission should assume a stronger role in cross-border enforcement.¹⁰ The SVRV therefore advocates that the Commission be granted its own investigative and enforcement powers for particularly serious infringements with EU-wide significance. In order to ensure legal certainty regarding the scope of national and European enforcement, the criteria for the European Commission's jurisdiction should be clearly defined in the CPC Regulation. It would appear sensible to limit the European Commission's jurisdiction to 'widespread infringements with a Union dimension' as defined in Article 3(4) of the CPC Regulation.¹¹ Following the model of Section 32e(6) of the German Act against Restraints of Competition, the European Commission's competencies should furthermore be limited to 'significant, persistent or repeated infringements of consumer protection laws'. In contrast, limiting the Commission's competencies to specific industries or sectors, such as the digital sector, does not appear advisable, as this would lead to difficulties in defining the scope of such competencies.

To ensure that the European Commission's new powers have a practical impact, adequate resources – both in terms of funding and staffing – should be provided. At the same time, greater emphasis should be placed on the use of electronic investigation and enforcement tools ('enforcement technology'). Furthermore, the enforcement of consumer law should be carefully coordinated with the enforcement of other regulations, in particular the EU Digital Rulebook (AI Act, Data Act, DMA, DSA, etc.). The aim should be to prevent both enforcement gaps and over-enforcement, as well as avoiding duplication of institutional structures. Furthermore, the European Commission's exercise of its powers should be independent and free from political influence, and oversight and review in accordance with the rule of law by the European courts should be guaranteed.

Conversion of the UCPD into a Regulation

The creation of specific enforcement powers for the European Commission in the field of consumer law raises the question of the substantive legal basis on which the Commission is to act. In this context, the European Commission is considering converting the Unfair Commercial Practices Directive (UCPD)¹² into a Regulation. Significant reservations have been raised against such a conversion.¹³ In particular, there are fears that this could weaken the well-established structures for enforcing unfair commercial practices law. These concerns must be taken seriously, but they can be addressed through appropriate legislative design.

The choice of legal form – Directive or Regulation – does not in and of itself determine how the substantive rules are enforced. The example of the GDPR shows that the provisions of an EU regulation can be enforced both through public and private enforcement.¹⁴ Further examples of Regulations that provide for the coexistence of administrative and private enforcement are the Digital Services Act and the P2B Regulation.¹⁵ Should the UCPD be converted into a Regulation, it should be expressly clarified that the existing national rules giving

⁹ Evaluation Report on the CPC Regulation, p. 18.

¹⁰ See also Podszun, in: FS Harte-Bavendamm, 2020, pp. 417, 431 (arguing in favour of strengthening the Commission's enforcement powers).

¹¹ According to the legal definition in Article 3(4) of the CPC Regulation, a 'widespread infringement with a Union dimension' is a widespread infringement that has done, does or is likely to do harm to the collective interests of consumers in at least two-thirds of the Member States, accounting, together, for at least two-thirds of the population of the Union.

¹² Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market.

¹³ See BDI, DIHK, vzbv et al., Statement on the possible conversion of the Unfair Commercial Practices Directive into a regulation, 5 May 2026.

¹⁴ See Wiebe, GRUR 2025, 2213 et seq. (on private enforcement in data protection law).

¹⁵ See Zurth, GRUR 2023, 1331 et seq.; Steinrötter, MMR 2026, 3 et seq. (on private enforcement under the Digital Services Act); Busch, Journal of Anti-trust Enforcement 2024, 201 et seq. (on the enforcement of the P2B Regulation).

rights of action to consumer associations, and competition organisations, as well as competitors will be preserved.

In the medium term, the conversion of the UCPD into a Regulation could increase legal certainty, as interpretation issues arising from the differing implementation of the Directive across Member States would be eliminated in future. The short-term transition costs associated with removing consumer protection rules from the German Act against Unfair Competition (UWG) would thus be offset by a long-term gain in legal certainty. The UWG would continue to apply to the B2B sector. Duplication of regulation could be avoided by having the UWG refer to the new Regulation. This would also ensure consistency in the application of legal standards between consumer law and the B2B sector.

A regulatory mix of private and public enforcement

The aim of the reform should be to create a carefully balanced regulatory mix that combines the strengths of public and private enforcement. The well-established system of private enforcement is characterised above all by swift and effective enforcement. In some circumstances, however, the system of private enforcement reaches its limits.¹⁶ In particular, cross-border cases often present investigative challenges. Another problem is the limited scope of injunctions, which generally only have *inter partes* effect. Furthermore, the literature on law and economics expresses considerable doubts regarding the preventive effect of injunctions.¹⁷ The introduction of new investigative and enforcement powers for the European Commission could help to compensate for these shortcomings of private enforcement.

¹⁶ See in this regard Podszun/Busch/Henning-Bodewig, GRUR 2018, 1004, 1007 et seq.

¹⁷ See Wagner, Neue Perspektiven im Schadensersatzrecht, Verhandlungen des 66. DJT, Vol. 1, 2006, A 110; Towfigh/Chatzathanasiou, in Schulte-Nölke/BMJV (eds.) Neue Wege zur Durchsetzung des Verbraucherrechts, 2017, pp. 100, 105.

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Authorship

Prof. Dr. Christoph Busch, Philipp Andree, Prof. Dr. Oliver Büttner, Tatjana Halm, Prof. Dr. Peter Kenning and Prof. Dr. Christa Liedtke are the lead authors of this position paper.

Legal notice

Advisory Council on Consumer Affairs
at the Federal Ministry of Justice and
for Consumer Protection
Anton-Wilhelm-Amo-Straße 37
10117 Berlin

Telephone: +49 (0) 30 18 580-8503
Email: info@svr-verbraucherfragen.de
Website: www.svr-verbraucherfragen.de

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The Advisory Council for Consumer Affairs is an independent body which, drawing on scientific findings and taking practical experience into account, advises the Federal Ministry of Justice and for Consumer Protection on the formulation of consumer policy.

The Council has nine members. The Chair of the Council is Prof. Dr. Christoph Busch.