



**CONSUMERS
INTERNATIONAL**

COMING TOGETHER
FOR CHANGE

WORLD CONSUMER RIGHTS DAY 2018 BRIEFING: BETTER PROTECTION ONLINE

MAKING DIGITAL MARKETPLACES FAIRER



WHY IS PROTECTION ONLINE SO IMPORTANT?

A major contributor to lack of consumer trust is fear of being cheated¹ or discovering unexpected and unwelcome costs. Sometimes these arise from scams (see World Consumer Rights Day 2018 briefing: [Scams and Fraud](#)) sometimes from unfair, unclear and confusing business practices. Some of these practices are described below.

DRIP PRICING

Drip pricing is a misleading technique used by some online retailers of goods and services whereby a headline price is advertised at the beginning of the purchase process, following which additional fees, taxes or charges, which may be unavoidable, are then incrementally disclosed or “dripped.”

Drip pricing has been particularly criticised in the air travel industry, with examples of some airlines seemingly competing to find new items for which to add incremental charges. In 2017 Virgin and Jetstar were fined \$200,000 and \$545,000 respectively by the Australian Competition and Consumer Commission for their use of “drip pricing” techniques, in contravention of Australian consumer law.²

Drip pricing techniques often apply to delivery costs. In 2016, an International Post Corporation online survey of 24,331 respondents in 26 countries, 92% said that clear information about delivery charges before purchase was the most important aspect of delivery when shopping online, ahead of a host of other aspects, including whether delivery was free, and ability to choose payment method.³

PRICE DISCRIMINATION

Some online retailers engage in price discrimination tactics that mean consumers are charged different prices according to their location, browsing history and operating system; so much so that researchers in the USA have developed a tool to help consumers spot price discrimination.⁴ Big platforms like Amazon also use complex algorithmic pricing models that can lead to consumers paying higher prices on certain items.⁵

COMPARISON SITES

Price comparison sites can be misleading about the markets that they claim to represent. Energy price comparison sites in the UK, for instance, have been caught hiding the genuinely cheapest deals and promoting instead those from which they receive commission.⁶

In April 2017 research by the European Commission and EU Consumer Protection Authorities found that 67% of price comparison and travel booking websites were misleading users with unreliable price figures.⁷ The research included 352 price comparison websites in 28 different countries and found a range of misdemeanours used to squeeze extra money from consumers. As many as 235 of the sites were found to have displayed prices which were “not reliable”. This included tactics such as imposing additional tariffs towards the



1 In a recent CIGI-Ipsos online survey of 24,225 internet users in 24 countries 22% of online respondents said that they never shop online. Of these 22%, 49% of these said gave lack of trust as the reason. [‘Global Survey on Internet Security & Trust’, CIGI-Ipsos, 2017.](#)

2 [‘Jetstar and Virgin handed penalties for ‘drip pricing’ techniques’, Sydney Morning Herald, 07/03/17](#)

3 International Post Corporation, [‘Cross border e-commerce shopper survey 2016’, January 2017](#)

4 [‘New web tool helps online shoppers detect price discrimination on e-commerce sites’, Phys Org, 13/12/2016](#)

5 [‘How online shopping makes suckers of us all’, The Atlantic, May 2017](#)

6 [‘Don’t be fooled by price comparison sites’, Reaction Life, 29/09/16](#)

7 [Booking your holidays online: Commission and consumer protection authorities act on misleading travel booking websites, European Commission, 7/4/17](#)

end of the booking process, or showcasing promotional offers which did not exist.

TERMS AND CONDITIONS AND DISCLOSURE STATEMENTS

In a 2017 internal survey, almost 60% of Consumers International members said that consumers only sometimes have accurate, accessible (and where necessary comparable) information about digital products and services when shopping online. Disclosure statements are often far too long and use opaque language. Approaches such as notice and consent which aim to offer consumer protection by providing ample information about products and gaining agreement to proceed no longer work effectively, leaving consumers with little option other than to 'tick, click and hope for the best'.

Consumers International's G20 recommendations asked that: information about the policies and processes of the providers and the rights of the consumer should be easy to read, understand and use. Anything that is beyond what a consumer might reasonably expect should be the subject of a notification; this is more important than ever when consumers are engaging in cross border e-commerce.

LACK OF REDRESS

To trust online shopping, consumers need to know that any problems can be easily sorted out. A recent survey that asked over 18,430 participants in 51 countries,⁸ found over half of consumers said websites that make it easy for customers to contact people at the company made it more trustworthy.

However, consumers' access to redress varies a lot according to country or region. Consumers International members from Europe and North America were the most confident about consumers' right to redress, conversely less than 10% of members from Africa and Latin America and the Caribbean agreed that consumers have regular access to redress. Nowhere is it absolutely guaranteed and there is no global system of redress.⁹

Access to online redress is not the only challenge facing consumers trying to sort out problems. A lack of knowledge or understanding of their rights can be a major obstacle. A 2015 survey conducted in the EU, for instance, showed that most consumers making digital purchases were unaware of their rights from the outset.¹⁰

EASIER REDRESS? ONLINE DISPUTE RESOLUTION

Online dispute resolution (ODR) allows businesses and consumers to negotiate disputes with each other, either directly or through a mediator. There are various schemes around the world: The EU and China have both developed ODR systems, and Consumers International member PROFECO offers consumers in Mexico access to redress for e-commerce through its Concilianet ODR system.

However, in our 2017 survey of members, over half said that ODR systems are not offered by digital providers in their country and that there is no legal obligation on providers to do so.

ODR is an important part of redress, but is not enough on its own and other channels should be provided as part of a wider system of redress.

PROTECTING CONSUMERS ACROSS BORDERS

When shopping cross-border, problems relating to redress are amplified. Cross-border dispute resolution does not allow effective and cheap methods for consumers to return goods and get their money back quickly and at a reasonable cost. Another obstacle for consumers buying across borders is finding that their contract is either subject to a foreign law, or may be dealt with in a foreign court, or that their contract is subject to clauses that stop them seeking redress in a state sponsored forum.

⁸ ['The truth about online consumers survey'](#), KPMG, 2017

⁹ ['Empowering Consumers Through Global Redress Systems'](#), Faculty of Law, The University of Oxford, 11/04/17

¹⁰ ['Identifying the Main Cross-border Obstacles to the Digital Single Market and Where They Matter Most'](#), European Commission & GfK joint report, 2015

The complexity of cross border disputes was highlighted by a [case](#) Consumers International looked at recently. A company based in Denmark was using adverts on social media platforms to target consumers in multiple countries with unsolicited goods, invoices and threatening letters. Consumer protection agencies in at least eight countries got involved, alongside a number of Consumers International members. Legal procedures against the company have been instigated in Denmark and the adverts have been taken down from Facebook and Instagram. Despite this, the company continues to promote its products on Facebook via business pages, raising questions about the liability of platforms.



FAKE OR MISLEADING REVIEWS

Consumers generally trust online reviews. 90% of US consumers take into account online reviews¹¹ and a 2015 study in Europe found that 78% of European consumers do too.¹²

Online retailers can and do however, purchase fake reviews that encourage consumers to buy goods and services. Roughly 16% of restaurant reviews on Yelp are fake, according to a 2013 study.¹³ And up to 15% of all online reviews in 2012 were predicted to be fake by 2014.¹⁴

Consumer protection agencies across the world have taken action against misleading reviews in at least 16 cases in the last two years, including one preventing a US business using fake online reviews that had been posted by its own employees, and another obtaining commitments from four separate Norwegian online newspapers to ensure that marketing content is clearly distinguishable from editorial content.¹⁵ Another recent case in Australia saw a property services company accused of misleading conduct by preventing guests from posting negative reviews of their experiences on TripAdvisor.¹⁶

11 [‘Survey: 90% Of Customers Say Buying Decisions Are Influenced By Online Reviews’](#), Marketing Land, 09/05/2013

12 [‘Cross-border online shopping within the EU: Learning from Consumer Experience’](#) ANEC, 02/12/2015

13 M Luca & G Zervas, ‘Fake it till you Make it: Reputation, Competition, and Yelp Review Fraud’, 2015

14 [‘10-15 Percent of Social Media Reviews to Be Fake, Paid for By Companies’](#), Gartner, 17/09/2012

15 [‘Why it’s about to get harder to post fake reviews online’](#), The Telegraph, 31/07/2017

16 [‘Tripadvisor’s Mystery Black Box Algorithm Front and Centre in Courtcase Against Meriton’](#) Domain, 05/06/2017

CALL TO ACTION

Members can use World Consumer Rights Day 2018 to call on governments and businesses to act against unfair, unclear or misleading practices; to ensure access to redress and to raise awareness amongst consumers. Consumers International's recommendations for [Building a Digital World Consumers Can Trust](#) call for:

- Digital consumer protection and empowerment to be an integral part of the regulatory framework to effectively address the complexity of digital markets and the experience of consumers online. The consumer protection framework should meet requirements as set out in international guidelines, recommendations and regulations such as the [UN Guidelines on Consumer Protection](#), and provide consumers with an equal level of protection whether their activities are carried out online or offline and regardless of location.
- Treating consumers fairly should be an integral part of the objectives, good governance and corporate culture of all digital providers, and they should be held responsible for upholding digital consumer protection. Companies should adhere to the best practice guidelines of the United Nations Guidelines for Consumer Protection which state that all consumers of digital products and services should be treated equitably, honestly and fairly at all stages of their relationship with product and service providers.
- Clear information about digital products, providers, processes and consumers rights should be of practical use to consumers. It should be easy to access in order to enable consumers to understand the implications of their activities online, and facilitate confident, informed decision making.
- Rights to redress in the online world should not be less than those available for other forms of commerce.
- Companies offering online transactions should have strong internal dispute mechanisms that do not impose unreasonable cost, delays or burdens on consumers.
- Recourse to independent redress should be available to address complaints that are not satisfactorily resolved by internal mechanisms.
- Redress mechanisms should incorporate new consumer issues arising from digital products and services, such as cross sectoral or cross border transactions, loss of service, failure of essential updates or other inconvenience or distress caused by product failure.
- Where complaints or problems involve multiple providers and/or sectors, it must be clear where a consumer should go for assistance. Regulators should work across jurisdictions to support cross border dispute resolution.
- Complaints handling and redress mechanisms should be accessible, affordable, independent, fair, accountable, timely and efficient. Aggregate information with respect to complaints and their resolutions should be made public.
- With regard to the large numbers of consumers that may be impacted, appropriate mechanisms to solve

See the OECD recommendations for [Consumer Protection in e-commerce](#) for more detailed calls on: Transparent and effective protection; fair business practices; online disclosures; payment protection and consumer education, awareness and digital competence.

KEEP IN TOUCH

By sharing information with Consumers International about what you are doing for World Consumer Rights Day and using the hashtag **#betterdigitalworld** your activities will contribute to a global day of action.



USEFUL RESOURCE: UNCTAD CYBERLAW TRACKER

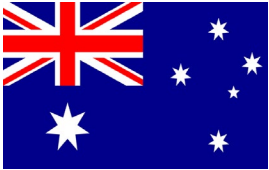
Check what kind of legislation is in place in your country to protect consumers online with the [UNCTAD's cyber law tracker](#).

CASE STUDIES: EXAMPLES OF CONSUMER INTERNATIONAL MEMBER ACTIVITIES TO PROMOTE PROTECTION OF CONSUMERS FROM BAD PRACTICES



The Consumer Association of Iceland

The Consumer Association of Iceland has a section on its website aimed at educating consumers on the potential pitfalls of [shopping online](#). The information focuses specifically on consumers making cross-border purchases within the European Economic Area (EEA). The page contains easy-to-understand information about consumers' legal rights when shopping online, how to spot drip-pricing, and how to make safe payments online.



CHOICE

CHOICE has launched a campaign calling for improvements to the [online ticket resale industry](#). This follows a complaint made by CHOICE that certain online ticket resellers breached Australian Consumer Law by engaging in misleading and deceptive conduct. Their report, released in September, states the main problems consumers face when buying tickets online are hidden fees, unfair sales tactics and poor customer service. Included in the report are a number of proposed reforms aimed at ticketing companies and resale websites.



Profeco

Consumers International member PROFECO offers consumers in Mexico access to redress for e-commerce through its [Concilianet ODR system](#).



Consumentenbond

Our Dutch member Consumentenbond has [created a checklist for consumers](#) to help them take the necessary safety and security precautions when shopping online.

