



Netherlands Consumer Authority
Ministry of Economic Affairs

2012

ANNUAL REPORT

Oversight and information | results

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Foreword



In this Annual Report, the Netherlands Consumer Authority (CA) looks back on the first year of its two-year Agenda 2012-2013.

In our oversight, we aim to solve the biggest problems in the focus areas we identified. This means our oversight efforts begin with a thorough analysis of the problem. Next, it is explored in what way the problem can be solved, what approach is needed in order to do so, what instruments (or combination thereof) must be used, and with what parties (private and public

partners) cooperation can be sought. For example, consumer education can be used as an instrument: explaining to consumers what their rights are, and informing businesses about the rules that need to be applied. Sometimes, the problem can also be solved by having a conversation with the business in question, or by making it make a commitment. In other situations, a penalty may be the most appropriate instrument. When choosing an instrument (or a combination thereof), the basic principle is always: what is the actual problem, and in what way will the problem be solved most effectively for consumers? In 2012, the CA focused on solving urgent problems faster with the aim to prevent further consumer harm.

In 2012, all employees of the CA put much effort in the preparations for the new authority that will be created through the merger with the NMa and OPTA: the Netherlands Authority for Consumers and Markets (ACM). Much was asked from all of us, but the whole process did demonstrate everyone's commitment to their jobs and the organization.

I'm proud of the results we have achieved, and I would like to invite everyone to learn more about them in this Annual Report.

Bernadette van Buchem
Director of the Netherlands Consumer Authority

[PRINT](#)

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Oversight and information

Strengthening the position of consumers

The Netherlands Consumer Authority enforces compliance with consumer protections laws.

Its mission is promoting fair business practices between businesses and consumers, taking the economic interests of consumers as its starting point.

The CA has been granted a range of **powers** to investigate violations of and to force compliance with consumer protection laws. At the same time, the CA provides consumers with practical advice about their rights and obligations through consumer information portal ConsuWijzer. The CA is an agency under the Ministry of Economic Affairs. Its duties and powers have been laid down in the Dutch Act on Enforcement of Consumer Protection (Whc).

ConsuWijzer

ConsuWijzer serves as the information portal for consumers of three regulatory authorities: the CA, the Netherlands Competition Authority (NMa) and the Netherlands Independent Post and Telecommunication Authority (OPTA). From an organizational point of view, ConsuWijzer is part of the CA.

ConsuWijzer's objective is to make consumers aware of their rights and obligations, and to provide consumers with practical advice on how they can take action to resolve their problems themselves. Consumers can visit www.consuwijzer.nl to ask questions, report complaints, seek information and download sample letters. The questions and complaints ConsuWijzer receives also give the authorities an idea of current market issues, which makes the portal a perfect barometer.

Cooperation with other organizations

National cooperation

The Netherlands Consumer Authority (CA) in 2012 once again worked closely together with other regulators, social organizations and self-regulatory bodies. If so needed, coordination takes place with other regulators, such as the Netherlands Independent Post and Telecommunications Authority (OPTA), the Netherlands Competition Authority (NMa) and the Netherlands Authority for the Financial Markets (AFM) about how to best tackle consumer rights violations.

On April 1, 2012, the Netherlands Gaming Authority was created. Some of its [regulatory activities](#) overlap with those of the CA. Therefore, a cooperation protocol has been drawn up, so that both organizations are able to take action against violations under their own powers effectively and efficiently.

Cooperation with social organizations is also reflected in the National Forum, which are meetings that the CA regularly holds with consumer and trade organizations. Current events and priorities are discussed during these meetings.

In addition, the CA in 2012 took part in the Consultation Forum of Regulatory Bodies (MTB), which includes the abovementioned authorities as well as other authorities, such as the Dutch Healthcare Authority (NZa), the Dutch central bank DNB, and the Dutch Data Protection Authority (CBP). The MTB's primary objective is to exchange knowledge and experiences.

Partners in the National Forum are:

- Dutch consumer association Consumentenbond
- the European Consumer Centers network
- The Legal Service Counter
- Dutch small and medium-sized business association MKB Netherlands
- National Ombudsman of the Netherlands
- Dutch Complaints Boards Foundation
- Dutch Advertising Code Foundation
- the Confederation of Netherlands Industry and Employers (VNO-NCW)
- Dutch Retail Council

Towards ACM

In March 2011, the then Dutch administration decided to have the CA, the Netherlands Independent Post and Telecommunication Authority (OPTA) and the Netherlands Competition Authority (NMa) merge into a new regulator: the Netherlands Authority for Consumers and Markets (ACM). This move was part of the central government's plans towards a smaller, more efficient and effective government.

For the most part of 2012, the CA's activities were primarily focused on the preparations for the upcoming merger. One of 2012's milestones was when the Minister of Economic Affairs approved the so-called Organization Decision on June 6, 2012. This decision detailed the most important aspects of the new organization, such as its organizational structure, its culture, what duties the different departments will have, and how the ACM will be funded. Furthermore, preparations were made in 2012 for the integration of the IT and HR systems, as well as that of the corporate services departments.

The merger of the three authorities is realized through two separate bills: the earlier mentioned establishment bill and a substantive bill. The former bill concerns the creation of the new authority, while the substantive bill will simplify procedures, and streamline powers.

On February 26, 2013, the Dutch Senate passed the Establishment Act. This Act is the statutory foundation of the new regulator that is created on April 1, 2013.

International cooperation

The CA maintains relationships with a number of partners at an international level as well. First, the CA and its counterparts in other EU Member States work together at a European level when fighting cross-border violations. To that end, the CA is a member of the network of European consumer protection authorities CPC (Consumer Protection Cooperation).

European regulators can ask each other for information or to take enforcement actions in situations of cross-border violations of consumer rights. Regulators are required to comply with such requests. The CA acts as the Dutch 'liaison office' for the other Dutch regulators in [the CPC network](#).

At the global level, the CA participates in ICPEN (the International Consumer Protection and Enforcement Network), the network of consumer authorities all over the world. More than 50 nations are members of this network including the USA, Canada, Australia and China, alongside many European nations. ICPEN's objective is to cooperate and exchange experiences and best practices in the areas of oversight and enforcement, and to provide consumer information. During the annual Fraud Prevention Month, worldwide attention is given to unfair business practices.

Results

What actions did the Netherlands Consumer Authority take in 2012 and what results did it achieve in strengthening the position of consumers?

ConsuWijzer

ConsuWijzer's objective is to promote consumer empowerment and assertiveness, for example, by providing tools, such as sample letters, which enable consumers to resolve problems themselves, and by drawing their attention to current issues with an eye to prevention. It is of great importance to ConsuWijzer that consumers are able to find the information they need.

All consumer questions and complaints that ConsuWijzer receives are registered for the three regulatory authorities that jointly operate ConsuWijzer: the Netherlands Consumer Authority, the NMa and OPTA. The authorities are thus kept abreast of current issues, and are then able to decide whether or not to take action. This is how oversight and consumer empowerment go hand in hand. Consumers that have questions that do not fall in the scope of ConsuWijzer are forwarded to the right agency.

In 2012, ConsuWijzer's website was visited more than 2,200,000 times, and the sample letters have been downloaded more than 460,000 times. In addition, ConsuWijzer received 80,000 consumer questions and reports. The CA, the NMa and OPTA have launched various investigations as a result of the information received from consumers.

Overview of indications received by ConsuWijzer

ConsuWijzer carefully registers the nature and scope of all consumer indications it receives. As a result thereof, it keeps track of current consumer issues and developments. ConsuWijzer uses this information, on the one hand, to supply the regulatory authorities with up-to-date information about relevant trends, and, on the other hand, to tailor its advice as closely and completely as possible to consumer needs. The number of questions and reports also gives an indication of the quality of the service provided by companies.

Top five of indications per category

1. Warranties and non-conformity
2. Misleading and aggressive sales methods (in particular non-compliance with the 'Do Not Call Me Register' and spam)
3. Bills and payment issues
4. General questions about legislation
5. Cancelling and dissolving contracts

Top five of indications per sales channel

1. Telephone (including the 'Do Not Call Me Register')
2. Internet
3. Stores
4. Post
5. Door-to-door sales (including sales demonstrations)

Top five of indications per sub-industry

1. Telecommunications/cable/post
2. Retail non-food (electronics, home furniture, mail order companies)
3. Transport and leisure (gambling/lotteries, travel agencies, newspapers/magazines)
4. Services
5. Energy

The most important differences compared with the figures over 2011:

- 2012 marked the first year in which there were more reports about online shops than about traditional, brick-and-mortar shops
- Warranties and non-conformity are back at number 1 (in 2011 at number 2)
- An increase in the number of questions about legislation, particularly about unwanted automatic renewals of subscriptions, and privacy
- In terms of industries, telecommunication is back on top. The reason is the large number of reports regarding the Do Not Call Me Register.

Provision of information

The three regulators in 2012 stepped up their educational efforts through ConsuWijzer aimed at consumers about their rights. In that context, five national educational campaigns were launched in 2012, as well as various other, smaller campaigns aimed at raising consumer awareness and consumer empowerment with regard to certain problem areas. OPTA launched an educational campaign about roaming: using your mobile phone abroad. The NMa offered help to consumers who wished to switch energy suppliers and financial service providers. To make that decision easier, the NMa created several interactive tools. The CA ran educational campaigns about telemarketing and the trustworthiness of online shops. Both of the CA's campaigns are explained in greater detail below.

Campaign about telemarketing

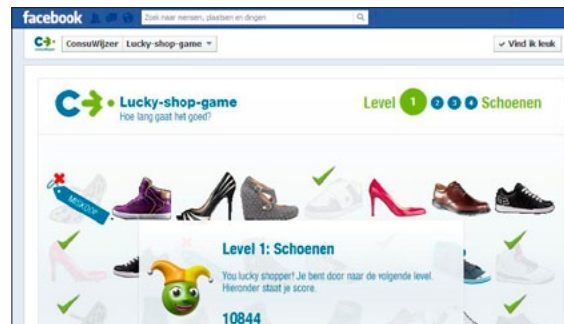
In July 2012, the CA ran a campaign to help consumers, particularly seniors, become more assertive when dealing with telemarketing salespeople. In the campaign, attention was given to questions such as how to recognize a sales call, what techniques does a salesperson use, and how can you respond to that, what are your rights when purchasing something over the phone, and what are your options when you unwittingly said yes to the offer. As part of the campaign, new tools were published on the website of ConsuWijzer such as sample answers to rehearse at home on how to say no to salespeople (including an audio fragment of such a conversation). This helps consumers spot the techniques of telemarketing salespeople, respond assertively, and take control of the conversation.

This campaign attracted a lot of media attention, both on the radio and on television, as well as in newspapers. The media attention, particularly on the day the campaign was launched, July 4th, caused a peak in website traffic. On that day alone, the website was visited approximately

23,000 times. That is three times the average number of visits per day. The sample answers were viewed 5,890 times that day, and the audio fragment was listened to 6,240 times. Based on the reach of the media that reported on ConsuWijzer's campaign, it was estimated that millions of consumers have been exposed to the campaign.

Campaign about online shops

ConsuWijzer also ran an educational campaign to help consumers verify the trustworthiness of online shops. A critical element of that campaign was an online tool, known as the Online Shop Scan. In four simple steps, consumers are able to evaluate the company behind the online shop. Consumers are able to read shop reviews from others with the click of a button, or they can check with the Chamber of Commerce whether the company behind the online shop is real. ConsuWijzer increased its online presence on Facebook in order to promote the Online Shop Scan. Among other things, it used a viral game (the 'Lucky shop game'), in which consumers must click as many products as possible, but it also gave advice on online shopping, and it drew attention to tools such as sample letters and the Online Shop Scan. Approximately 1.7 million consumers have been reached on Facebook through this campaign.



Picture: the Lucky shop game on ConsuWijzer's Facebook page

Barometer role & current topics

ConsuWijzer in 2012 reported on current topics that are important to consumers. For example, press releases were published following an increase in the number of indications about purchased concert tickets that had not been delivered, telephone fraud, and text messaging spam. In its press releases, ConsuWijzer warned but also informed consumers by giving practical advice on what they could do if confronted with such problems.

In addition, the CA took various measures following consumer indications about specific companies. In some cases, consumers that had submitted indications were contacted to explain their experiences in greater detail after they had given permission to be contacted. In cases where this approach led to concrete results, such as in the Hotel Group International case, ConsuWijzer informed the consumers that had submitted indications about this company. That way, ConsuWijzer wishes to show that submitting indications to ConsuWijzer may lead to the regulator taking action.

Indications received by ConsuWijzer that have resulted in the Netherlands Consumer Authority taking action in 2012

- [Fletcher Hotels to explain its promotional deals more clearly to consumers](#)
- [Zelfsigarettenmaken.nl to deal with identified problems \(in Dutch\)](#)
- [Sports24 to deal with identified problems \(in Dutch\)](#)



Warranties continue to raise questions

Name awareness

Media

ConsuWijzer in 2012, too, focused on generating free publicity. Consumer problems attract a lot of attention on the radio, on TV and in newspapers. Behind the scenes, ConsuWijzer, as consumer rights expert, regularly provides editors of consumer watchdog programs with information, using real-world cases. On the other hand, ConsuWijzer also regularly takes part in various consumer watchdog programs on the radio and on TV, and gives interviews. These media-related activities help consumers increase their knowledge of their rights, and they help raise the name awareness of ConsuWijzer as consumer information portal. ConsuWijzer collaborated with one of the largest free newspapers in the Netherlands, Spits, in which ConsuWijzer answered a consumer question every week. This collaboration has been discontinued. Spits was unfortunately no longer able to guarantee the weekly space in the paper that was needed.

Online searchability

ConsuWijzer wants to be visible whenever consumers need ConsuWijzer. That is why it is investing in online searchability. On the one hand, it is optimizing its website, making information easier to find. With the award of the web content accessibility certificate (Waarmerk Webrichtlijnen), it means we have succeeded at that. On the other hand, it is placing online ads in search engines and relevant websites. In 2012, a total of 85.3 million online ads were displayed.

Quality

Website of the Year for third consecutive year

For the third consecutive year, ConsuWijzer.nl won the award for 'Best Government Website of 2012' in the category Government. This means that ConsuWijzer.nl once again garnered the highest recognition from the Dutch public for its contents, design and navigation of all nominated government websites. The 'Website of the Year' contest is the largest and most important online prize awarded by the Dutch public. More than 650,000 votes were cast in this year's contest across 22 categories. It is unique that the prize for best government website has been won by the same organization three times in a row.



Picture: winner Beste Overheid Website

Interaction is central in ConsuWijzer tools

In 2012, ConsuWijzer developed new tools in addition to offering correct and clear information about consumer rights. It focused more on the interactivity and user-friendliness of these instruments, more so than in previous years, for example, by including audio fragments and visualizations. ConsuWijzer wants to remove any obstacles that prevent consumers from taking action such as lack of time or knowledge.

Certificate for web content accessibility

In November 2012, ConsuWijzer.nl was awarded a certificate for web content accessibility (Waarmerk Drempelvrij). This means that the website (both the mobile and the desktop site) fully complies with web content accessibility guidelines. Both versions of the website are completely accessible for everyone, also for individuals with impairments such as those with auditory and visual impairments.

Open source Content Management System

Since November 2012, the content management system of the website consuwijzer.nl was replaced by Drupal. Drupal is an open source content management system. The basic principles behind the updated website are increased searchability, the use of web standards and guidelines, and an improved user experience. The updated website is easier to read, easier to navigate, and has become better organized.

Cookies

Online statistics and analyses have always been very important aspects in improving ConsuWijzer's online service. ConsuWijzer collected data on the number of visitors and on what information they used. ConsuWijzer's goal was to further improve its service to consumers. The cookie provision in the Dutch Telecommunication Act imposes additional requirements on these activities. That is why ConsuWijzer explicitly asks users their consent for the use of analytical cookies.

It turns out in practice that many consumers do not make a choice, leaving ConsuWijzer unable to measure this group's use of its website. The information on the website can be accessed by all users, whether they accept, ignore or decline cookies. However, it becomes more difficult for ConsuWijzer to find out how often the site is visited, and which pages are popular.

ConsuWijzer on mobile devices

ConsuWijzer also has a mobile site: m.consuwijzer.nl. This is not a carbon copy of its regular (desktop) site. The mobile site has information that is especially useful 'on the go,' such as about warranties and travel. ConsuWijzer thus meets consumer needs, who want to have direct access to their information wherever they are. Consumers with internet access on their mobile devices now have practical information about their rights at their fingertips.

Oversight and enforcement

The most important tasks of the CA are: taking action against collective violations of consumer protection laws, and stimulating consumers and businesses to increase their knowledge about their rights and obligations. Because the areas in which CA operates are so diverse, the CA uses an Agenda. In its Agenda, the CA can set which areas it wants to allocate its resources to.

The selection of these focus areas is made on the basis of the indications ConsuWijzer has received, but also through consultations with consumer organizations, other agencies, and media reports. The CA uses fixed prioritization criteria according to which the focus areas are weighed and selected. These criteria are:

- The extent of consumer harm;
- The impact on consumer confidence;
- The impact on the market: certain behavior has a negative impact on the level of (fair) competition.

The CA sets its Agenda for a period of two years. This two-year period was chosen because it turns out that structural, industry-wide and appreciable behavioral changes are rarely achieved within a single year. In these two-year Agendas, the focus areas are dealt with and the studies are launched in the first year. That means that any results can often only be observed from the second year and onwards. Next to the allocation of staff and resources to the focus areas, the CA is able to reserve capacity to respond to unexpected consumer problems that fall outside the scope of the focus areas, and which require an immediate response from the CA in order to prevent further harm.

It is the CA's aim that violations must be ended as quickly and effectively as possible in order to prevent consumer harm or to limit it as much as possible. To that end, the CA enforces through informal means, wherever possible. This happens in a considerable number of cases. Firms are given the opportunity to end the violations of their own accord. In other cases, the CA can use instruments that result in a swift resolution of the violation such as commitments or an expedited order subject to periodic penalty payments. Sometimes, fines are the appropriate tool to end violations because the circumstances call for such an instrument.

2012-2013 Agenda

The focus areas that the CA decided on for the 2012-2013 period are:

1. misleading and aggressive telemarketing
2. online shopping: delivery and payment problems
3. untransparent prices in the travel industry

For the first time ever, the CA decided to include in its Agenda two topics into which it is currently carrying out preliminary studies. The purpose of these preliminary studies is to launch a market scan based on the indications identified in these studies, which may hint at industry-wide consumer problems. Such market scans should offer the CA insight into the nature and scope of the consumer problems occurring in those specific markets. Based on the scans' results, the CA is then able to determine whether action is needed. The topics of the preliminary studies are:

- 1 [warranty issues and conformity when purchasing mobile telephones; and](#)
- 2 [online games.](#)

The CA has observed a marked improvement in the areas the CA focused on in 2010 and 2011. Several focus areas will therefore not return in the 2012-2013 Agenda. However, the CA will obviously continue to monitor these areas in order to determine whether the CA's efforts have resulted in structural behavioral changes. If the CA comes across problems again, it can take actions against them.

Consumer problems

Misleading and aggressive telemarketing

Telemarketing has been on the CA's Agenda since 2008, first grouped under '[unfair commercial practices](#),' then under 'aggressive and misleading customer-recruitment practices.' In spite of all that, telemarketing or customer-recruitment over the phone continues to be a source of many complaints and indications for ConsuWijzer, which is why this topic has been put on the agenda again.

What is the problem?

The common theme in the indications ConsuWijzer receives about sales calls is that consumers are given incorrect and/or incomplete information during the call. As a result, they often do not realize they have taken out a contract, with whom, or under what conditions. These are often long-term contracts that are automatically renewed every year, and involve various products such as energy and telecommunication contracts, puzzle books, lotteries or charities. In addition, consumers that have been registered in the Do Not Call Me Register are sometimes called, either because they had previously been customers with the firm that called them or because the firm in question simply ignores or circumvents the rules of the Do Not Call Me Register. Because of such misleading and aggressive telemarketing practices sometimes, this sales channel has as bad reputation among many consumers.

How does the CA deal with this?

In 2012, the CA completed several investigations into firms about which they had been receiving indications concerning misleading sales calls. In the summer of 2012, it ran an educational campaign on ConsuWijzer, aimed at empowering particularly seniors. The campaign's tagline was: 'A polite no is also fine!' The campaign included audio fragments with which seniors that sometimes find it difficult to end conversations because they want to

remain polite were able to rehearse how to say 'no' politely.

To get to the bottom of this persistent problem, the CA will be carrying out a new, comprehensive analysis, which will not only look into the role of the clients (the companies that want to sell their products/services through telemarketing), but also into the role of the contractors, which are the call centers.

New rules about sales calls are underway, which are now being discussed by the Dutch House of Representatives. The CA gave advice in connection with these new rules. The new rules state that, among other things, consumers only officially take out subscriptions for services after written authorization thereto.

What are the results?

ConsuWijzer's educational campaign reached a lot of consumers, who also consulted the tools that the CA had developed. These should help consumers avoid taking out unsolicited subscriptions. One of the ways to do that is by saying 'no' and ending the conversation. As a result of the publicity that the campaign attracted, companies were reminded of the rules about sales calls, which protect consumers.

In addition, in the spring of 2012, the revised telemarketing code of conduct came into effect. The CA will keep in touch with the industry about this topic in order to be able to monitor the effect thereof.

The investigations into misleading and aggressive telemarketing practices have led to different interventions in companies, which sometimes came down to fines (see text box). A slight decline in the number of indications about misleading can be observed. Once the comprehensive analysis of the telemarketing problems has been completed, the strategy with the highest chance for success will be determined.



**Fine for having misled
consumers over the phone**

Fine on Hotel Group International

In phone calls, Hotel Group International offered consumers the hotel discount card HotelGroup Passport. This is a subscription for 12 or 24 months, which, if not cancelled, was automatically changed into an indefinite contract. The card offered consumers the opportunity to book nights at participating hotels at reduced rates. Following indications consumers submitted to ConsuWijzer, the CA launched an investigation into the commercial practices of Hotel Group International.

The CA established that the HotelGroup Passport is a so-called 'long-term holiday product.' This means that the sale thereof is regulated by the revised timeshare rules. One such rule is that consumers must receive the product information on a permanent data carrier before signing the contract. In addition, the contract must be signed in writing by both parties. The CA established that HGI failed to comply with these requirements. Consumers were approached over the phone, and no written contracts were involved. In addition, no information about the HotelGroup Passport had been sent in advance to consumers. Also, consumers were not informed of the commercial objective of the phone call at the start of the conversation.

On October 9, 2012, the CA imposed a fine of EUR 150,000 on Hotel Group International C.V. for the abovementioned violations. The CA additionally imposed two orders subject to periodic penalty payments in order to prevent repeat violations. The company and its owner filed objections against the sanction decision.

Source: the original press release about Hotel Group International C.V. can be found on ACM's website: <https://www.acm.nl/en/publications/search-publications/?zffl=qu%3Ahotel%20group%20international>

2 Online shops: delivery and payments problems

What is the problem?

Consumers buy more and more of their products and services online. ConsuWijzer thus receives more and more indications about problems with online shops. Since purchases take place online, it is important that consumers can be assured of their purchases being handled properly. The indications however reveal that some online shops are often difficult to contact (customer service, complaint-handling), and that product delivery is not always as reliable as it should be (not on time or incorrect). Furthermore, consumers often face hurdles put up by businesses if they wish to invoke their legal right to cancel a purchase. The key problems that the CA identified are:

- consumers ordering and paying for products online, but not receiving them;
- businesses that are hard to contact or reach;
- consumers experiencing problems with online shops that do not honor or incorrectly apply their right to cancel purchases, or other consumer protection rules.

How does the CA deal with this?

In order to tackle these issues, the CA focuses on three aspects within this focus area:

1. Taking quick action against online shops, where consumers experience delivery and payment problems;
2. Informing businesses about current laws and regulations regarding online purchases;
3. Informing consumers about safe online shopping (through ConsuWijzer).

Ad 1: The CA took action against online shops about which indications were received concerning problems about delivery and payment problems: late delivery or failure to deliver at all, impossible or difficult to reach,

and failure to comply with statutory requirements regarding the right to cancel purchases.

Ad 2: The online shopping market is a dynamic one with a lot of new entrants. A preliminary study by the CA revealed that fewer than 30% of online shops publish the rules correctly. Discussions between the CA and experts also revealed that the average level of knowledge about the rules among businesses in this industry is seen as very low. In order to stimulate web shop owners to take their responsibility more often by informing them about relevant laws and regulations, the CA drew up a document with an overview of the rules, and an explanation of how businesses can meet these rules. Discussions with various stakeholders were held about the interpretation of the rules such as the Chamber of Commerce, the Dutch Tax Administration and the trade association for online shops in the Netherlands, but also international stakeholders. The final document was published in January 2013.

In order to make the rules accessible and understandable for businesses, various tools were developed such as a mockup online shop that helps businesses comply with the rules, and a check list that businesses can easily use to determine whether their online shops comply with the rules. In early 2013, an educational campaign will be launched to remind online shops of existing rules, and to remind them of the special tools that make compliance easier. In order to measure the effect of the campaign, a baseline measurement was taken at the beginning of the campaign. It measured what share of businesses was aware of the rules that apply to them. It turned out that only 35% provided correct information about grace periods.



Dealing quickly with online shops that fail to deliver

Ad 3: ConsuWijzer launched a campaign to make online shopping for consumers safer. An interactive online tool that ConsuWijzer had developed was updated and was made even more interactive. The updated tool was highlighted in the campaign.



Illustration: Shopscan on ConsuWijzer

What are the results?

Consumers benefit from the advantages that online shopping offers, and the actions of the CA help consumers realize those benefits. The CA does so in various ways. ConsuWijzer informs consumers about their rights. The interactive online tool helps consumers recognize trustworthy online retailers. Consumers that run into problems with an online shop can contact ConsuWijzer. These indications allow the CA to take action swiftly and effectively against online shops that cause delivery and payment problems. With such actions, the CA wishes to prevent further consumer harm. In order to increase knowledge about and compliance with the rules among online retailers, the CA will be educating them. This activity will be starting in early 2013, so no results are available at this point.

By swiftly taking action against several online shops that caused delivery or payment problems, the CA was able to prevent further consumer harm. Online shops that promised the CA to change their behavior, will be closely watched in follow-up checks. If it turns out that not all problems have been solved, the CA may launch further investigations.

Following complaints, the CA conducted an investigation into a website that resold concert and event tickets. The result of the investigation was that tickets could no longer be ordered, which prevented further problems.

Commitments from online retailers

The CA's actions are aimed at swiftly dealing with online shops that do not deliver the purchased items or that do not pay back their customers' money if they cancel their purchases within the statutory grace period. Such actions prevent further consumer harm. The CA can monitor compliance with these commitments through follow-up checks.

For example, the CA made arrangements with Mobily.nl, an online shop that sells mobile phones, and about which it had received many complaints. These arrangements were made to solve the problems the CA had identified. The CA also made similar arrangements with a website that sold items that allowed consumers to make their own cigarettes (zelfsigarettenmaken.nl). In some cases, the CA warned consumers about practices of companies that caused problems but that were not willing to solve those problems. Sports24.nl, an online shop in sports items, promised to solve the problems the CA had identified.

More information:

- The press release about Mobily.nl
<https://www.acm.nl/en/publications/publication/7505/Dutch-online-mobile-phone-shop-Mobilynl-promises-to-correct-problems/>
- The press release about Zelfsigarettenmaken.nl (in Dutch)
<https://www.acm.nl/nl/publicaties/publicatie/7504/Zelfsigarettenmakenl-gaat-problemen-oplossen/>
- The press release about Sports24.nl (in Dutch)
<https://www.acm.nl/nl/publicaties/publicatie/7498/Sports24-gaat-problemen-oplossen/>

3 Untransparent prices in the travel industry

What is the problem?

When booking airline tickets and other holiday products, such as holiday homes or holiday packages, it often turns out that these products cannot be purchased at the prices they were advertised with. During the booking process, consumers frequently face additional fees, such as booking fees or administration fees. In some cases, checkboxes for optional services or insurances, which are not compulsory, have often been pre-ticked. A booking's final price is often shown at the end of the booking process after consumers have obviously already been lured to this website by advertising a low price. Comparing prices can thus be difficult. Untransparent pricing in the travel industry therefore leads to consumers finding it hard to compare prices, and to spend more time and money than expected on research. Finding the best deal becomes quite daunting a task. A conservative estimate by the CA of the welfare loss as a result of untransparent prices is tens of millions of Euros.

What did the CA do about it?

In recent months, the CA looked into the presentation and composition of prices in the travel industry. As part of this analysis, it looked into indications it received from various sources and into rulings by the Dutch Advertising Code Committee. In addition, it looked into the presentation of prices of deals online by itself. Based on these analyses, the CA concludes that most of these uncertainties are caused by the fact that additional costs that are unavoidable are not displayed on time, and by the practice of pre-ticking checkboxes for optional services ('opt out' instead of 'opt in').

The CA takes action against providers that do not comply with the rules about how prices should be displayed. For example, the CA sat down with three non-Dutch

companies that offer airline tickets, because they pre-ticked checkboxes during the booking process. In addition, the CA investigated the commercial practices of one firm in the travel industry. This investigation was not just about prices and transparency, but it was a more comprehensive investigation.

The CA drew up a document in which the most important rules and their interpretation with regard to price transparency are explained. This document was discussed with various market participants.

What are the results?

The CA will be publishing the document about prices in the travel industry in 2013. In addition, it will be checking whether companies comply with its principles. It will also be reminding consumers, through ConsuWijzer, of the rules regarding presenting prices. The results of these efforts will become available at some time in 2013.

The non-Dutch companies with which the CA had sat down, have stopped using pre-ticked checkboxes during the booking process. The CA sought to have providers in the travel industry present their prices in a transparent manner. This allows consumers to compare different deals, and make well-informed decisions.

Fletcher Hotels to explain its promotional deals more clearly to consumers

Fletcher Hotels Holding B.V. made a commitment to the CA that it would inform consumers more clearly in case of voucher deals. These are promotional deals involving hotel vouchers. The commitment was prompted by indications the CA had received through Consuwijzer concerning Fletcher Hotels' voucher deals. Consumers indicated that they were unable to book the desired hotel rooms, or even none at all, during the promotional period when redeeming these vouchers. In addition, Consuwijzer received reports on unexpected additional costs when booking these rooms. Fletcher Hotels has made a commitment to the CA that it will improve the information about hotel room availability when advertising its promotional deals.

More information:

- The press release about Fletcher Hotels
<https://www.acm.nl/en/publications/publication/10859/Fletcher-Hotels-to-explain-its-promotional-deals-more-clearly-to-consumers/>

Preliminary studies

For the first time ever, the CA decided in its 2012-2013 Agenda to carry out two preliminary studies:

- warranty issues and conformity when purchasing mobile telephones; and
- online games.

The purpose of these preliminary studies is to launch a market scan based on the indications identified in these studies, which may hint at industry-wide consumer problems. Such market scans should offer the CA insight into the nature and scope of the consumer problems occurring in those specific markets. Based on the scans' results, the CA is then able to determine whether action is needed. These preliminary studies were launched in 2012 and are continued in 2013.

1 Warranty issues and conformity when purchasing mobile telephones

What is the problem?

The CA regularly receives questions and complaints from consumers after purchasing mobile phones. If consumers have obtained their phones in combination with a plan, but then malfunctions after a while, it is often unclear whom consumers can contact for service repairs or warranty issues. This is particularly the case when those plans have not been taken out directly with the mobile operator. The fact that these devices are often offered for 'free' in combination with a plan makes it even more difficult for consumers to determine what party, operator or manufacturer should be contacted for exercising their rights about the device. Consumers additionally report that repairs, if their damaged device has been accepted

for repair at all, take long, and that they are erroneously charged repair costs. In addition, manufacturers claim that some phones have suffered water damage, which consumers need to pay for themselves, whereas consumers say they have used their phones normally and are unable to explain any water damage. Given the nature and scope of these indications, the CA decided to analyze these problems in more detail.

What did the CA do and what have been the results?

The CA first needed to get a complete picture of the nature of the indications and of the parties that were involved in these practices. Consumers were also included in this study. Consumers were asked to define 'normal usage' of their mobile phones. In addition, discussions were held with key market participants such as providers, telephone salespersons, repair service providers, and manufacturers. These discussions were about how they applied the warranty rules, and about their experiences. Based on the information collected through this study, the CA will determine the root cause of the problem, whether there is a problem, and if so, what approach is needed. The conclusions will be published later in 2013.

2 Online games

What is the problem?

The online games market is still growing. A substantial number of young consumers populate this market. From various sources, the CA has received indications that children in particular are misled by game manufacturers. When playing such games, children are said to be encouraged to spend money without being aware of it. Although the CA has received few indications about this subject, it does take them very seriously, particularly so

because these are young and vulnerable consumers. This subject is attracting a lot of attention at a European level as well.

What did the CA do and what have been the results?

The CA analyzed the nature and scope of the online gaming industry, in part with input from the industry itself. The CA will then determine to what extent there are any problems, and whether they fall within its powers. It will look into solutions that can solve these problems the most effectively. The CA will release the results in early 2013.

Problems in the online gaming industry were also analyzed at a European level. In 2012, the CA took part in a European study (through CPC) into websites that offer digital files to consumers such as music and movie files, software, e-books and games. In the Netherlands, the study solely looked into websites that offered games. It was investigated to what extent these websites complied with the rules about offering such products over the Internet. As part of this study, games were downloaded, purchased and played. Eleven websites were visited. On all of these websites, one of more irregularities were found such as

- the lack of complete information about the provider;
 - the lack of sufficient or sufficiently clear information about the product;
 - problems concerning privacy and personal information.
- The CA will sit down with five Dutch providers and ask them to end the observed irregularities. With regard to the six non-Dutch providers with which violations have been established, requests for enforcement actions have been filed with the European state in which they are officially located. The provider that is officially located in the US will be approached by local authorities.



Eleven websites with
online games investigated

Monitoring

When drawing up a new agenda, the CA has to make choices. Some focus areas are taken off the agenda because enough structural improvements can be observed. Other focus areas stay on the next agenda, because problems in those areas still exist. Yet another category of focus areas are not added to the next agenda, but the CA wishes to keep a close watch on them. The CA will be monitoring developments in these industries very closely. The results are regularly analyzed to determine whether oversight needs to be increased or ended. The CA is closely following developments in the following two industries:

- Text message services
- Warranties

Text message services

What did the CA establish?

Between 2008 and 2011, text message services were a focus area on the CA's agenda. This subject was not on the 2012-2013 Agenda, because the number of indications was decreasing. Nevertheless, it seemed better to continue closely monitoring the text message market for a longer period of time in order to determine whether the efforts of the CA, among other parties, have led to a structural change in behavior. In that context, the CA analyzed, among other things, the indications ConsuWijzer had received, and it sat down with OPTA and the Text Message Code of Conduct Foundation.

The CA established the following facts:

- A significant and structural reduction in the number of indications submitted to ConsuWijzer (from an average of 150 per month in 2011 to an average of 50 per month in 2012);

- No new violations thanks, in part, to the effective use of self-regulation;
- No new violations thanks, in part, to stricter rules in 2011 and increased oversight by OPTA;
- A decline in the importance of text messages in paid messaging traffic.

Based on these findings, the CA concluded that active monitoring in this industry was no longer necessary.

Although the problems have been completely eliminated in the Netherlands, it looks like Dutch providers are now targeting other countries. The CA has received requests for information and enforcement actions from, among other countries, Belgium, Spain, Slovenia, Cyprus and Poland. That is why the CA remains active to take enforcement actions against parties that harm non-Dutch consumers from the Netherlands.

Next to the decline in the number of indications about text message services, the CA has observed a slight increase in the number of indications about mobile internet services. These are paid services with which consumers receive information or services directly to their mobile phones, which can then be viewed or used. This may concern one-time purchases or subscriptions. Judging from the indications about this subject, consumers are often not aware they had taken out such services, but they do notice they are paying for them. As these mobile internet services are a relatively new phenomenon, consumers' attention is drawn to these practices by ConsuWijzer, which informs them about their rights. Consumers are also invited to file their complaints with ConsuWijzer. The CA wants to follow developments at an early stage in order to prevent any problems. In addition, the Text Message Code of Conduct Foundation is also watchful. It will sharpen the code of conduct for paid mobile internet services to prevent consumers from unwantedly taking out such services.

Warranties & conformity

What did the CA establish?

Warranties have been a focus area of the CA Agenda since 2007. The CA has made various efforts to increase compliance with the rules on warranties and conformity. It did so by actively educating businesses and consumers and reminding them of the rules. Consumers were asked to share their experiences so that the CA could take action against businesses that ignore the rules on a structural basis. In different ways, the CA took enforcement actions against businesses that did not follow the rules. In order to see whether any change in behavior has been permanent and structural, the CA decided to monitor the warranty cases.

Indications about warranties and conformity were monitored separately in 2012. Indications concerning the electronics industry were particularly checked because the CA had already taken action in that industry in the past.

Although warranty is the category that ConsuWijzer received the most indications about in 2012, the total number of indications is lower than in 2011. In addition, an in-depth analysis of these indications has revealed that about half of them were consumer questions about their rights. Consumers want to know what their rights are before contacting the vendor. The other half of those indications was complaints about the position vendors take when consumers come back with their broken devices. This ratio has changed compared with last year, when the CA received more complaints. Even though the number of complaints has decreased, there is still much room for improvement by properly educating consumers and vendors about their rights and obligations. To that end, the information about warranties and non-conformity on ConsuWijzer's website was expanded and improved in 2012.

One conclusion is that warranties is and continues to be a complicated topic. That is why much can still be gained by properly educating consumers about their rights. Vendors can also play a role therein. The problem has not been eliminated yet, but the situation has improved compared with several years ago. In that light, the CA launched a preliminary investigation into warranties of mobile telephones, because ConsuWijzer had received a lot of indications about that topic.

Other 1 Legislation

New rules regarding debt collection came into effect on July 1, 2012. These regulate the [maximum surcharges](#) agencies are allowed to add when collecting debt. Consumers can find information about these new rules on ConsuWijzer.

As of December 1, 2012, the rules with regard to automatic renewals of subscriptions also apply to existing ones. ConsuWijzer has updated the information about this subject on its website, and receives many questions from consumers about this topic.

No new rules came into effect in 2012 that would have assigned the CA with new duties. The Dutch Pawnshop Bill is expected to be brought before the Dutch House of Representatives in 2013, which eventually will result in new duties for the CA.

The new European Consumer Rights Directive (Directive 2011/83/EU) consolidates two existing directives into a new one, which were the directives on:

- the protection of consumers in respect of distance contracts;
- the protection of consumers in respect of contracts negotiated away from business premises.

The directive's aims are essentially twofold. First, the directive aims to help the internal European market function well by realizing a high level of consumer protection. Second, it aims to update, improve and simplify the existing European rules on contracts negotiated between consumers and businesses. The directive is to be implemented into Dutch legislation by December 2013. The CA is closely involved in the implementation process of the directive into Dutch legislation.

2 International topics

Since consumer problems do not stop at the border, particularly with the rise of the Internet, the CA works together with fellow regulators in other European Member States to take action against cross-border violations within Europe. In addition, the CA is an active member of a collaboration network within the Benelux region. These international collaborations yielded the following results in 2012.

Within the Benelux

The Benelux working group on consumer protection compared the different rules for retailers that are in effect in the Netherlands, Belgium and Luxembourg. The rules are largely European, so the working group particularly looked into the interpretation of the rules in these three countries. The results of this comparison will be published in early 2013. These results will be used as input when information about these rules is compiled for businesses in each of these countries.

Collaboration at a European level (in a CPC context)

Received requests

In 2012, the CA received nine requests for information at a European level. These requests were to verify whether firms that had generated complaints abroad had their registered offices in the Netherlands, and if so, whether the CA had already taken action. The CA additionally received requests about post office box details, and to provide information about a firm.

The CA also received nine requests to take enforcement actions. Four of these requests concerned providers of text message services: about consumers who had involuntarily been committed to subscriptions, and about providing misleading information. This is an increase of Dutch text-message service providers that target consumers abroad.



Cross-border oversight

[PRINT](#)

Two requests concerned untransparent prices of an online ticket shop and of a provider of holiday homes. One request was about a supplier of online games, another one about a retailer's details, and the last one about a provider that offered hotel rooms without mentioning VAT. The CA took action in all of these cases, either by launching an investigation or by sending the violating firm in question a written request to stop the violation.

As liaison office, the CA in 2012 forwarded a request for enforcement action to the Netherlands Authority for the Financial Markets (AFM) and one to the Netherlands Independent Post and Telecommunication Authority (OPTA). In addition, a request for enforcement action was issued on behalf of OPTA.

Issued requests

The CA in 2012 issued five requests for information. These requests were issued to verify whether a firm whose registered office was suspected to be in another EU Member State was indeed active in that country. In the case of the firm Remonyl, it has resulted in a warning directed at Dutch consumers. Two requests were about German providers of coach trips. Another one was about supplier of puzzle booklets, which was located in Spain and was misleading Dutch consumers. The fifth request was about a firm, located in England, that offered timeshare products.

Two requests for enforcement action were sent to France because of two travel agencies whose websites were providing incorrect information to consumers. These websites have already been updated by now.

Alerts

Seventeen alerts were received in 2012. An alert is a notification to another regulatory authority in the CPC network to inform that authority that a company might be committing cross-border violations. The alerts that the CA received related to a very wide range of topics, from text messaging services, spam to products with misleading health claims, but also additional costs for online purchases and unsolicited packages. Alerts like these help the CA select its oversight activities.

The CA itself issued one alert. This was about a firm about which ConsuWijzer had received many complaints regarding unsolicited packages. The alert was issued because the CA had indications that this firm also targeted consumers in other European countries.

European requests

Received:

- 9 requests for information
- 9 requests for enforcement action
- 17 alerts

Issued:

- 5 requests for information
- 2 requests for enforcement action
- 1 alert

Completed:

- 11 requests for information
- 10 requests for enforcement action

Collaboration at a global level (in an ICPEN context)

The CA in 2012 participated in the ICPEN conferences in Costa Rica and in Ghent, Belgium. In Ghent, the CA presented a report, commissioned by ICPEN, about best practices with regard to consumer empowerment. The report gives an overview of successful approaches. It also offers a practical first step for measuring the effect of empowerment, and provides insight in the options for creating synergies between oversight and empowerment.

In addition, the CA is a member of ICPEN's Advisory Group, which advises the chair of ICPEN (currently Belgium) with regard to various developments and matters within the network.



Picture: ICPEN conference in Costa Rica, february 2012

Other issues

This section covers issues that are not related to the 2012-2013 Agenda. Some of these issues come from previous Agendas, and are cases that have been dealt with in objection and appeal proceedings.

Travel warranties

Travel agencies offering package tours are statutorily required to draw up contingency plans for bankruptcies, also known as ‘travel warranties.’ Under such warranties, travelers that have already paid for their upcoming trips are entitled to a refund in case their travel agency goes bankrupt. Travelers that have already commenced their journey will be repatriated. Most travel agencies have set up their warranties through the Dutch Travel Compensation Fund Foundation (SGR). Travel agencies are statutorily required to publish their warranty arrangements so that consumers are able to verify that these agencies meet the statutory requirements.

Since the CA in 2011 launched a round of investigations into travel agencies that offer package tours without the statutory warranty, various developments have been observed in the travel industry. Of particular importance is the development of alternative warranty initiatives. For example, a new trade association (VvKR) and a new warranty fund (GGTO) were established for specialized travel organizations. Furthermore, two additional new funds are active. In 2012, the ‘SGST’ was launched, as well as the ‘The Dutch Warranty Fund’. With these developments, travel organizations have more options to meet their requirement to have travel warranties in place.

The CA in 2012 again carried out investigations into approximately 50 travel organizations that offer package tours without the statutory warranty. Virtually all organizations that had been contacted, either took measures or stopped offering package tours. Some investigations are still ongoing.

Objections and appeals

Objections filed by electronics firms

On April 24, 2012 the CA issued rulings on objections filed by four electronics firms. They had filed those objections against fine decisions that the CA imposed in 2011, the fines of which totaled EUR 90,000. These firms violated the Dutch Act on Enforcement of Consumer Protection because they had informed consumers incorrectly about their right to a repair if their products became faulty after the manufacturer’s warranty had expired. In their objections, the electronics firms argued that, among other things, the violations were insufficiently substantiated, and that the imposed fines were too high. The CA disagreed with these assertions, and disallowed the firms’ objections. The fines of EUR 90,000 were upheld. Three firms (De Block, Micro Elektro and Scheer & Foppen) filed appeals against these rulings on objections with the District Court of Rotterdam. Another electronics firm, BCC, had done so, too. The decision against Harense Smid has been finalized.

Source: the decisions on objections (in Dutch) can be found on ACM’s website. <https://www.acm.nl/nl/publicaties/publicatie/7511/Besluiten-op-bezwaren-van-vier-elektronicabedrijven-tegen-openbaarmaking-van-boetebesluiten/>

Objections in connection with sales demonstrations during coach trips

The CA in 2011 fined three companies (two German and one Dutch one) a total of EUR 630,000 for organization of misleading and aggressive sales demonstrations during coach trips. The German companies operated on the Dutch market under the ITC Reisclub brand (Goltex Vertriebs GmbH & Co. Kommanditgesellschaft and R&S Handelsvertretung GmbH), and the Dutch company under the Pro-Actief Plus brand.

Consumers, in particular seniors, received personal invitations to day trips. During such day trips, sales demonstrations were held using aggressive sales techniques in order to sell health care products. Incorrect or misleading information was given to these consumers, who bought these products which they would normally not have bought.

The CA imposed a fine of EUR 300,000 on Goltex Vertriebs, a fine of EUR 180,000 on R&S, and a fine of EUR 150,000 on Pro-Actief. All three have filed objections against the decisions of the CA. In connection therewith, the CA’s Advisory committee on Administrative Appeals issued its recommendations. In the decision on objection in the Goltex Vertriebs case, the CA follows the committee’s recommendations and disallowed all of Goltex Vertriebs’ objections. In response thereto, Goltex Vertriebs filed an appeal against this decision with the District Court of Rotterdam. All but one objection of R&S were disallowed. With regard to the attributed role of R&S, the fine was lowered to EUR 120,000. R&S Handelsvertretung filed an appeal against this decision with the District Court of Rotterdam.

In the decision on objection in the Pro-Actief Plus case, the CA followed the committee's recommendations, and disallowed all of Pro-Actief's objections. No appeal was filed against this decision on objection, and has thus been finalized.

Sources:

- Decision on objection (with Advisory committee on Administrative Appeals) in the Goltex Vertriebs GmbH & Co. Kommanditgesellschaft case (in Dutch) <https://www.acm.nl/nl/publicaties/publicatie/7493/Besluit-op-bezwaar-met-BAC-in-de-zaak-Goltex-Vertriebs-GmbH-en-Co-Kommanditgesellschaft/>

- Decision on objection (with Advisory committee on Administrative Appeals) in the R&S Handelsvertretung GmbH case (in Dutch) <https://www.acm.nl/nl/publicaties/publicatie/7494/Besluit-op-bezwaar-met-BAC-in-de-zaak-RenS-Handelsvertretung-GmbH/>

- Decision on objection (with Advisory committee on Administrative Appeals) in the Pro-Actief Plus B.V. case (in Dutch) <https://www.acm.nl/nl/publicaties/publicatie/7495/Besluit-op-bezwaar-met-BAC-in-de-zaak-Pro-Actief-Plus-BV/>

Appeal proceedings with the courts

Fotosessie.com

Fotosessie owned a photo studio, and offered online photo shoots for a fee. Fotosessie approached consumers via the Internet, or via its website, where consumers could do an 'audition.' Fotosessie gave consumers the impression that they had been selected for a photo shoot at a reduced rate based on their charisma and appearance. Teenagers and young adults, in particular, were drawn by this approach.

The CA established that the company had violated regulations concerning general terms and conditions, distance selling and unfair business practices. In 2010, the company was fined EUR 100,000 for these violations. Fotosessie.com filed an objection against this fine. In January 2011, the CA ruled in the decision on objection, disallowing Fotosessie's objections, except for the objection against one of the violations against the Unfair Business Practices Act. Fotosessie.com then filed an appeal with the District Court of Rotterdam, which ruled in June 2012. The court largely disallowed the appeal, but did lower the fine to EUR 77,000 as a result of Fotosessie's successful claim of reduced culpability. No further appeals were filed, and this fine has been finalized.

Celldorado

The District Court of Rotterdam ruled in the Celldorado case. Celldorado is a text message provider, which the CA in 2010 fined for violations of regulations on e-commerce, distance selling, and unfair commercial practices. In appeal proceedings, the original fine of EUR 1,090,000 was lowered to EUR 1,045,000.

The court largely followed the CA's opinion. However, the court found several violations insufficiently substantiated, which were subsequently dropped. These included the requirement to mention on its website its registration numbers with the Chamber of Commerce and the Dutch

Tax Administration, and the misleading nature of its internet texts. The court argued that consumers could have seen that it was not just about a free test.

With the removal of several violations (or parts thereof) and of the imposed fine increase of 10%, the court set the fine at EUR 690,000. Both the CA and Celldorado filed appeals with the Dutch Trade and Industry Appeals Tribunal (CBB).

Tickets

The CA in 2010 already imposed orders subject to penalty payments on various firms that sell concert and event tickets over the internet, because they had insufficiently complied with the rules about providing information to consumers. When it turned out during a check that these firms did not or not fully comply with these orders, they forfeited those penalty payments. The CA subsequently claimed these payments.

Seven firms filed objections against the claims. Some of these objections were allowed, while others were disallowed. Five firms then filed appeals against these decisions on objections. Several proceedings were held at the District Court of Rotterdam in 2012. The court has thus far issued rulings in three cases. The appeals against the claims were allowed on some counts. This means that two penalty payments had been claimed incorrectly.

At the time, two firms (Budgetticket.nl and Worldticketshop.nl) also filed objections at a substantive level against orders subject to periodic penalty payments. The appeal proceedings were held in 2012 with the District Court of Rotterdam. A ruling is expected in early 2013.

Publication of decisions

It is the CA's policy to publish its sanction decisions on its website. In 2012, the CA issued a decision to publish in its sanction decision against Hotel Group International of October 9, 2012. The firm took advantage of the opportunity to file for an provisional injunction with the District Court of Rotterdam to prevent publication of the decision. However, the court believed that publication was allowed, and the CA subsequently published the sanction decision on its website.

In 2012, the CA completed five objection proceedings concerning the publication of its decisions. The objections against publication were disallowed in all of these cases. In four of these cases, the parties involved filed appeals against these decisions on objection

Administrative burden

The Explanatory Memorandum to the Dutch Act on Enforcement of Consumer Protection (Whc) stipulates that, in its annual report, the Consumer Authority must devote attention to the administrative burden associated with the performance of its statutory duties pursuant to the Whc.

At the time when the Whc was drawn up, the then Ministry of Economic Affairs made a projection of the expected administrative burden resulting from the implementation of the Whc. This projection was submitted to the Advisory Board on Administrative Burdens (ACTAL). In the projection, a distinction was made between the following categories of administrative burden and associated amounts:

- The Ministry of Economic Affairs' calculation of the burden associated with the execution of the CA's regulatory and enforcement powers was based on the assumption that the CA handled about 95 cases a year in which information would be more or less demanded, using regulatory powers. The projected 95 cases include both cross-border and national cases.

Burden resulting from the CA's execution of regulatory and enforcement requests

In 2012, the CA completed 85 investigations of (potential and real) national and cross-border violations. This number is lower than the 95 cases assumed when the Whc was drawn up. This resulted in a lower administrative burden in 2012. It should be noted that it is not about the burden associated with the fact that companies are imposed a general information and license

requirement, but rather about regulatory burden that is solely associated with investigations into potential violations.

Burden resulting from filing (rightfully or not) an objection or appeal against CA decisions or petitions

The projection of the administrative burden in this category is based on two cases: one at the District Court of Rotterdam (administrative law enforcement) and one at the Court of Appeal of The Hague (private law enforcement) in which the cases were ruled in the favor of companies against which the CA had taken enforcement actions. Cases in which an objection is filed, an appeal or a further appeal is filed against a CA decision and that are decided in the CA's favor are not included in the projection of the administrative burden.

In 2012, the CA (in full or partially) allowed objections filed against a few of the decisions. In addition, in cases against the CA, the District Court of Rotterdam allowed parts of the appeals. As the core of these cases has not changed, no administrative burden is associated therewith.

The Consumer Authority by the numbers

ConsuWijzer by the numbers¹

Telephone calls	47.750
Emails	33.450
Letters	1.000
Total number of questions and indications	80.000

Website visits	2.200.000
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Online Shop scans	20.000
Sample letters	460.000
Warranty brochure	4.600
Tele-checklist	8.450

¹ These figures are based on the first ten months of 2012 when the Dutch Cookie Act had not yet come into effect, and when ConsuWijzer was still able to measure the number of visits, including the areas of the NMa and OPTA..

Oversight

National

Investigations initiated in 2011 and continued in 2012	30
Investigations initiated in 2012	18
Commitments	4
Investigations terminated after end of violation following action of CA	61
Investigations terminated because of no/minor seriousness of violation	17
Reports	3
Total number of completed national investigations	85

International

Alerts received in in 2012 from EU Member States	17
Alerts issued by the Netherlands in 2012	1
Enforcement requests received in 2011 and continued in 2012	2
Enforcement requests received from EU Member States in 2012	9
Enforcement requests received from EU Member States and settled by the CA	10
Enforcement requests issued by the CA	2
Information requests received in 2011 and continued in 2012	2
Information requests received from EU Member States in 2012	9
Handled information requests from EU Member States	11
Information requests issued by the CA	5
Total number of completed international investigations	21

Enforcement

Sanction decisions	1
Decisions on objection after advice from the Administrative Appeals Advisory Committee	7
Other decisions on objection	7
Orders subject to periodic penalty payments	1
Provisional injunctions	2
Rulings on appeal	7
Fines / Penalty payments	105.000 euro

Completed enforcement requests from EU Member States

Basis	2012
Internet commerce	3
Distance selling	1
Price indication	1
Unfair Commercial Practices Act	5
Total	10

Information requests from EU Member

Basis	2012
Internet commerce	2
Unfair requirements	1
Unfair Commercial Practices Act	8
Total	11

Enforcement requests, own request

Basis	2012
Internet commerce	1
Unfair requirements	1
Unfair Commercial Practices Act	2
Total	4

Information requests, own request

Basis	2012
Distance selling	1
Unfair Commercial Practices Act	4
Total	5

**Text**

Netherlands Consumer Authority

Design

zD3D Design, The Hague

Photography

Hollandse Hoogte: Frank Muller, C. Barton van Flymen,
Marijn Alders, Demotix.

March 2013

This is a publication of:

The Netherlands Consumer Authority

Address:

Muzenstraat 81 (Zurichtoren)

The Hague

T +31 70 330 59 71

F +31 70 330 59 89

E info@acm.nl

www.acm.nl

ConsuWijzer

Consumer information hotline (in the Netherlands): (088) 070 70 70

www.consuwijzer.nl