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COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt: 12 May 2010
to: Mr Pierre de BOISSIEU, Secretary-General of the Council of the European Union
Subject: COMMISSION STAFF WORKING DOCUMENT - On the results of the public consultation and the introduction of a harmonised methodology for classifying and reporting consumer complaints and enquiries accompanying document to the Commission Recommendation on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries


Encl.: SEC(2010) 572 final
COMMISSION STAFF WORKING DOCUMENT

on the results of the public consultation and the introduction of a harmonised methodology for classifying and reporting consumer complaints and enquiries

Accompanying document to the Commission Recommendation on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries

C(2010)3021 final
Commission Staff Working Document

on the results of the public consultation and the introduction of a harmonised methodology for classifying and reporting consumer complaints and enquiries

Accompanying document to the

Commission Recommendation on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries

1. Introduction

1. As a result of the Single Market Review and a renewed focus on outcome based policies, the Commission developed the Consumer Markets Scoreboard. This is a tool to help monitor the market and identify possible malfunctioning. Consumer complaints are a key indicator in the Scoreboard. They provide valuable indications as to how modern markets are functioning from the consumer perspective.

2. In a recent Communication, the Commission explained why it is import to collect and monitor consumer complaints. Due to the existing data gap in collecting comparable complaints data, there is a need to develop a harmonised methodology for classifying and reporting consumer complaints and enquiries. The staff working document, which accompanied the Communication, presented a draft version of such a methodology for consultation. The methodology is found in the Commission Recommendation for a harmonised methodology for classifying and reporting consumer complaints and enquiries.

3. The harmonised methodology is to be used on a voluntary basis by all third party complaints bodies. These include consumer authorities, energy, telecommunication and financial services regulators, enforcement bodies, consumer organisations, alternative dispute resolution mechanisms and similar bodies. Complaints collected by traders, as well as complaint mechanisms operated by traders or on their behalf are outside the scope of this initiative. The Commission Recommendation invites all eligible complaint bodies to adopt the harmonised methodology and report data to the Commission.

4. This Staff Working Document presents the background to the project and the main issues which emerged from the consultation. Lastly, it explains how stakeholders' comments have been taken into account and how the Commission will help the complaint bodies adopt the harmonised methodology.

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1 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a harmonised methodology for classifying and reporting consumer complaints and enquiries, COM(2009) 346 final.
2. **CONTEXT**

5. Following the Single Market Review, the Commission has strengthened its commitment to evidence based policies and closer internal market monitoring. It has introduced an integrated approach to monitoring the internal market with a particular emphasis on examining consumer outcomes. The Consumer Markets Scoreboard sets the overall analytical framework for looking at markets from the consumer perspective. Consumer complaints are a key indicator of the Scoreboard but also for market monitoring and the development of outcome oriented policies in general. Data on consumer complaints can be used to develop better regulation, to target enforcement and to design information campaigns. Yet, since data on complaints addressed to third party complaint bodies are not comparable, the Commission has developed a harmonised methodology for classifying and reporting consumer complaints. This work was carried out in close collaboration with experts from various complaint bodies around Europe. The expert group used the COICOP\(^2\) methodology as a base of departure and worked towards improving it to capture better the consumer market, especially in the services sector.

6. The Commission Recommendation invites all third parties which collect consumer complaints to adopt the proposed harmonised methodology. The use of a harmonised methodology will enable complaint bodies to collect comparable data on the functioning of consumer markets. In most cases, bodies that collect complaints have the dual task of collecting and handling complaints. It is just as important for them to ensure that the root causes of problems are eliminated. By adopting this voluntary methodology, complaint bodies will have the opportunity to contribute to evidence based policy-making and influence the policy debate at both national and European level.

7. Consumer complaints are an important 'grass roots' input into policy-making. It is increasingly important for policymakers at national and EU level to listen to the 'voice' of consumers and understand what they have to say, and to be able to convincingly communicate to citizens that their daily concerns are heard at the highest level where policy is made. A harmonised system is a great opportunity for both national governments and the EU to re-engage with citizens and listen more attentively to their every day problems and concerns. Complaints data can be used to encourage constructive dialogue between all interested stakeholders. Collection of comparable data on consumer complaints at EU level will enable monitoring of national markets and cross-country comparisons. This will give national authorities a much better context to monitor their own policies and consumer markets.

8. Industry's contribution to this project has been valuable in developing some aspects of the methodology and it will continue to be so during implementation. The purpose of collecting such data is to help improve the market conditions for consumers. The expertise of industry will continue to be helpful in analysing results and implementing the methodology. Many independent self-regulatory bodies which operate alternative dispute resolution mechanisms are eligible to participate in this initiative. Such bodies are encouraged to adopt the methodology and work closely

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\(^2\) COICOP is a methodology used by many organisations (e.g. Eurostat, OECD and the United Nations) to classify individual consumption by purpose.
with the Commission in analysing the data. Adoption of the voluntary methodology by self-regulatory bodies collecting complaints offers a double advantage: on one hand consumers can be reassured that such bodies are acting independently and their complaints are being monitored by the Commission services and on the other hand, policy makers (both at national and EU level) can monitor more easily the functioning of self-regulation as an alternative regulatory model.

9. Concerning the analysis of data, it should be stressed that complaints data constitute one indicator among the other key indicators put forward in the Consumer Markets Scoreboard. In the framework of the Scoreboard, complaints data will be complemented by detailed data on consumer satisfaction, from regular dedicated surveys on consumer satisfaction. These surveys will include questions on complaints, for sectors corresponding to the methodology, covering all Member States. This will enable comparison and analysis of soft and hard data on the same issue. In parallel, the Commission services are carrying out studies on the consumer environment and consumer empowerment around the EU. The purpose of these studies is to put complaints data into context by measuring the overall propensity to complain in each Member State. These studies will help explain any specificities that may be attributed to national and sector characteristics and can provide further context to the existing knowledge concerning the consumer experience around Europe. In addition to the above, the Commission will be aided in analysing the underlying data by discussions with the main contributing bodies, the expert group on consumer complaints and the expert group on the Consumer Markets Scoreboard.

10. The analysis of data on consumer complaints requires a comprehensive approach. For example, a high number of complaints in a particular country might be the outcome of a healthy consumer environment with empowered consumers, effective and efficient enforcement mechanisms and well-functioning complaint bodies, such as alternative dispute resolution bodies, welcoming complaints and providing help to consumers. In analysing data, factors such as the number of complaints in a certain sector in relation to household expenditure, the size of that particular sector and any specificities that may be attributed to national legislation will be taken into account.

11. The take up of the harmonised methodology by complaint bodies may vary across the EU. The data collected, especially in the short term, will therefore need to be treated and interpreted with prudence. In order to develop a global picture of the consumer environment in every sector and every Member State, the Commission services will work with as many complaint bodies as possible and encourage them to adopt the harmonised methodology in the medium term.

3. PUBLIC CONSULTATION

3.1. Overview of results

12. The public consultation was carried out between 7 July 2009 and 5 October, 2009. Responses received after the deadline, were also taken into account. Stakeholders could provide their views through an online questionnaire available on the 'Your voice in Europe' website, the European Commission's single access point for online consultations. The consultation raised considerable interest among a wide range of
stakeholders. In total, the European Commission received 168 responses, from the following stakeholder groups:

<table>
<thead>
<tr>
<th>Stakeholder group</th>
<th>Number of responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative dispute resolution bodies / Complaint boards / Ombudsmen</td>
<td>12</td>
</tr>
<tr>
<td>Citizens</td>
<td>1</td>
</tr>
<tr>
<td>European Consumer Centres</td>
<td>15</td>
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<tr>
<td>Industry</td>
<td>35</td>
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<tr>
<td>Member State authorities</td>
<td>58</td>
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<tr>
<td>Non-governmental organisations</td>
<td>17</td>
</tr>
<tr>
<td>Regulatory authorities</td>
<td>30</td>
</tr>
<tr>
<td>Total</td>
<td>168</td>
</tr>
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13. The majority of responses were submitted through the online questionnaire (110) while 58 were submitted by email. Responses were submitted by stakeholders from all Member States, Croatia, Iceland and Norway. Many respondents provided detailed comments on all questions while others simply notified the Commission that they are collecting complaints. This Staff Working Document presents an analysis of the consultation results.

Main issues

14. The majority of stakeholders who participated in the public consultation collect both consumer complaints and enquiries; the majority of these bodies classify complaints and enquiries separately. Also, most stakeholders said that they collect complaints coming from consumers while a tiny minority collect complaints from consumer organisations and businesses. Most bodies reported that they collect data about the sectors concerned by complaints as well as data about the different types of complaints.

15. The majority of respondents support the introduction of a harmonised methodology and the use of complaints data for policy-making. The majority of respondents expressed an interest in adopting the methodology either as it appeared in the public consultation or with some changes. However, various stakeholders raised concerns related to issues such as the use and presentation of complaints data, the structure of the methodology, possible double counting and costs associated with introducing and using the methodology.

16. The contributions submitted in the public consultation were thoroughly analysed by the Commission services. The Commission convened a meeting of the expert group on consumer complaints in order to discuss the results of the public consultation and tackle the main concerns. A range of comments were incorporated into the revised methodology. The goal was to maintain the necessary level of detail in the
methodology which can help identify potential consumer problems while also to develop a methodology that complaint bodies are willing to adopt on a voluntary basis.

*Underestimation or Overestimation of consumer problems*

17. Some respondents mentioned that the total number of complaints might inflate real problems since consumers can address their complaints to multiple complaint bodies. This could potentially lead to some overestimation of consumer problems. However, if consumers address their complaints to multiple bodies this indicates that the complaint handling mechanisms are not functioning according to consumers' expectations. In addition, complaints addressed to third parties appear to be the tip of the iceberg of what goes wrong in the marketplace for consumers. It is much more likely that there is an underestimation of consumer satisfaction rather than an overestimation of dissatisfaction of consumers in the marketplace. Various studies have shown that lower income consumers are less likely to complain to a third party complaints body. According to the latest European-wide research\(^3\), out of the total number of consumers who have had problems with a trader in the last year, almost 1 in 3 did not even complain to the trader. Of those who voiced their dissatisfaction to the trader, only half were satisfied with the way their complaints were dealt. And of those consumers that were not satisfied with the handling of their complaints, only 27% went to a complaint body while nearly 1 in 2 did not take any action (46%).

18. The possibility of double counting of complaints will not prevent the setting up of benchmarks and monitoring changes over time. For analytical purposes, the changes and trends are more important than the absolute figures. Nevertheless, as a safeguard the Commission will work closely with participating bodies and national consumer authorities to obtain a clearer view of any double-counting at national level. Also, relevant questions on complaints in surveys will provide a regular cross-check.

*Definition of the term 'complaint' and 'outcome of complaint'*

19. Some respondents to the consultation wanted to capture only complaints that are legally founded. A wider interpretation has been preferred for the following reasons:

a) The indicator on complaints is designed to be outcome-oriented and help shed light on how the market is performing from the perspective of consumers. In some cases there might not be a breach of any legislation, yet the market process might deliver an outcome which is not satisfactory for consumers. This project is not designed to penalise traders but rather to improve consumer conditions therefore, it is useful to have information even in cases where traders abide by the law but consumers are not satisfied.

b) In many complaints, it is not possible during the handling of the complaint or even later when it is resolved, to have sufficient knowledge or evidence as to whether complaints are legally founded or not. This information is generally not collected.

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\(^3\) Flash Eurobarometer 282, "Attitudes towards cross-border sales and consumer protection", forthcoming.
20. Some stakeholders mentioned that the 'outcome of complaint' should be included in the methodology. This was not included since many organisations do not handle complaints up to the resolution stage. The inclusion of such a category would entail changes not only to the way complaints are classified and reported but also in the way they are handled.

Collection of data on enquiries and complaints

21. Most respondents to the consultation reiterated that a detailed sectoral breakdown of complaints is an important piece of information concerning the functioning of the market. Therefore, it is recommended that sector data on complaints is collected at sector level 2. For a better monitoring of the market, complaint bodies are also encouraged to collect and report data on enquiries.

22. Concerning complaints, it is not necessary to collect information at sector level 3. This level should serve as definition for case handlers as to what is included under sector level 2. However, if complaint bodies wish to collect complaints data at more disaggregated level than level 2, they can do so provided it remains consistent at level 2.

Complaints with multiple types of problems

23. Stakeholders raised questions on how to classify individual complaints involving multiple types of problems (e.g. a complaint relating to a good that was of poor quality and also an incorrect invoice was issued by the trader for the same good). In order to get a more accurate picture of market functioning, one complaint should be counted for each separate problem. In the example given this would count as two complaints. In many cases where complaint bodies use IT systems to classify complaints, which is the majority of cases, this will not require additional encoding since this can be done automatically by most IT systems by creating mirror images of complaints with multiple types of problems; the only difference in the mirror image will be the type of problem.

Costs, burden

24. The consultation revealed that there is strong interest in adopting the voluntary methodology but also some concerns associated with costs. Stakeholders said that such costs could arise from the level of detail in the methodology, changes to IT systems and training, and reporting requirements. The Commission has considered carefully these comments with the expert group and where possible it has taken steps to minimise any possible costs and facilitate the adoption of the methodology.

25. Some respondents mentioned that the methodology places extra demands on complaint bodies because some of the data is not recorded at present. However, this does not appear to be the case for the majority of complaint bodies since, as seen in the consultation and in the meetings of the expert group, data about the 7 out of 8 of the recommended fields are already collected by most complaint bodies. The proposed methodology comprises only one extra field, the 'selling method'. This is an important piece of information that should be captured since market behaviour can vary widely according to the selling method, notably between face-to-face transactions, in-shop, at home and online transactions. In addition, the regulatory
framework differs with respect to selling methods, therefore this data is necessary to identify systematic problems with particular selling methods.

26. A bulk of complaints addressed to third party complaint bodies concern domestic transactions. Since most complaint bodies use IT systems to record complaints, this implies that some data fields (such as country of consumer, country of trader, name of consumer complaint body handling the complaint, date of contacting the complaint body) can be entered automatically in the system without requiring encoding or additional work. Only for cross-border cases (e.g. consumer lives in another country, or the trader is established in another country) will the case handlers have to change the default entries.

27. The detailed nature of the sectoral breakdown is necessary in order to identify potentially malfunctioning sectors as accurately as possible, without creating undue burden. The fact that the methodology is broken down into 86 sectors does not mean that complaint bodies have to collect additional sectoral information. Each complaint has to be classified just once under the relevant sector, which can be identified quickly under the ten top headline sectors. The 86 sectors improve the quality of data by adding a significant degree of accuracy since the existing complaints data do not provide sufficiently detailed information to help identify sector-specific problems.

4. IMPLEMENTATION

Actions to facilitate the adoption and implementation of the methodology

28. To facilitate the adoption and implementation of the methodology the Commission will continue its close engagement with complaint bodies and discuss issues such as its practical application and the analysis of complaints. Efforts will be made towards providing assistance on IT aspects associated with adopting the harmonised methodology.

IT aspects

29. The changes each complaint body has to make in order to comply with the harmonised methodology depend on the degree of sophistication of their own particular methodologies and the availability or level of complexity of the IT tools that each complaint body is using.

Simple IT systems – IT tool

30. Complaint bodies with simple classification structures and no or simple IT tools might opt for adopting the harmonised methodology in its entirety, since this will not cause major disruptions to their IT systems. To help such bodies adopt the harmonised methodology, the Commission services have developed a basic complaint handling IT tool which will incorporate the harmonised methodology for further classification and reporting of the data. This tool is available as freeware and can be used by any organisation that is willing to adopt the voluntary methodology and provide data to the Commission. The tool will be available in all official languages for which there is sufficient demand. Guidance will be offered to interested complaint bodies and initial training on the use of this tool. Ownership rights of the tool will remain with the Commission. However, beyond the
deployment stage, the Commission services will have no direct access to this IT tool and the various collecting complaint bodies will retain ownership of the data. Complaint bodies that wish to adopt this tool should contact SANCO-consumercomplaints@ec.europa.eu.

31. Complaint bodies with more complex methodologies and IT systems might opt to make incremental changes to their existing IT systems rather than use the IT tool developed by the Commission services. To facilitate this option, the Commission services have published IT technical specifications corresponding to the harmonised methodology. The technical specifications are published at: http://ec.europa.eu/consumers/strategy/complaints_en.htm. These specifications can be used by complaint bodies to carry out a gap analysis and build an interface to map their own methodologies to the harmonised methodology. Assuming that these complaint bodies use methodologies which are as detailed as the recommended data fields of the proposed harmonised methodology, they can maintain their own methodologies and IT systems, make any necessary changes in order to correspond to the harmonised methodology and transfer the relevant data. The data should be transferred in an XML format or similar.

32. Complaint bodies which are 'Competent Authorities/Single Liaison Offices' responsible for the effective application of Consumer Protection Cooperation Regulation, (Regulation (EC) No 2006/2004) could apply to carry out Joint Actions\[4\] aim to facilitate the adoption of the harmonised methodology. Under the field of Joint Actions in ensuring the effective application of consumer protection rules, the competent authorities/single liaison offices are encouraged to carry out a common activity aiming to facilitate the implementation of the harmonised methodology for classifying and reporting consumer complaints and enquiries.

33. Both the IT technical specifications and the IT tool developed by the Commission services will be updated in line with any periodic future updates of the harmonised methodology.

Dialogue with stakeholders

34. Close and regular dialogue with stakeholders will be essential for adoption of the voluntary methodology by third party complaint bodies as well as for the correct interpretation of data on consumer complaints. As announced in the Communication of 7 July 2009, the Commission will maintain the informal expert group on consumer complaints, whose assistance has been very important towards the development of the harmonised methodology. This group will be the main forum for discussing issues relevant for the implementation of the methodology and analysis of the complaints data. It will serve as a feedback mechanism, monitoring the implementation of the methodology, providing real-time feedback and suggesting improvements as necessary. Also, it will work towards ensuring the quality, accuracy and consistency of data.

35. The expert group is open for Member States not yet represented therein. Subject to maintaining a working size to the group, participation in the expert group on consumer complaints is open to other complaint bodies which are interested in adopting the harmonised methodology.\(^5\)

36. The views of the business sector are vital in interpreting the data, as they can provide useful input on issues such as the overall context and any sector specificities that should be taken into consideration when analysing results.

37. The Commission services will organise a conference on 27 May 2010, to encourage a discussion between interested stakeholders and to develop further the knowledge on the use of consumer complaints as a market monitoring indicator. The conference will be an opportunity for more detailed discussion of issues relating to implementation and analysis of complaints data with a wide group of stakeholders.

**Participation and Reporting of data (frequency, collection, level of detail)**

38. Participation is open to all eligible complaint bodies that can provide data according to the recommended data fields as these appear in the Recommendation. The recommended data fields do not contain any personal data.

39. The voluntary fields are suggestions to participating bodies for collecting additional data that may be useful both to the Commission and to national bodies.

40. Personal data or data concerning the names or allowing the identification of traders should not be reported to the Commission.

41. Concerning the level of aggregation in reporting the data, in order to be able to cross-tabulate sectoral data with information on the type of complaints, this implies that complaint bodies will have to report the information corresponding to each individual complaint. The data fields that should be reported for every individual complaint are the recommended fields in the harmonised methodology.

42. As for the sectoral part of the methodology (section B in the accompanying Recommendation), complaint bodies which deal with complaints covering the whole of the economy will have to use the complete methodology whereas complaint bodies that deal with particular sectors will only have to use the part corresponding to their relevant sector.

43. In line with the Recommendation, complaint bodies are invited to report to the Commission on a yearly basis. The Commission services will present the data yearly in the Consumer Market Scoreboard.

44. Reporting of the data to the Commission should preferably be done through a single national contact point, but it will also be possible for complaint bodies to report the data individually to the Commission if they wish.

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\(^5\) For further information on participation in the consumer complaints expert group, please contact: SANCO-consumercomplaints@ec.europa.eu
One of the major benefits of this initiative is to stimulate discussion at a national level on how the market is working for consumers. The complaint bodies are encouraged to provide data to a single national contact point that will be chosen jointly by the Commission services and the Member State consumer authorities. This will improve co-operation between complaint bodies at national level and will help create a better understanding of complaints data and the consumer environment at a national level, thus reducing double counting. In the case of reporting through a single national contact point, such a body would have the responsibility for any organisational aspects related to data reporting at national level.

However, if this centralised organisational structure is unsuitable for some Member States and might create bottlenecks in data transmission, individual complaint bodies can provide their data directly to the Commission. Also, in cases where there are well-established European bodies such EU regulatory bodies in the energy sector and the advertising sector, reporting can be done through the European umbrella organisation if their members decide to do so. The Commission services are in the process of discussing with consumer authorities in all Member States, and all sectoral organisations whether or not they wish to coordinate reporting.

Complaint bodies are invited to use the methodology from May 2010. It is expected that the first data on consumer complaints collected using the harmonised methodology will be available in 2011. The Commission services will engage closely with Member States authorities and complaint bodies with the aim of collecting around 70% of complaints in each Member State by the end of 2011.