



The Consumer Authority

**for fair trade
between companies
and consumers**



consumentenautoriteit



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Is a company applying unreasonable terms and conditions? Are consumers being sent products they did not order, accompanied by a payment request, to tempt them to buy the product? Does a business offer its products over the Internet without first properly informing the consumer about the cooling-off period? The Consumer Authority, which works to achieve fair trade between companies and consumers, was set up to deal with such cases. The economic interests of consumers come first.

The Consumer Authority is part of the Ministry of Economic Affairs, and supervises compliance with consumer law. The Netherlands has a wide range of supervisory and consumer organisations, such as the Netherlands Competition Authority (Nederlandse Mededingingsautoriteit, NMa), the Independent Post and Telecommunications Authority (Onafhankelijke Post- en Telecommunicatieautoriteit, OPTA) and the Netherlands Authority for the Financial Markets (Autoriteit Financiële Markten, AFM), not forgetting organisations such as the Consumers Association (Consumentenbond), the Ombudsman Foundation (Stichting de Ombudsman), the Dispute Resolution Boards (Stichting Geschillencommissies) and the Dutch Advertising Code Commission (Stichting Reclamecode). The Consumer Authority attaches great value to this existing system of consumer protection.

The Consumer Authority works with these parties to protect consumer interests, and complements their work. For example the Consumer Authority is able to impose fines and penalties, or to take companies that violate the rules to court in order to ensure that infringements of consumer law no longer occur. This renders the existing system of consumer protection more effective.

The Consumer Authority was set up because:

- **violations of consumer law of a collective nature often remained unsolved. There was a need for an additional consumer protection body that had powers of enforcement;**
- **the opening of international markets meant that more and more infringements take place across borders. The purpose of the new European directive is to improve cooperation when combating such infringements through the setting up of a network of competent authorities in the different member states.**



Tasks of the Consumer Authority

The Consumer Authority ensures that companies comply with the rules and regulations where it comes to consumer protection. In the case of an infringement, the Consumer Authority can intervene under two conditions:

- the infringement is collective in nature. This means it has to affect, or have the potential to affect multiple consumers;
- market parties and consumer organisations are not capable, or are insufficiently capable, of dealing with this infringement.

Where possible, the Consumer Authority will leave it to the market parties to put an end to any infringement of consumer rights. However, if no structural change in behaviour is detected, the Consumer Authority may then act. It can also take charge when the parties involved are not expected to be able to solve the problems themselves quickly and effectively, for instance if the damage to consumers makes it imperative that the infringement is discontinued immediately, or in case of repeated violations. Another consideration could be that actions on the part of the Consumer Authority fulfil a deterrent (signal) role more than anything else. The Consumer Authority assesses the role it needs to play for each infringement on a case by case basis.

The tasks of the Consumer Authority are based on the Act for the Enforcement of Consumer Protection Wet Handhaving Consumentenbescherming (WHC). Its three main tasks are:

the supervision of the rules laid down in this Act,

- coordination in the event of cross-border infringements, and
- adequate provision of information to consumers and providers.



The Consumer Authority supervises regulations relating to:

- misleading advertising
- package holidays
- unfair terms in consumer contracts
- part-time use of immovable property ('timesharing')
- guarantees
- distance selling
- electronic commerce
- contracts negotiated away from business premises
- price indications
- unfair commercial practices: probably from the middle of 2007 onwards

Application of laws and regulations

In order to investigate possible infringements effectively, the Consumer Authority has various legal powers of investigation, including access to data and records and the power to carry out on-site inspections. The Consumer Authority possesses various legal instruments in order to end an infringement. The Consumer Authority can ask the business for an undertaking to cease the infringement of consumer law. The Consumer Authority can subsequently publicize this undertaking. After it has been established that an infringement has taken place, the Consumer Authority can also, in many situations, impose an administrative fine or a fine on a daily basis for each day the infringement continues.

Wherever 'open norms' are involved, where the law or rule is not clear and concrete, an end of an infringement can be reached through the involvement of a civil judge. To that end, the Consumer Authority can ask for an injunction with the court of appeal in The Hague by means of a special procedure .

The Consumer Authority establishes the nature and seriousness of the infringement, as well as the most effective and efficient means of enforcement, on a case by case basis. Sometimes a warning or informative meeting is all that is required. In other instances, stronger measures have to be taken to make sure the violation is ended.

Finally, the Consumer Authority can ask the court to declare an agreement for the settlement of mass damages on the part of consumers to be binding. The Consumer Authority will only use this last approach – under instruction from the Minister of Economic Affairs – if market parties are unable to reach agreement themselves.

The Consumer Authority not only acts against national infringements of consumer law, but also deals with cross-border infringements. The development of Internet trade, the introduction of the euro and the expansion of the European Union mean consumers have ever more possibilities to make purchases beyond their national borders. These developments have been accompanied by an increase in the number of cross-border infringements of consumer law. To prevent the further development of the internal market from being obstructed as a result, the Consumer Authority has become part of a network of European enforcement authorities that cooperate to protect consumers when they make purchases abroad. When a Dutch company is suspected of committing an infringement to consumers abroad, the Consumer Authority can, if requested to do so, provide foreign enforcement authorities with information about that company . If necessary, the Consumer Authority can also take action against the company.

On the other hand, the Consumer Authority can also request information from foreign enforcement authorities about companies in their country that commit violations which affect Dutch consumers. The Consumer Authority can subsequently ask those enforcement authorities to take action against these companies.



“The Consumer Authority and the Legal Desk (Het Juridisch Loket) complement each other well. We focus mainly on individual consumers. The Consumer Authority can acquire a strong position when it comes to representing consumer interests on a collective level.”

J.A. Waal, director of
Het Juridisch Loket

“The Consumer Authority and the Dispute Resolution Boards (Stichting Geschillencommissies voor Consumentenzaken, SGC) complement one another well. Of course we only get to see the problems of parties who submit complaints to us, and that is only a selective part of the market. The Consumer Authority is confronted with other problems as well and can refer parties who are involved with these problems to us in order to institute a consumer complaints board as required.”

H. Kujipers, director of Dispute Resolution Boards (Stichting Geschillencommissies voor Consumentenzaken, SGC)

“On the one hand, the Consumer Authority can help to resolve problems that cannot be solved through self-regulation. On the other hand, it is an objective, neutral party that is capable of providing information about the rights and obligations of consumers and businesses that arise from European regulations, without wanting to give the impression that it is mediating personally in the solution of individual complaints.”

H.J.J. van Breemen, secretary of consumer affairs of VNO-NCW

Coordination of cross-border transgressions

In addition to the Consumer Authority, other enforcement authorities are also working to combat cross-border infringements of consumer law. These include the Netherlands Authority for the Financial Markets, the Food and Consumer Safety Authority, the Netherlands Competition Authority, the Independent Post and Telecommunications Authority, the Dutch Healthcare Authority, the Healthcare Inspectorate, the Transport, Public Works and Water Management Inspectorate, and the Dutch Media Authority.

In order to ensure effective coordination and cooperation in the approach to cross-border infringements, the Consumer Authority has been appointed as the ‘single liaison office’ between the Dutch enforcement authorities and the competent authorities in the other European member states.

Provision of information to consumers

For practical advice on rights and obligations the consumer can contact the ‘ConsuWijzer’, a low-threshold information portal run by the Consumer Authority, the NMa and the OPTA. By providing information, the Consumer Authority wants to reinforce the position of consumers when doing commercial transactions. In addition, the Consumer Authority uses the information that comes in via ConsuWijzer to keep track on what is happening in the marketplace. This can yield important information for the enforcement division.

Consumers can contact ConsuWijzer via its website www.consuwijzer.nl, or by telephoning +31 (0)88 070 70 70 (national rate).

The aim of ConsuWijzer is:

- to make consumers aware of their rights
- to give practical advice to consumers about their rights
- to bring consumers into contact with organisations and institutions that can help them protect their rights.



Advantages for companies and consumers

Fair trading between companies and consumers is not only beneficial to the consumer, but also to companies. After all, suppliers who do not comply with consumer law disrupt the marketplace, and bona fide businesses suffer as a result. By dealing with infringements, both consumers and businesses benefit from fair trading, and with that from economic growth and prosperity. Businesses can also visit www.consumentenautoriteit.nl for more information about consumer regulations, and ways to comply with those regulations.

More information is available from:

Consumer Authority

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“The Consumentenbond has for years campaigned for the establishment of a supervisory body. The establishment of the Consumer Authority has led to better consumer protection . Consumers can now have faith that something will be done about their questions and complaints, in so far as these are collective in nature. If the Consumer Authority shares this aim, we can look to the future with every confidence , that is a future characterised by close cooperation between the Consumer Authority, the Consumentenbond and the consumers themselves.”

J.T. Peters, policy assistant at the
Consumentenbond