



Netherlands Consumer Authority  
*Ministry of Economic Affairs, Agriculture and  
Innovation*

# 2011

## ANNUAL REPORT

Enforcement and information | Results

Please note: This is an interactive PDF file. Click on the underlined words in the text to access additional information.

# Foreword

The Netherlands Consumer Authority achieved many results in 2011. In this Annual Report, we look into some of them in greater detail. Our oversight involves many diverse areas and industries. In order to be able to focus our efforts, we use so-called focus areas, which have been listed in our Agenda. 2011 has been the second year that we achieved results based on the 2010-2011 Agenda.

One of the cornerstones of our work is informing consumers through ConsuWijzer, the consumer information portal jointly operated by the Consumer Authority, the Netherlands Competition Authority, and the Netherlands Independent Post and Telecommunications Authority. The Consumer Authority is built on two foundations: informing consumers on how to exercise their rights, and forcing businesses to comply with the rules.

I would like to invite you to learn more about our results of 2011 in this Annual Report.



**Bernadette van Buchem**  
Director of the Netherlands Consumer Authority

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# Enforcement and information

## Strengthening the position of consumers

Since its creation on January 1, 2007, the Netherlands Consumer Authority has enforced compliance with consumer protection laws. Its mission is:

## Promoting fair business practices between businesses and consumers, taking the economic interests of consumers as its starting point.

The Consumer Authority has been granted a range of powers to investigate violations of and to force compliance with consumer protection laws. At the same time, the Consumer Authority provides consumers with practical advice about their rights and obligations.

The Consumer Authority is an agency under the Ministry of Economic Affairs, Agriculture and Innovation. Its [duties and powers](#) are 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 Consumer Authority, the Netherlands Competition Authority (NMa) and the Netherlands Independent Post and Telecommunication Authority (OPTA). ConsuWijzer is part of the Consumer Authority.

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. If a question concerns an area that does not fall under the jurisdiction of one of the three aforementioned authorities, ConsuWijzer then refers that consumer to the right agency. Consumers can visit [www.consuwijzer.nl](http://www.consuwijzer.nl) to ask a question, report a complaint, seek information and download sample letters. Consumers can also raise questions by phone. 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 parties

### National cooperation

The Netherlands Consumer Authority in 2011 once again cooperated closely with other regulators, social organizations and self-regulatory bodies. Coordination 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 violation takes place if so needed.

Cooperation with social parties is further reflected in the so-called National Forum, meetings that the Consumer Authority regularly holds under the Dutch Act on Enforcement of Consumer Protection (Whc) with consumer and trade organizations. Current events and priorities are discussed during these meetings. In addition, the Consumer Authority in 2011 took part in the so-called Consultation Forum of Regulatory Bodies (MTB), which includes the abovementioned authorities as

#### 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

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.

#### The upcoming merger in 2013

The Consumer Authority, the NMa and OPTA are set to continue their already extensive cooperative efforts cooperation in a new organization to be created on 1 January 2013. The bill on the creation of this new regulatory authority was passed in 2012, thus paving the way for the merger of the Consumer Authority, the NMa, and OPTA into the Netherlands Authority for Consumers and Markets (ACM). The new organization's name makes its mission immediately clear: ensuring that markets work in order to protect consumer interests. Joining forces with two other regulators in the ACM will ensure the realization of [effective approaches](#) to consumer and market problems. Consumer protection tasks, including those in energy and telecommunications, will be housed in a single department. ConsuWijzer will also be housed in this consumer department, thereby guaranteeing consumer interests a key role in the ACM.

### International cooperation

The Consumer Authority maintains relationships with a number of partners at an international level as well. First, the Consumer Authority and its counterparts in other EU Member States work together at a European level when fighting cross-border violations. To that end, the Consumer Authority is a member of the network of European consumer protection authorities CPC (Consumer Protection Cooperation). More information about the policies and approaches as a result thereof can be found in the section on [cross-border consumers](#).

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 Consumer Authority acts as the Dutch 'liaison office' for the other Dutch [regulators in the CPC network](#).

Op mondiaal niveau participeert de Consumentenautoriteit in ICPEN (the Internationa

l Consumer Protection and Enforcement Network). ICPEN is het wereldwijde netwerk van consumentenautoriteiten. Inmiddels zijn meer dan 50 landen bij het netwerk aangesloten, waaronder naast Europese landen ook landen als de Verenigde Staten, Canada, Australië en China. ICPEN heeft als doel: het samenwerken en uitwisselen van ervaringen en 'best practices' op het gebied van toezicht en handhaving enerzijds en consumentenvoorlichting anderzijds. Jaarlijks wordt wereldwijd aandacht besteed aan oneerlijke handelspraktijken tijdens de Fraud Prevention Month. De Consumentenautoriteit was van juli 2010 tot juli 2011 voorzitter van ICPEN.

At the global level, the Consumer Authority 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. The annual Fraud Prevention Month devotes global attention to unfair business practices.

The Consumer Authority chaired ICPEN between July 2010 and July 2011.

# Results

**What actions did the Netherlands Consumer Authority take in 2011 and what results did it achieve in strengthening the position of consumers?**

## ConsuWijzer

ConsuWijzer provides consumers information and practical advice enabling them to resolve their problems with providers themselves. ConsuWijzer also registers consumer questions and complaints for the regulatory authorities that operate the portal: the Netherlands Consumer Authority, the Netherlands Competition Authority (NMa) and the Netherlands Independent Post and Telecommunication Authority (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.

In 2011, ConsuWijzer's website was visited 2,300,000 times. ConsuWijzer received 85,000 questions and reports. The Consumer Authority, the NMa and OPTA have [launched several investigations](#) as a result of the information received from consumers.

ConsuWijzer's objective is to promote consumer self-sufficiency 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. One of ConsuWijzer's primary goals is to help the three

regulatory authorities in their enforcement activities. The portal serves as a central registration point for indications received from consumers.

The abovementioned objectives remained the same for 2011. Our key activities and tools in 2011 were therefore aimed at:

- enhancing the portal's name awareness
- organizing awareness campaigns addressing specific themes
- optimizing online visibility of the [www.consuwijzer.nl](http://www.consuwijzer.nl)
- optimizing the quality of ConsuWijzer
- improving the barometer role of ConsuWijzer

### Top ten list of the website's most consulted topics in 2011:

1. Cancelling subscriptions or contracts, automatic renewals
2. Telemarketing and the Do-Not-Call-Me Register
3. Warranty
4. Rights of airline passengers (in particular in case of delays)
5. Online shopping
6. Comparing and switching energy companies
7. Telephone numbers (blocking, keeping your number when switching carriers, information numbers)
8. Labels
9. Text messaging services
10. Energy bills

### 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. Non-compliance with the 'Do-not-call-me Register' regulations
2. Warranties and non-conformity (questions about the legal position of consumers, in particular with respect to digital/electronic equipment)
3. Bills and payment (questions about bills, in particular telecommunication and energy bills)
4. Cancelling and dissolving agreements (difficulties when cancelling gym memberships for example)
5. General questions about legislation (many questions about new regulations concerning aviation and subscriptions)

### Top five of indications per sales channel

- 1 Telephone (including the 'Don't call me register')
- 2 Stores
- 3 Internet
- 4 Post
- 5 Text messaging services

### Top five of indications per sub-industry

- 1 Telecommunications (in particular, 'Do-not-call-me Register' and incorrect bills)
- 2 Energy (same)
- 3 Electronics/ white goods and domestic appliances (in particular warranty issues)
- 4 Gambling and lotteries ('Do-not-call-me Register')
- 5 Home furnishings retail (in particular warranty and delivery times)

### Provision of information

ConsuWijzer conducted a number of activities and held several campaigns in 2011 which were intended to increase consumer knowledge of their rights in specific problem areas. In addition to providing correct and clear information about consumer rights and obligations, ConsuWijzer also developed a number of new tools such as checklists and sample letters.

#### Campaign: "Is the webshop OK or Oh No?"

As part of the Fraud Prevention Month, the Consumer Authority used ConsuWijzer to inform consumers about online shopping, which was the main theme of 2011. The Consumer Authority developed the Online shop scan in close consultation with Dutch online-retailers association Nederlandse Thuiswinkel Organisatie and Dutch consumer association Consumentenbond. By consulting

the Online Shop Scan before making their purchases, consumers are able to make a better assessment of the company behind an online shop. It has turned out that this Online Shop Scan is filling a need: it has been downloaded 24,000 times since its launch in April 2011.

*Campaign celebrating ConsuWijzer's 5-year anniversary*  
ConsuWijzer celebrated its 5-year anniversary in October 2011, which was commemorated with a special campaign that was launched on October 1, 2011, during an episode of Dutch consumer show Kassa. In addition, interviews were published in various media. A number of new tools

were launched throughout the entire month, including checklists and consumer success stories. Specific subjects were addressed in each week of October based on the most reported issues ConsuWijzer received in the past five years:

- service not provided as expected
- disagreement with bill
- dissatisfaction with product
- unwanted subscriptions and contracts

In the five years of ConsuWijzer's existence, millions of consumers have received practical advice about their

**ConsuWijzer Online ShopScan** 

## Is de webshop ?

Op internet kunt u eenvoudig prijzen vergelijken en zo een voordelige koop sluiten. Maar weet u ook van wie u koopt en hoe betrouwbaar de winkel is? De ConsuWijzer Online ShopScan helpt u om verder te kijken dan alleen de prijs. Eigenlijk net zoals u dat in een echte winkel doet. Aan de hand van een aantal vragen kunt u een oordeel vormen over het bedrijf achter de webshop.

**Doe de Online ShopScan**

**1. Check de winkel**  

**Kloppen de gegevens van het bedrijf?**

Het is voor webshops verplicht hun e-mailadres en adresgegevens op de site te vermelden. Via bijvoorbeeld Google Maps of Bing Maps kunt u controleren of het adres ook echt bestaat. Op de website van de Kamer van Koophandel kunt u controleren of het bedrijf daar is geregistreerd en of bijvoorbeeld de contactgegevens van de webshop overeenkomen met die op de website.

**Hoe beoordelen andere kopers het bedrijf?**

Door met zoekmachines naar reviews en beoordelingen van de webshop te zoeken op internet krijgt u al snel een indruk van de ervaringen van anderen met de webshop. Ga niet af op maar één review of website.

**Staat er een keurmerk op de website?**

Heeft de webshop een keurmerk? Kijk dan op de website van dat keurmerk en controleer of het bedrijf ook echt bij het keurmerk is aangesloten. Kijk kritisch naar wat het keurmerk u biedt.

**2. Check het product, de prijs en aanvullende kosten**

**Hebt u het product, het typenummer, de kleur en/of maat gecheckt?**

Controleer of het product dat u wilt gaan bestellen echt is waar u naar op zoek bent. Soms is de afbeelding die op een site bij een product staat afwijkend.

**Is de prijs reëel?**

Sommige aanbiedingen zijn gewoon te mooi om waar te zijn. Vergelijk daarom de prijs van het product op andere websites. Wees extra alert bij heel grote prijsverschillen.

**Weet u precies wat de verzend- en andere kosten zijn?**

Op de website moet u, voordat u het bestelproces in gaat, informatie kunnen vinden over de verzendkosten. Ook moet duidelijk zijn wat de eventuele service-, reserverings-, afhandel- of administratiekosten zijn.

**Heeft de webshop het product op voorraad?**

Voorkom teleurstelling doordat u lang op het product moet wachten. Check bij de webshop of het product op voorraad is. Pas ook op als een product overal is uitverkocht en er een webshop is die zegt een flinke voorraad te hebben.

**Hoe beoordeelt u de betaalwijze?**

U bent vaak niet verplicht om meer dan 50% aan te betalen. Kies de betaalwijze die u het prettigst vindt en vertrouwt. Kijk voor informatie over online betalen en veilig online winkelen op [Mijndigitaalwereld.nl](http://Mijndigitaalwereld.nl). Of doe de Webwinkel Quiz van de Consumentenbond.

**3. Check de voorwaarden**

**Is voor u duidelijk wat de retourvoorwaarden zijn?**

Check de retourvoorwaarden als u een product wilt terug sturen. In de meeste gevallen moet u het product, nadat u het hebt ontvangen, binnen zeven werkdagen kunnen retourneren (let op: er zijn uitzonderingen). U hebt dan recht op terugbetaling van alle kosten, behalve de kosten voor het terugsturen van het product. Controleer of dat ook voor de webshop geldt waar u wilt kopen.

**4. OK of Ohé** **Totaal**

Hebt u alle vragen beantwoord? Dan hebt u nu, naast de prijs, ook een goed beeld van de webshop waar u het product wilt kopen. Zijn er punten die negatief zijn of waar u over twijfelt, denk dan goed na of de voordelige prijs wel opweegt tegen de eventuele nadelen.



**HOE HAAL IK M'N GELIJK?  
WAAR TREK IK AAN DE BEL?**



Source: For more information on online shopping and the Online Shop Scan, consumers in the Netherlands can visit [www.consuwijzer.nl](http://www.consuwijzer.nl)



Questions on how to cancel gym memberships were very popular

rights, more than one million sample letters have been used, and hundreds of thousands of indications have been collected for the Consumer Authority, OPTA, and the NMa.

Top five categories of reports filed with ConsuWijzer during the past 5 years

- 1 misleading and aggressive sales methods
- 2 warranty and non-conformity
- 3 bills and payment
- 4 online purchases
- 5 unwanted subscriptions and contracts

#### Current issues

Throughout 2011, ConsuWijzer regularly reported on current topics that might be of importance to consumers. For example, in the period leading up to Valentine's Day, consumers were warned about [misleading Valentine's text messages](#). And around Easter Monday, a day on which many Dutch traditionally head to home furniture stores, information on kitchens was published. Furthermore, ConsuWijzer published comprehensive information about the consequences that the new legislation governing subscriptions will have on consumers. ConsuWijzer aims to respond appropriately to current developments, and to address questions consumers have by providing them with specific information.

#### Media

The collaboration with free daily newspaper Spits was continued in 2011. ConsuWijzer answers a consumer question in a weekly article in this newspaper. In addition, ConsuWijzer has regularly provided information about consumer rights to the editors of newspapers, radio and TV shows, and it has taken part in consumer shows to provide information.

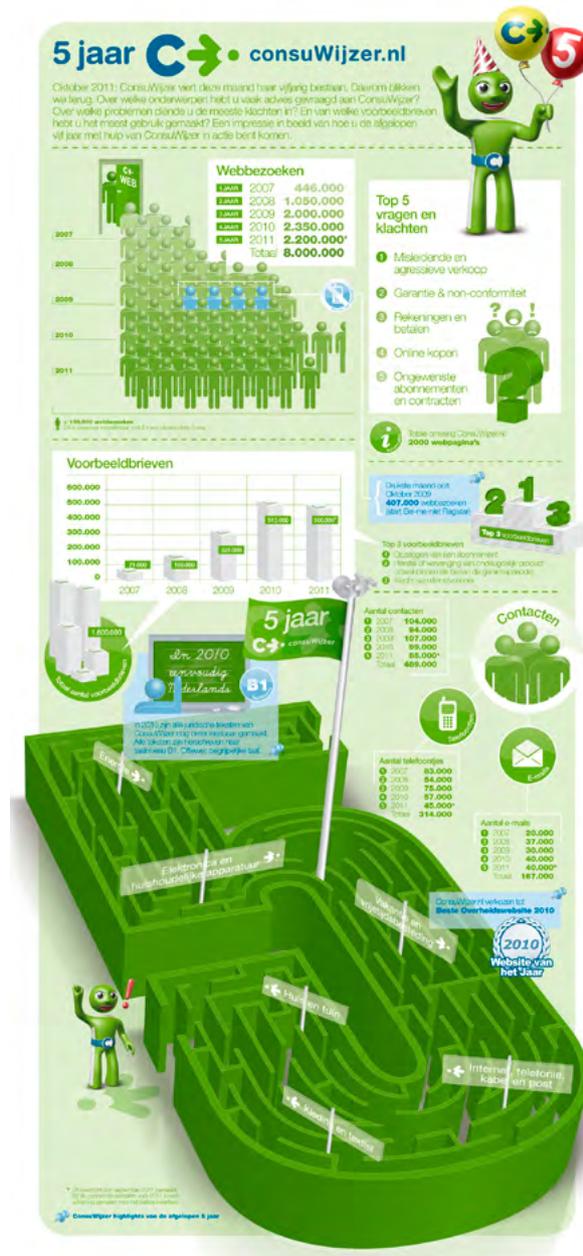


Illustration: As part of its five-year anniversary, ConsuWijzer published an infographic. It gives an overview of the scope and themes of the indications consumers have submitted over the past five years.

#### Name awareness

ConsuWijzer has made use of both online and offline channels to promote the portal's name awareness and visibility.

#### National publicity campaign: "I gotta visit ConsuWijzer.nl"

The publicity campaign "I gotta visit ConsuWijzer.nl", which was launched in October 2010, was continued in 2011 with advertisements in the two leading free daily newspapers in the Netherlands, and with radio commercials on national and regional stations. Throughout 2011, some 2,500 radio commercials were broadcast, and about 50 advertisements were placed in free daily newspapers. This increased both ConsuWijzer's assisted and spontaneous name awareness.



Illustration: Advertisement in free daily newspapers.

#### Online searchability

The successful online-marketing strategy launched in 2010 was continued in 2011. As a result, the website is easily found when consumers seek online for a solution to their problem. In addition, the use of online banners

on relevant sites was introduced in 2011.

ConsuWijzer also began a social-media pilot project in 2011 to examine how ConsuWijzer can make use of social media such as Twitter and Facebook as a means of communication with consumers. Communications via social media will be intensified in 2012.

#### *ConsuWijzer on mobile phones*

ConsuWijzer is also active on its mobile site (m.consuwijzer.nl). This mobile site is not a carbon copy of the normal website. The mobile site offers information specifically aimed at consumers 'on the road', such as information about warranties and traveling. This is how ConsuWijzer meets the needs of consumers who increasingly want to access information fast and directly. Consumers with internet access on their mobile phones now have practical information about their rights at their fingertips, anywhere and anytime.

## Quality

*Website of the Year for the second year in a row*  
ConsuWijzer.nl won the 'Website of the Year' (Government category) public award for the second year in a row. ConsuWijzer.nl received the highest scores for content, design and navigation. The Website of the Year is the Netherlands' largest online contest. A total of 700,000 votes were cast in 22 categories. It is the first time that a government website has won this award two years in a row.

Since late 2010, ConsuWijzer.nl has been allowed to display the so-called Waarmerk Drempelvrij prioriteit 2 accessibility seal of approval (equivalent to the WCAG 1.0, "Double-A" conformance level). It means that the website has received high marks for user-friendliness and accessibility to individuals with a handicap or impairment.



#### *Customer Satisfaction Survey*

ConsuWijzer frequently has customer satisfaction surveys conducted. The results of the 2011 survey were excellent like in previous years. Consumers contacting ConsuWijzer by phone gave a high score of 7.8 (out of 10). Interaction by email was awarded a 6.7.

These results show that contact with a person over the phone offers added value to consumers. ConsuWijzer's website was awarded a 7.6. Consumers see the website as straightforward and well-organized. In addition, the ability to find information fast was also seen as a reason for the high score.

## Barometer role

Examples of actions the Netherlands Consumer Authority has taken after being alerted by ConsuWijzer.

Indications received from ConsuWijzer resulted in the Netherlands Consumer Authority taking action on several occasions in 2011. These included (pres releases in Dutch):

- <http://www.consumerauthority.nl/news/2011/netherlands-consumer-authority-issues-warning-mijngsmwinkelnl-and-dutchfonenl>
- <http://www.consumerauthority.nl/news/2011/netherlands-consumer-authority-fines-five-electronics-companies-misleading-consumers-about>
- <http://www.consumerauthority.nl/news/2011/consumer-authority-penalises-greenchoice-misleading-doorstep-selling>
- <http://www.consumerauthority.nl/news/2011/netherlands-consumer-authority-fines-providers-misleading-sales-demonstrations-during-coac>

## Agenda 2010-2011

### Consumer issues

In 2010, the Netherlands Consumer Authority introduced a two-year agenda, the Agenda 2010-2011. The reason behind a two-year agenda is because the Consumer Authority believes that, in practice, issues cannot be fully addressed over the course of 12 months. The focus areas for the Agenda 2010-2011 were:

- 1 unfair online business practices
- 2 aggressive and misleading customer-recruitment practices
- 3 warranties and non-conformity
- 4 new statutory duties
- 5 cross-border consumers

Many of the approaches adopted in 2010 were either continued or intensified in 2011. In addition, current issues that were addressed during this period mostly fell into one of these focus areas. For example, the Consumer Authority was once again able to respond quickly and effectively to questions and abuses that arose overnight and which required immediate intervention in order to protect consumer interests. A broad range of instruments was deployed to address these issues, as a result of which a number of cases could be settled in a manner other than the imposition of a sanction. The approaches were selected on the basis of the prevention of damage to consumer interests.

## Unfair online business practices

With regard to unfair online business practices, the Consumer Authority has identified two priorities: (A) dealing with misleading text messaging services and (B) online reselling of tickets for concerts and other events.

### A. Misleading text messaging services

#### What is the problem?

The continued high number of reports that ConsuWijzer received in 2010 resulted in the Consumer Authority's decision to once again devote attention to misleading and aggressive business practices of providers of text messaging services in 2011. Most reports were about the misleading contents of text messages. A large number of online messages give the impression that consumers can win prizes by sending a message to the relevant shortcode answering a question asked in the provider's text message. However, it then becomes clear that they actually took out an expensive text messaging subscription. Moreover, canceling this subscription often proves difficult as the shortcode is not easily recovered.

#### Objection and appeal by Artiq Mobile B.V.

In this particular case, the CA issued a decision on objection in March 2011. In 2010, Artiq Mobile (trading under the Celldorado name) and its sole shareholder and manager, Blink International, were fined EUR 1,190,000 for violations of several laws, including the Unfair Business Practices Act. Internet and TV commercials drew consumers' attention to the text messaging services offered by the company (games and wallpapers). Consumers were under the impression that they only took a single test or just play a single game, but were unaware that they actually, unwantedly took out a subscription for a

text messaging service. The misleading Internet and TV commercials disguised the fact that the company was selling subscriptions. Artiq Mobile filed an appeal against the Netherlands Consumer Authority's decision. Artiq Mobile's objections were disallowed, with the exception of a number of objections relating to acting in conflict with professional diligence. The objections that were allowed resulted in a reduction of the fine by EUR 55,000 to EUR 1,135,000. Artiq Mobile then filed an appeal with the District Court of Rotterdam, whose ruling is expected in 2012.

#### What is the Consumer Authority doing about this problem?

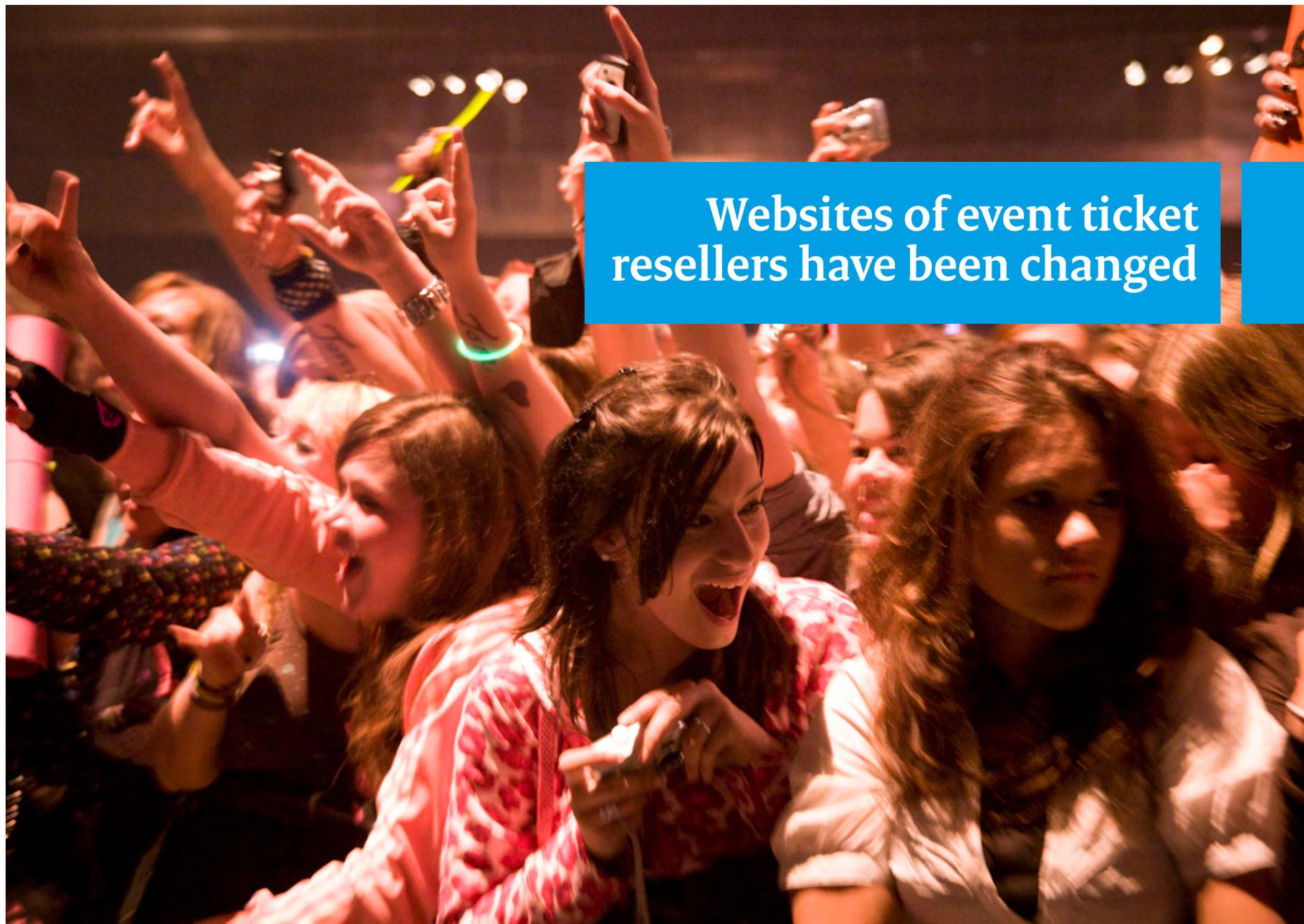
In order to combat this persistent problem, the Netherlands Consumer Authority has adopted a two-pronged strategy. The Netherlands Consumer Authority wants to prevent or counter this problem by closely following current developments and acting against violations in this focus area, as well as by promoting self-regulation. In addition, ConsuWijzer informs consumers about their rights.

#### *Finger on the pulse*

Thanks to its continuous analyses of indications submitted to ConsuWijzer and to its monitoring of advertising for text messaging services, next to the help of regular consultations with stakeholders and parties in the sector, the Consumer Authority is kept fully abreast with the text messaging services industry.

#### *Legislation and self-regulation*

At the beginning of 2011, the Consumer Authority shared its opinion on the revision of the Text Messaging Services Advertising Code. Whenever it was necessary, the Consumer Authority urged the Text Messaging Services Foundation to actively enforce said Code. In addition,



Websites of event ticket resellers have been changed

new legislation (Decree on Universal Services and Regulations on Universal Services) entered into force on 1 April 2011. In a nutshell, these regulations stipulate that providers of mobile telephony services are not allowed to cut off their subscribers simply because they filed a complaint about the charges for a specific paid text messaging service.

### What are the results?

Compared with 2009 and 2010, the indications that ConsuWijzer received about text messaging services fell sharply in 2011. At the same time, the types of text messaging services and providers have become more fragmented.

In the Artiq Mobile case, the Consumer Authority's ruling revealed in what way the Consumer Authority interprets current regulations. The industry seems to be taking that interpretation into account. In addition, regulations have become stricter.

However, the Consumer Authority has received some indications that a number of text messaging service providers are now focusing their attention on consumers outside the Netherlands, possibly because of stricter Dutch regulations. The Consumer Authority has also identified a number of new customer-recruitment methods and new forms of text messaging services. It will therefore continue to monitor these trends in 2012 and 2013.

## B. Online sale of event tickets

### What is the problem?

Many consumers who buy their tickets for concerts and other events over the Internet are unaware that these tickets are often resold tickets. Most consumers do not know what the consequences may be of using such tickets. Sometimes, resold tickets are invalid or consumers cannot get a refund if the event is cancelled.

### What is the Consumer Authority doing about this problem?

The Consumer Authority decided to continue its approach it adopted in 2011. This approach is focused on forcing websites that resell tickets to improve the information they provide to consumers, among other aspects, information such as informing consumers of the fact that they are buying resold tickets and of the potential implications they might face as a result. The websites are also forced to list prices correctly, as well as information on the company behind the website. All websites reselling event tickets have been screened whether they complied with statutory requirements. Websites that did not comply with these requirements were ordered to correct their sites in order to avoid legal steps. In 2011, the Consumer Authority issued an order subject to periodic penalty payments in one case (Ticketloket.com).

### Orders subject to periodic penalty payments imposed on Dutch Entertainment Services

In September 2011, the Netherlands Consumer Authority imposed three orders subject to periodic penalty payments on Dutch Entertainment Services, owner of the booking website ticketloket.com, totaling EUR 15,000 a week up to a maximum of EUR 300,000. This company was ordered to change its website so that consumers are clearly informed that

the tickets they are buying are resold tickets. In addition, they must be informed that they run a financial risk in the event of relocation or cancellation of the event. Dutch Entertainment Services changed its website accordingly. It subsequently withdrew its objections against the orders and their publication.

### Objections filed by Budgetticket and Worldticketshop

In its decision of August 2010, the Netherlands Consumer Authority imposed a number of orders subject to periodic penalty payments on travel booking websites Budgetticket and Worldticketshop for having inadequately complied with regulations governing the provision of information to consumers. The violations mostly concerned their failure to comply with requirements about informing consumers of the fact that the tickets were resold tickets, about the potential risks to them, and about listing prices correctly.

Budgetticket and Worldticketshop subsequently filed objections against these orders. The Netherlands Consumer Authority in April 2011 ruled on their objections, disallowing the majority of the companies' objections. Budgetticket and Worldticketshop appealed this ruling. A final ruling by the courts is expected in 2012.

## International

The Consumer Authority took action following enforcement requests from fellow regulators in Germany, Sweden, France and Spain. It has succeeded in ending violations committed by Dutch providers offering tickets online for resale to consumers outside the Netherlands. The Consumer Authority regularly checked whether ten websites that were imposed orders subject to periodic penalty payments in 2010 continued to comply with all of their obligations. This was not always the case. In cases where these websites failed to publish the required information, thereby failing to comply with said obligations, they were imposed penalties.

### What are the results?

In March 2011, the findings of a joint investigation by the relevant authorities in the Netherlands, Belgium and Luxembourg into the provision of information by 24 Dutch websites reselling event tickets were released. The most important conclusion was that the information provided by these websites has greatly improved since the Consumer Authority had taken action. The number of complaints, including complaints from Belgian consumers, has fallen sharply. These improvements have also been noted on other websites the Consumer Authority had checked. Although inspections have revealed the occasional slip made by these companies, in general, the results provide grounds for optimism about the lasting effects of the approach adopted by the Consumer Authority.

## 2 Aggressive and misleading customer-recruitment practices

### What is the problem?

Companies are prohibited from putting pressure on consumers to buy a service or product. Furthermore, consumers cannot be misled in any way whatsoever. When salespersons are not open and honest about their intentions, it is considered misleading business practices. Yet, some salespersons apparently regularly fail to comply with these regulations, according to indications ConsuWijzer receives. Many of these concern energy and phone plans, telemarketing calls, door-to-door sales, or on the streets, as well as about sales demonstrations. These sales demonstrations are disguised as cheap day trips in which as many products as possible are sold to consumers. Consumers often feel pressured to make purchases. Afterwards, they often regret their purchases, and do not know whether and if so, how they can undo these purchases.

### What is the Consumer Authority doing about this problem and what has been the result?

#### A. Door-to-door sales

After an investigation into their practices, energy company Greenchoice was fined in 2011 for misleading door-to-door sales methods involving energy contracts.

#### Objection and appeal by Greenchoice

In May 2011, the Netherlands Consumer Authority fined Dutch energy company Greenchoice EUR 525,000 for misleading door-to-door sales methods. Between October 2009 to August 2010, it went door-to-door throughout the Netherlands to sell energy contracts to consumers. Greenchoice failed

to comply with a number of regulations on door-to-door sales. Its salespeople gave misleading information on discounts and on supposedly high switching penalties consumers would risk when switching energy providers. The Netherlands Consumer Authority collaborated with the Netherlands Competition Authority in this investigation. The Netherlands Competition Authority imposed fines on Greenchoice for violating certain provisions in the Dutch Electricity and Gas Acts regarding energy contracts. Greenchoice stopped its door-to-door sales activities on 1 September 2010.

Greenchoice filed an objection against the Netherlands Consumer Authority's decision. The Netherlands Consumer Authority issued a decision on objection in December 2011. In that decision on objection, the violation relating to pressuring consumers to decide on new energy contracts was reconsidered. The objection against this violation was allowed and the original fine was reduced by EUR 100,000 to EUR 425,000. Greenchoice's other objections were disallowed. Greenchoice filed an appeal against this decision with the District Court of Rotterdam.

#### B. Telemarketing

In 2011, the Netherlands Consumer Authority also focused on misleading and aggressive telemarketing activities. Since the introduction of the Do-Not-Call-Me register, many complaints ConsuWijzer has received about telemarketing relate to violations of the Do-Not-Call-Me regulations. Consumers who are listed in this register nevertheless receive telemarketing calls. The Netherlands Independent Post and Telecommunications Authority enforces compliance with these regulations. In addition, the number of substantive reports regarding telemarketing calls remains high. These complaints often coincide with complaints about unwanted postal orders.

Following unusual telemarketing calls, consumers receive unrequested shipments. The Consumer Authority has collected these indications, and has contacted some of these companies. In some instances, it immediately resulted in these companies changing their behaviour. In other instances, the authority launched investigations. Furthermore, the Consumer Authority in 2011 regularly sat down with trade organizations about, among other things, the revision of the Telemarketing Code of Conduct. This revision is expected to be completed by the end of 2012.

### Objection by energy company Nederlandse Energie Maatschappij

Energy company Nederlandse Energie Maatschappij (NEM) filed an objection against the Netherlands Consumer Authority's decision of September 2010. Between 15 October 2008 and 20 July 2009, NEM called a large number of consumers to sell energy contracts to them. The Netherlands Consumer Authority established that NEM violated regulations laid down in the Distance Selling Act and the Unfair Business Practices Act in that process. As a result, the Netherlands Consumer Authority fined the company a total of EUR 1,020,000. In its decision on objection, the Netherlands Consumer Authority disallowed NEM's objections, with the exception of one element of the objection relating to the fine for failure to comply with the Code of Conduct for Consumers and Energy Suppliers insofar it provides for the protection of vulnerable seniors. The objection against this violation was allowed, and the original fine was reduced by EUR 50,000 to EUR 970,000. NEM has filed an appeal against this decision with the District Court of Rotterdam, which is expected to rule in 2012.

### C. Sales demonstrations

In the spring of 2011, the Consumer Authority fined three companies (two German and one Dutch one) a total of EUR 630,000 for using aggressive sales methods during sales demonstrations on coach trips.

In late 2010, the Consumer Authority already submitted an enforcement request to its German counterpart, following indications that German companies were organizing sales demonstrations in the Netherlands that violated regulations. At the request of the German authority, the Consumer Authority provided additional information about said enforcement request. A further investigation was also carried out in late 2011. The German investigation has yet to be completed.

### Fines for providers of sales demonstrations during coach trips

The Netherlands Consumer Authority has 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 information was misleading in that, for example, prices of the products that were offered were omitted. In addition, it turned out that the

advertised free products or meals were only free for customers who bought a product in a higher price category. During the demonstrations, the salespersons claimed that the products they were offering provided health benefits, and deliberately took advantage of the seniors' health concerns. The Netherlands Consumer Authority considered such sales methods aggressive sales practices and, consequently, imposed a fine.

After R&S had ended its activities for ITC Reisclub in the Netherlands, Pro-Actief Plus began organizing day trips and sales demonstrations for the same target audience, often to the same locations and with similar products as those of ITC Reisclub. Many of the salespersons had previously worked for ITC Reisclub. The Netherlands Consumer Authority found that Pro Actief Plus' sales demonstrations also made use of misleading and aggressive business practices and, consequently, imposed a fine. All three companies have filed objections against the sanction decisions. A ruling on these objections is expected for early 2012.

Source: <http://www.consumerauthority.nl/news/2011/netherlands-consumer-authority-fines-providers-misleading-sales-demonstrations-during-coac>



**Misleading sales demonstrations  
on day trips have been dealt with**

### What are the results?

Consumer information on door-to-door sales and on the enforcement actions the Consumer Authority took in 2010 have been a success. As a result, the number of complaints about door-to-door sales dropped dramatically in 2011.

The Netherlands Consumer Authority collected indications on aggressive telemarketing in 2011, and approached a number of companies about their behaviour. Considering the persistency of this problem and the constant flow of complaints about this issue, the Consumer Authority decided to reinclude it as a focus area in its Agenda 2012.

The Consumer Authority's approach to sales demonstrations has resulted in the fined companies having terminated these operations. The media in 2011 devoted a lot of attention to sales demonstrations. The Consumer Authority was therefore able to inform consumers about this issue in the media, including national newspapers and consumer TV shows.

## 3 Warranties and non-conformity

### What is the problem?

As in previous years, the Consumer Authority in 2011 devoted a considerable amount of attention to warranties and non-conformity. This focus area continued to be a top priority because of its persistency and scope.

Reports received by ConsuWijzer reveal that many companies still provide consumers with incorrect information about their warranty rights. On the basis of such incorrect information, consumers might decide not to have a product repaired or to pay for the repairs, even though they would have been entitled to free repairs.

### What has the Consumer Authority done about this problem?

The Consumer Authority took enforcement actions against six companies in the electronics industry. It imposed fines on five companies for violations of warranty regulations. One company was imposed an order subject to periodic penalty payments.

#### Fines and an order subject to periodic penalty payments imposed on five companies in electronics industry

The Netherlands Consumer Authority has fined five companies in the electronics industry. Each was imposed a fine of EUR 90,000 providing consumers with misleading about their warranty rights.

These companies gave consumers incorrect and misleading information about their rights after their manufacturer's warranty period had expired. The companies in question were BCC, De Block, De Harense Smid, Mikro Electro, and Scheer & Foppen. Having received indications about this issue, ConsuWijzer informed the Netherlands Consumer

Authority, which decided to investigate these electronic companies' information processes. The investigation revealed that these five companies systematically gave consumers incorrect or incomplete information about their warranty rights. The Netherlands Consumer Authority concluded that these companies often incorrectly told consumers that they had to pay (either partially or in full) for having their equipment repaired and/or that they were not entitled to free repairs or replacement products. These companies filed objections and appeals against their fines.

An order subject to periodic penalty payments was imposed on a sixth company, Correct, ordering it to revise the warranty clause in its general terms and conditions. The penalty was EUR 10,000 for each week in which Correct did not comply with the order, up to a maximum of EUR 250,000. Correct has already revised its general terms and conditions before the order's deadline.

Source: <http://www.consumerauthority.nl/news/2011/netherlands-consumer-authority-fines-five-electronics-companies-misleading-consumers-about>

The Consumer Authority also approached toy store chain Bart Smit about the fact that it refers consumers that have problems with their Nintendo products to the manufacturer. Consumers are entitled to receiving sound products. Whenever there is a problem that reasonably should not have occurred, the seller must offer a solution. Bart Smit has assured the Consumer Authority that it will no longer refer consumers to the manufacturer. The Consumer Authority will check whether Bart Smit honors its promise.



## Consumer electronics stores fined for non-compliance with warranty regulations

### What are the results?

Most of the companies investigated by the Consumer Authority have exhibited a shift in their behaviour, which is evidenced by, among other things, a decline in the number of warranty-related indications ConsuWijzer receives about these companies. That number has declined, but not to the extent that the problem can now be considered ‘resolved’. This subject therefore continues to require the authority’s attention, and the Consumer Authority has thus decided to continue to actively monitor this issue and to take action if so required. Uneto-VNI, the trade organization of electronics stores, has drawn up a code of conduct aimed at providing consumers with correct information about their warranty rights. The trade organization wishes to achieve uniformity in the interpretation of warranty regulations, thereby ensuring a correct and consistent implementation thereof. The Consumer Authority welcomes this initiative.

### Developments

## 4 New statutory duties

In its role as regulator, the Netherlands Consumer Authority was charged a number of new duties as a result of new legislation in 2011.

### What are these new duties?

In 2011, the Consumer Authority was charged with **two new statutory duties**, which are the following:

- 1 As of 1 June 2011, the Netherlands Consumer Authority has been appointed the competent authority to enforce compliance with Article 23 of EU Regulation 1008/2008 on common rules for the operation of air services in the Community. Article 23 of this Regulation contains requirements that must be met when offering air fares, such as refraining from pre-selecting checkboxes for air fare options. These regulations apply to air fares for flights originating from airports within the jurisdiction of EU Member States.
- 2 As of December 1, 2001, regulations on issues such as tacit renewal of subscriptions have been revised. The Netherlands Consumer Authority enforces compliance with these regulations.

### A. Airline tickets

#### What has the Consumer Authority done?

First, the Consumer Authority conducted an in-depth market analysis of the airline industry. It identified a number of problems that can be addressed using Article 23 of the Regulation.

One specific problem is that air fare providers often pre-select checkboxes of air fare options during the booking process. Under the new regulation, this is not allowed. Consumers must be able to decide for themselves whether or not to select certain options (‘Opt-In’). The Consumer Authority sat down with the travel industry’s trade

organization, ANVR, which subsequently called on its members to comply with the Regulation. As a result, most Dutch providers now use the ‘opt-in’ system. In addition, two enforcement requests were sent to counterparts in other European Member States where air fare providers were officially located that had Dutch consumers as their target audience but who did not comply with the Regulation.

The websites of both ConsuWijzer and the Consumer Authority have been revised. Information about the new requirements laid down in Article 23 has been added, so that consumers and businesses have access to the most up-to-date information. ConsuWijzer also underwent the necessary changes in order to be better able to register reports on this issue.

At an international level, the Consumer Authority has taken active part in the Expert Group on Airlines (EGA), comprising of the competent authorities in the various European states. The objective is to tackle major problems faced by the airline industry at an international level. The Consumer Authority also supplied input to the ‘European Commission Review of Airline Ticket Transparency’, which concerned determining whether existing European regulations combined provided enough opportunities to resolve air-fare transparency problems.

### What are the results?

The Consumer Authority has obtained a considerable amount of knowledge about the current issues involving air-fare transparency. It has now become uncommon to see Dutch air fare providers pre-selecting checkboxes for air fare options. Businesses that have violated regulations have been dealt with, and enforcement requests have been sent out for two international businesses that did not comply with regulations. These experiences served as input for section on ‘Untransparent prices in travel industry’ in the Agenda 2012-2013. In addition, the information about the air service regulation for consumers and business on the website has been revised.

## B. New regulations on subscriptions

### What is going on?

Since December 1, 2011, the regulations on tacit renewal of subscriptions have been revised. In addition, new regulations came into effect, such as about the termination of trial subscriptions and about how to cancel subscriptions. The Consumer Authority enforces compliance with these new regulations. These new regulations are aimed at putting an end to the practice of tacitly renewing subscriptions, but the products or services to which are no longer wanted by those consumers. In the past, consumers often received an invoice after their subscription had already been renewed. It was thus too late to cancel their subscription, which meant they were stuck to them for another year. The new regulations ensure that this practice is no longer possible.

### What has the Consumer Authority done about this problem and what are the results?

In late 2011, the Consumer Authority heavily invested in providing consumers with information about these new regulations on subscription renewals through ConsuWijzer.

Detailed information was published on ConsuWijzer, and consumers were informed through other channels as well. The information about this particular topic was one of the most frequently consulted items on ConsuWijzer. In addition, ConsuWijzer answered many questions consumers raised about subscriptions.

## 5 Cross-border consumers

### What is going on?

More and more consumers and businesses make cross-border purchases and sales (via the Internet or other channels). This is both a positive trend and is an objective of the internal European market. However, it also means that consumer questions and problems do not stop at the border. Consumer problems, such as with text messaging services, online shops, general terms and conditions and warranties, increasingly have an international dimension. The Consumer Authority is increasingly faced with this trend, and has made the necessary preparations.

### What has the Consumer Authority done?

#### At a Benelux level

In 2011, the joint Benelux (Belgium, Netherlands, Luxembourg) investigation of online ticket shops was completed with a press conference in The Hague. In addition, the regulatory authorities started to harmonize their policies on the enforcement of information requirements online shops must comply with. As a part thereof, the authorities first identified the different ways each of them interpreted these information requirements.

#### European collaboration (as part of CPC)

##### *Received and sent requests and alerts*

In 2011, the Consumer Authority received ten information requests from other European states. Some of these related to Dutch post-office boxes that were used to send misleading mailings from. The question was what company or person rented those Dutch post-office boxes. Other requests related to verifications of businesses' addresses in the Netherlands (registered office), and to reviews of several businesses' exact business practices. The Consumer Authority received eleven requests from

fellow European authorities to take enforcement actions, in particular against providers of text messaging services and ticket sellers. Other requests involved taking action against online retailers who failed to comply with information requirements (in particular, unclear prices and terms and conditions). Finally, a request was received to take action against a company that used telemarketing to approach consumers in an aggressive and misleading manner. The Consumer Authority sat down with this particular business and made arrangements about revising its business practices.

### Sent requests

The Consumer Authority in 2011 sent out three information requests. These requests were sent out to check whether some businesses that were believed to have their registered office in another EU Member State were indeed registered in that State. Furthermore, one enforcement request was issued. The Consumer Authority requested to have action taken against a business with its registered office abroad that organised sales demonstrations in the Netherlands but violated statutory regulations.

### Alerts

Sixteen alerts were received in 2011. 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 Consumer Authority received related to a very wide range of topics, from text messaging services and ticket shops to misleading information in mailings and by web shops. In addition, airline tickets were a recurring topic. The Consumer Authority sent out one alert, following a Swedish request to take action against a Dutch provider of airline tickets. The investigation into that provider revealed that it was also active in other Member States besides Sweden and the Netherlands. This prompted the Consumer Authority to inform other Member States about the investigation.



# International oversight

### Liaison Office

The Consumer Authority received and sent out fewer requests in 2011 than in 2010. In addition to the abovementioned requests, the Consumer Authority, in its role as Liaison Office, also passed on one request to the Dutch Health Care Inspectorate. One explanation for the decline in the number of requests was the fact that the Consumer Authority in 2011 did not participate in the annual sweep (investigation on the Internet) organized by the European Commission, which usually addresses one specific topic. Last year, the sweep's topic (information requirements for websites offering consumer loans) did not fall under the Consumer Authority's jurisdiction. In other years, these sweeps had always been an important source of requests for the Consumer Authority.

#### European requests

##### Received:

- 10 information requests
- 11 enforcement requests
- 16 alerts

##### Sent out:

- 3 information requests
- 1 enforcement request
- 1 alert

##### Completed:

- 11 information requests
- 17 enforcement requests

Also read in the section

[Consumer Authority in figures](#)

### Global cooperation (as part of ICPEN)

Between July 2010 and July 2011, the Consumer Authority chaired the International Consumer Protection and Enforcement Network (ICPEN). ICPEN's objectives are promoting the international protection of consumer interests and, as a result, the position of consumers, as well as promoting the exchange of knowledge. With consumers and businesses increasingly becoming active across borders, the number of consumer problems with an international dimension is also on the rise. This trend increasingly calls for collaboration between national consumer authorities.



Photo: Second international ICPEN conference

### What issues are involved and how are these addressed?

In April 2011, the Consumer Authority organized the second international ICPEN conference during its chairmanship. Delegations from 39 states exchanged their knowledge of and experiences about a large number of issues, such as online payments, advertising with prices, the use of social media, and affiliate marketing.

In addition, during its chairmanship, the Consumer Authority was responsible for the performance of the network and for ICPEN projects. These projects include the revision of the alert system, and the development of a database containing information about online regulatory powers. The objective of these projects is to enhance the exchange of regulatory knowledge and cooperation between the authorities. This will benefit all consumers, including Dutch consumers.

In addition, the Consumer Authority made a case for increased involvement of current members within ICPEN, and for admitting new members. This resulted in five new states joining ICPEN, and in welcoming UNCTAD as observer.

In July 2011, the Consumer Authority handed over the chairmanship of ICPEN to the consumer authority of Costa Rica, while offering the new Chair advice.

### What are the results?

Thanks to the Consumer Authority's international activities, Dutch consumers are also better protected when making purchases abroad. The Consumer Authority will continue to effectively and vigorously enforce compliance with consumer rights in cross-border transactions in view of the dynamic nature of international markets, the constant ebb and flow of businesses selling their products abroad, and the rise of cross-border sales over the Internet.

# Other issues

**This section covers issues that are not related to the Agenda 2010-2011. 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, the so-called 'travel warranty.' Under this warranty, 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 legally required to publish their warranty arrangements so that consumers are able to verify that these agencies meet the statutory requirements.

In early 2011, the Netherlands Consumer Authority launched another round of investigations into travel agencies that offer package tours without the statutory warranty. This time, 140 travel agencies were investigated. About half of them have since implemented the necessary measures or have ceased offering package tours. The specialist travel agencies, which are often smaller ones, have set up a new warranty fund, the Compensation Fund for Specialized Tour Operators (GGTO), active since early 2012. In June 2011, the Consumer Authority issued a public warning about a number of companies which, in spite of repeated requests to that effect, had failed to implement the necessary measures. These companies subsequently took action to organize their warranty arrangements.

Travel warranties received a great deal of media attention in 2011. One of the reasons was a list published by the Dutch Association of Travel Agents and Tour Operators (ANVR), which listed the names of companies that, in ANVR's opinion, failed to comply with the travel warranty regulations. Many, mostly smaller, travel agencies protested, and joined forces. As a result, more travel agencies now provide consumers clear information about how they comply with the statutory requirements. In addition, the new fund offers travel agencies with an alternative for complying with the statutory warranty requirement.

## Objection and appeal by Fotosessie.com

The Consumer Authority issued a decision on objection in the so-called Fotosessie.com case in January 2011. 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 Consumer Authority established that the company had violated regulations concerning general terms and conditions, distance selling and unfair business practices. In early 2010, the company was fined EUR 100,000 for these violations. Fotosessie.com filed an objection against this fine. In the decision on objection, Fotosessie's objections were disallowed, except for the objection against one of the violations against the Unfair Business Practices Act. That particular fine was thus reduced by EUR 17,000 to EUR 83,000.

Fotosessie.com then filed an appeal with the District Court of Rotterdam. That ruling is expected in 2012.

## Objection by Garant-o-Matic B.V.

In September 2010, the Consumer Authority fined Garant-o-Matic B.V. EUR 120,000 for violations of the Unfair Business Practices Act and Distance Selling Act. Garant-o-Matic filed an objection against this decision. Garant-o-Matic is a mail order company that draws attention to its catalogs through promotional offers. In the promotional offer that was investigated Garant-o-Matic offered a promotional game of chance. In its sanction decision, the Consumer Authority concluded that, in the company's communications, consumers were given insufficiently clear and easy-to-understand information about the odds of winning a prize, the period for accepting the offer, and the price of the offer. The Consumer Authority disallowed Garant-o-Matic's objections except for the objection against non-compliance with a code of conduct which the company is a signatory to. Since the sanction decision did not impose a fine for this violation, the allowance of this objection did not affect the level of the fine. Garant-o-Matic did not file an appeal against the decision on objection. The case has therefore been closed.

## Appeal proceedings with the courts

In 2011, the District Court of Rotterdam ruled in the appeals brought by kitchen manufacturers Keukenkampioen and Keukenconcurrent. Both cases concerned a violation of the Unfair Business Practices Act, for which the Consumer Authority had fined each company EUR 110,000. The Court disallowed the appeals

filed by both companies, except for one count. The Court ruled that the additional fine of EUR 10,000 imposed on each company for non-cooperation should be deducted from their fines. Both the companies as well as the Consumer Authority filed appeals against this ruling with the Dutch Trade and Industry Appeals Tribunal.

The Court in 2011 also ruled in the appeal case brought by Pretium Telecom B.V. In its 2008 sanction decision, the Consumer Authority fined the company for violating distance-selling regulations in its customer-recruitment practices over the phone. The Consumer Authority also imposed three orders subject to periodic penalty payments on the company forcing it to bring its customer-recruitment practices in line with regulations. In its ruling, the Court disallowed most of Pretium's appeal but partially reversed two of the orders, and lowered the fine from EUR 87,000 to EUR 57,960. Pretium and the Consumer Authority both filed appeals against this ruling with the Dutch Trade and Industry Appeals Tribunal.

### Publication of decisions

It is the Consumer Authority's policy to publish its sanction decisions on its website. In 2011, the Consumer Authority decided that its ten sanction decisions would also be published.

Five companies used the opportunity to apply for a temporary injunction with the District Court of The Hague to prevent the publication of the decisions. However, in all of these cases, the Court ruled that publication was permitted. The Consumer Authority thus published these sanction decisions on its website.

In 2011, the Consumer Authority completed nine objection proceedings concerning the publication of its decisions. The objections against publication were disallowed in all of these cases.

# 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 Consumer Authority's regulatory and enforcement powers was based on the assumption that the Consumer Authority 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.

*Ad 1: Burden resulting from the Consumer Authority's execution of regulatory and enforcement requests*

In 2011, the Consumer Authority completed 113 investigations of (potential and real) national and cross-border violations. This number is higher than the 95 cases assumed when the Whc was drawn up. This resulted in an increase in the administrative burden in 2011. 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.

*Ad. 2: Burden resulting from filing (rightfully or not) an objection or appeal against Consumer Authority 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 Consumer Authority had taken enforcement actions. Cases in which an objection is filed, an appeal or a further appeal is filed against a Consumer Authority decision and that are decided in the CA's favor are not included in the projection of the administrative burden.

In 2011, the Consumer Authority (partially) allowed objections filed against a few of the decisions. As the core of these cases has not altered, no administrative burden is associated therewith.

# Consumer Authority in figures

## ConsuWijzer in cijfers

Telephone calls	47.500
Emails	36.000
Letters	1.500
Total number of questions and reports	85.000

Website visits	2.300.000
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### Downloads:

Online ShopScans	24.000
Sample letters	490.000
Warranty brochure	4.300
Tele-checklist	3.800

## Oversight

### National

Investigations initiated in 2010 and continued in 2011	11
Investigations initiated in 2011	164
Public warnings	9
Commitments	1
Investigations terminated after end of violation following Consumer Authority action	77
Investigations terminated due to no/minor seriousness of violation	5
Reports	2
<b>Total number of completed national investigations</b>	<b>85</b>

### International

Alerts received from EU Member States in 2011	16
Alerts issued by the Netherlands in 2011	1
Enforcement requests received in 2010 and continued in 2011	15
Enforcement requests received from EU Member States in 2011	11
Enforcement requests received from EU Member States settled by the Consumer Authority	17
Enforcement requests issued by the Consumer Authority	1
Information requests received in 2010 and continued in 2011	7
Information requests received from EU Member States in 2011	10
Information requests from EU Member States handled	11
Information requests issued by the Consumer Authority	3
<b>Total number of completed international investigations</b>	<b>28</b>

## Enforcement

Sanction decisions	8
Decisions on objection after advice from the Administrative Appeals Advisory Committee	7
Other decisions on objection	11
Rulings in petition proceedings	0
Orders subject to periodic penalty payments	2
Temporary injunctions	5
Rulings on appeal	3

Fines	1.515.000	euro
Penalty payments	58.000	euro
Total	1.573.000	euro

### Enforcement requests from EU Member States

Basis	2011
Door-to-door selling	1
Unfair clauses	2
Price statement	1
Unfair Business Commercial Practices Act	7
<b>Total</b>	<b>11</b>

### Information requests from EU Member States

Basis	2011
E-commerce	2
Distance selling	1
Unfair Business Practices Act	7
<b>Total</b>	<b>10</b>

### Enforcement requests , OWN REQUEST

Basis	2011
Door-to-door selling	1
<b>Total</b>	<b>1</b>

### Information requests , OWN REQUEST

Basis	2011
Door-to-door selling	1
Unfair Commercial Practices Act	2
<b>Total</b>	<b>3</b>

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