

Asia-Pacific Economic Cooperation Electronic Commerce Steering Group Workshop on Consumer Protection

Consumer Protection in E-Commerce *Report on OECD Guidelines for Consumer Protection in the context of Electronic Commerce*

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INTRODUCTION

About one-fifth of total electronic commerce is accounted for by business-to-consumer transactions. Consumer and user trust is essential for its future development.

Cooperation by business and consumer organisations in developing a united approach to the development of consumer protection strategies for e-commerce is a vital step in improving the extent of consumer protection and consequently consumer confidence in this new way of doing business.

Such international cooperation can and is being achieved through international networks like the OECD's Committee on Consumer Policy (CCP) which has been successful in building consensus among government, business and civil society. Both business and consumer organisations now participate in the committee's work and regularly attend its meetings and the CCP has proven to offer an excellent opportunity for international cooperation and the development of consumer protection standards for global commerce.

THE GUIDELINES

At the end of 1999, and after 18 months of negotiation, the OECD completed and adopted Guidelines for Consumer Protection in the Context of Electronic Commerce. The Guidelines set out the core characteristics of effective consumer protection for on-line business-to-consumer transactions. These Guidelines are proving helpful to governments, business, and consumers in very practical ways in trying to deal with this new environment as they provide instructive principles for both applying existing laws and developing new ones if necessary as they work to establish consumer protection mechanisms for e-commerce.

The Guidelines are a first step in encouraging a global approach to consumer protection in the on-line marketplace, a sector that is inherently international -- borderless. They facilitate on-line commerce consumer protection mechanisms without erecting barriers to trade and by increasing consumer confidence in e-commerce, they have the ability to help e-commerce reach its full potential.

Eight simple concepts form the basis of the recommendations. They are:

Transparent and Effective Protection.

E-commerce consumers should be no less protected when shopping on-line than when they buy from their local store or order from a catalogue.

Fair Business, Advertising and Marketing Practices.

Advertising should be clearly identifiable. Businesses should respect consumers' choices not to receive e-mail they don't want. Business should take special care when targeting children, elderly, and others who may lack the capacity to understand the information as presented.

On-line Disclosures About the Business, the Goods and Services, and the Transaction.

Disclosure should include complete and accurate information about the business, about the goods or services for sale and about how the transaction is made. What this means is that e-customers should know which business they are really dealing with. They should have a complete description of what they are buying. And they should have enough information about the transaction process to be able to make an informed decision.

Confirmation Process.

The confirmation process for a sale should give the consumer a chance to see what he has agreed to buy and to change his mind if he wants before the purchase is completed.

Secure Payment Systems.

Payment systems need to be secure and easy to use.

Redress.

In an international transaction, redress is one of the most difficult areas to address, and the OECD recommendations recognise that further work is needed. The Guidelines articulate the principle that international e-commerce transactions are subject to an existing framework on applicable law and jurisdiction, but that it may be necessary to modify, or apply differently, this framework to make it effective to provide redress for e-commerce. The use of alternative dispute resolution is strongly recommended.

Privacy.

The OECD has been at the forefront of international privacy work for decades. Over 20 years ago, the OECD developed Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data (1980). These Guidelines were developed long before everyone started worrying about privacy in e-commerce (because there was no e-commerce). Still today, the OECD Privacy Guidelines are considered to be a

"flagship" OECD document and still serve member countries as the basis for current international work on privacy in the on-line environment.

The Guidelines set out eight principles:

- Collection limitation principle
- Data quality principle
- Purpose specification principle
- Security safeguards principle
- Openness principle
- Individual participation principle
- Accountability principle

The OECD Consumer Protection Guidelines point directly to the 1980 Privacy Guidelines as the benchmark for providing privacy protection by recognising that "business-to-consumer e-commerce should be conducted in accordance with the recognised principles set out in the 1980 OECD Privacy Guidelines."

Education. Finally, the OECD Guidelines encourage governments, business and consumers to work together to educate consumers about electronic commerce, to foster informed decision making by consumers participating in electronic commerce, and to increase business and consumer awareness of the consumer protection framework that applies to their on-line activities.

FOLLOW ON ACTION

The Guidelines are already proving to be an influential document.

They have been, or soon will be, translated into nearly every native language of the OECD Member countries and will be available on the OECD web site.

Private sector organisations (both business and consumer) are using the Guidelines as they develop their own set of merchant and consumer guidelines.

Governments are using the Guidelines as a benchmark when examining their national laws to ensure effective consumer protection on-line. And some have used the guidelines in developing their own national code and trustmark programs. For example in Australia the Guidelines formed the basis for our best practice model for business titled Building Consumer Sovereignty in Electronic Commerce - A best practice model for business. Still others have hosted workshops on the Guidelines to educate business and consumers in their respective countries on the importance of the implementation of the Guidelines for providing effective consumer protection in the on-line environment.

The Committee on Consumer Policy will continue to cooperate with business and consumer representatives, and all of civil society to ensure that the Guidelines are implemented effectively and help educate on-line consumers and business about their rights and responsibilities on-line. The CCP will also continue to foster the international dialogue on consumer protection issues, encouraging government, business and consumer representatives to work together and learn from each other.

UPCOMING EVENTS

Online ADR Workshop - December 2000

An innovative component of the Guidelines was the introduction of alternative dispute resolution (ADR) as a means to provide consumer redress in a borderless environment. ADR is now being explored globally in workshops and is held out by many member countries as the means for providing consumer redress in the on-line environment. The OECD will hold a conference in the Hague on 11-12 December to explore on-line ADR. The conference is co-organised with the Hague Conference on Private International Law and the International Chamber of Commerce.

OECD Emerging Market Economy Forum on Electronic Commerce - January 2001

The OECD and Dubai are planning to jointly host an international conference on electronic commerce in Dubai on 16-17 January 2001, with a view to enhancing the prospects for effective worldwide policy coordination in this important new area of economic activity. The "Emerging Market Economy Forum on Electronic Commerce" will be the first event of this kind organised by the OECD in the Middle East.

The two-day e-commerce conference will be preceded by a one-day Public Voice Conference on 15 January, which will provide a platform for consumer groups and other civil society organisations. Some 450 delegates are expected to attend the forum, including representatives from governments, world trade and policy-setting bodies and business leaders.

OECD Guidelines Workshop - March 2001

In March 2001, the OECD Consumer Policy Committee will hold a workshop with the private sector, including business and consumer representatives, in Berlin to discuss and explore the Guidelines and their effectiveness: one year later.

Information on these upcoming events will soon be available on the OECD web site.

CONCLUSION

The impact of globalisation on consumers and consumer policy is at the heart of the activities of the OECD's work on consumer policy. The OECD has for many years been examining a number of issues directly related to cross-border consumer transactions, including ways to build trust and confidence on-line and to overcome existing barriers to a truly global marketplace.

By setting out the core characteristics of effective consumer protection for on-line business-to-consumer transactions, it is hoped the OECD Guidelines for Consumer Protection in Electronic Commerce will help eliminate some of the uncertainties that both consumers and business encounter when buying and selling on-line and ultimately assist on-line commerce in the global marketplace to reach its full potential.

