

Working Group on E-Commerce

2022-2023 Working Group / Steering Group Report.

Background

1. Summary of 2022 IGE agreed actions and next steps.
2. Summary of workplan (see Annex 1 for details).
3. The Steering Group has met 6 times since the creation of the workplan by the Secretariat and the Working Group. See Annex 2 for a list of meetings.
4. The Working Group has met on 4 occasions during the year to discuss progress by the Steering Group and react to new developments.

2022 IGE

- The **sixth session of the Intergovernmental Group of Experts (IGE) on Consumer Protection Law and Policy** held on 18 and 19 July 2022, decided to renew the mandate of the Working Group on Consumer Protection in E-Commerce (WG), with a particular focus on continuing work related to cross-border cooperation. Proposals made at the IGE for possible topics for future work were as follows:
 - To continue discussions on specific cross border enforcement issues and plug them in a wider context of Online Dispute Resolution and link it to technology aspects.
 - Continue the mapping exercise already started in the three areas to have wider coverage, which could feed on the UNCTAD World consumer protection map.
 - Develop soft law instruments, for example, toolkits on cross border enforcement aspects suited for developing countries, or a guide on dark commercial practices etc.
- Following an initial discussion at the first Working Group meeting of 2022-2023 on 6 October, Working Group members were invited to submit proposals for possible work areas. A workplan was agreed on following a second meeting of the Working Group on 10 November and can be found at Annex 1.

Creation of the Steering Group

- IGE decided to establish a single Steering Group to focus progress on the cross-border co-operation work and to build on the survey circulated in 2022.

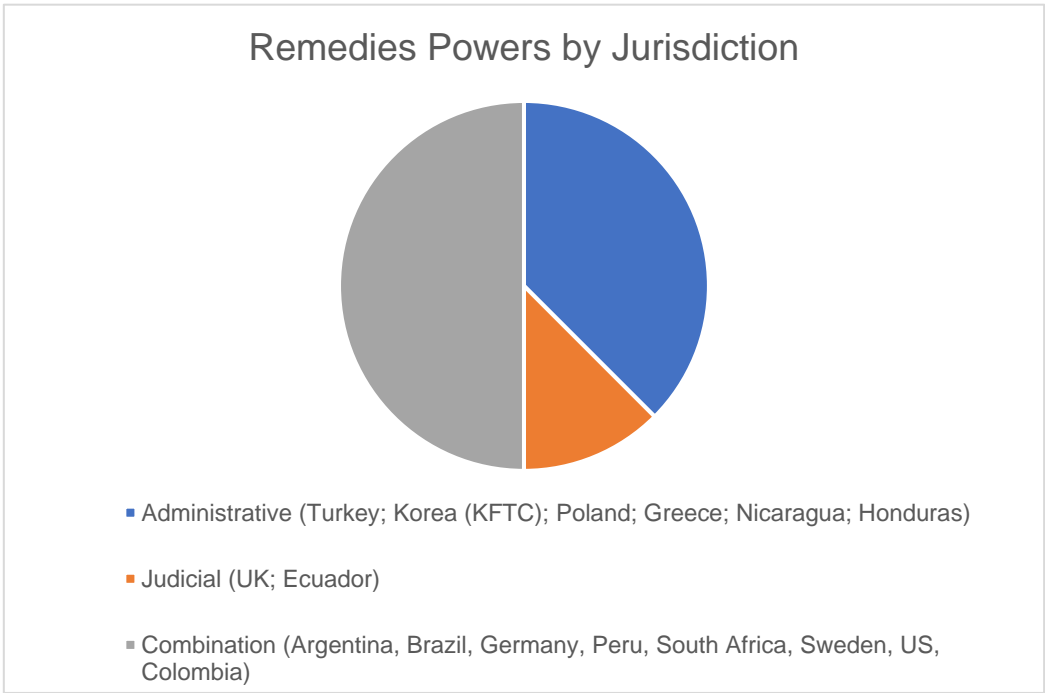
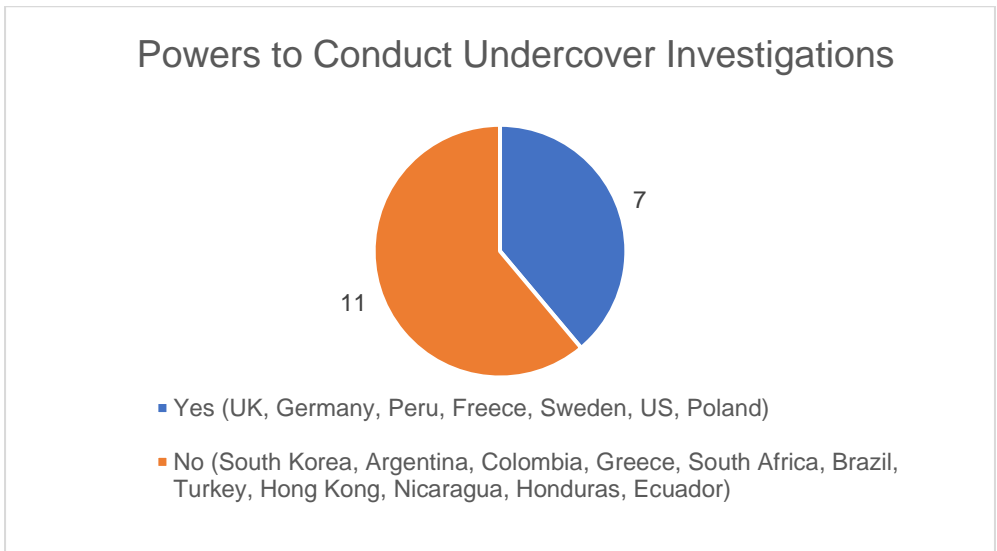
- Mexico suggested we could get more responses by submitting the survey through trade ministries.
- USA suggested this could be pursued through the WTO.
- February meeting suggested we focus on the original survey and seeking to obtain more responses from countries who hadn't responded originally.
- UK has collated responses from the previous survey into Excel spreadsheets for ease of use on the new results (some infographics can be seen below in the report).

Platforms

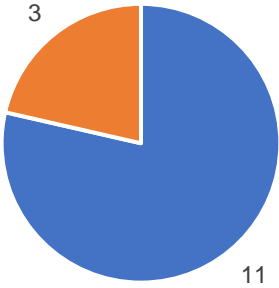
Workplan item 2: Explore possible platforms for disseminating the survey outcomes.

- UK CMA contacted the Secretariat to discuss the World Consumer Protection Map. There are limitations in the coding of the website that make the introduction of more complex information into the map difficult, particularly the more qualitative or 'free text' answers that were included in last year's survey. However, it is possible to introduce links from the map to the Working Group's webpage ([Working group on consumer protection in e-commerce | UNCTAD](#)) – see recommendations below.
- Furthermore, the Secretariat indicated that it would like to see responses from at least 80 countries if additional themes are to be mapped. This limited the WG's possibilities to introduce survey results into the map during the current year. The Secretariat also provided information on UNCTAD's cyberlaw tracker which could be relevant for future work: [Online Consumer Protection Legislation Worldwide | UNCTAD](#).
- The group would explore other potential sources of funding and routes to sharing the information as well as UNCTAD processes for using any such funding.
- Suggestions as to potential sources of funding were welcomed. USA suggested the possibility of the Gates Foundation, but this idea didn't materialize.
- The Steering Group discussed the possibility of uploading infographics detailing results from last year's survey to the Working Group's webpage. These could be updated as further results are received. These infographics were circulated to the wider Working Group in April for comments.

Infographics

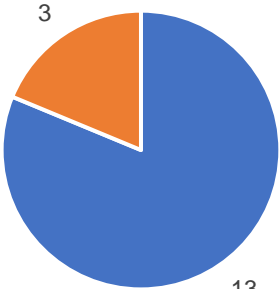


Facilitating Redress through Courts



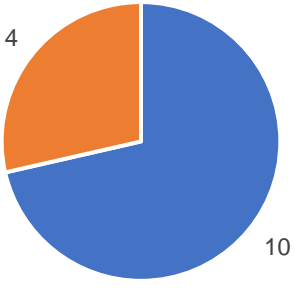
- Yes (UK, Argentina, Brazil, Colombia, Peru, Poland, South Africa, Sweden, Germany, Turkey, US, Hong Kong)
- No (Greece, Korea, Nicaragua)

Need for Global ODR



- Yes (S. Korea, Argentina, Brazil, Germany, Greece, Peru, Poland, South Africa, Turkey, Hong Kong, Ecuador, Honduras, Nicaragua)
- No/Difficult in practice: UK, Colombia, Sweden

Need for Model Law on Dispute Resolution



- Yes (S. Korea, Argentina, Brazil, Greece, Peru, Poland, Turkey, Hong Kong, Honduras, Nicaragua)
- No/Difficult in practice: UK, Colombia, Germany, Sweden



Communication

Workplan item 3: Compile of list of contacts of UNCTAD participant agencies in consumer protection.

- USA volunteered to take forward seeking agreement and obtaining generic email addresses for UNCTAD participant agencies to ensure continuity of contacts.
- USA agreed to bring some options back to the group in February. Owing to timetable clashes these discussions were not completed but the USA's proposal is attached below at Annex 3. The core idea was to have a standardised email address to ease contact between agencies and to help the Secretariat contact members more reliably.
- Secretariat to consider if they have any preferences for outcomes on the contact emails work to help with their own contacts with UNCTAD member States. The Secretariat confirmed that they would prefer members not to use "unctad" as part of the proposed standardised contact email.
- Subsequent discussions at Working and Steering Group confirmed that members preferred to include some mention of 'cross-border' and 'consumer' to help ensure that the right people in the relevant organisations received the emails.

Co-ordination with other networks

Workplan item 4: Prepare an overview of cross-border work within the relevant partner networks.

- Co-ordination responsibilities – this would mean reporting on developments in remaining steering group meetings and a short report – perhaps 2-3 paragraphs for each network – ahead of the IGE.

Network	Working group member
EU / CPC	Sweden
OECD CCP	Poland
ICPEN	Poland
FIAGC	Argentina and Colombia
ASEAN	USA
African Dialogue	USA
COMESA	USA
APEC Forum	Mexico

EU / CPC

Update from the European Union on cross-border consumer protection

Initiatives within the EU

The EU Consumer Protection Cooperation (CPC) Network is based on a Regulation² which is currently under revision. The objective of the targeted revision is to improve its effectiveness. The proposal was planned for the second quarter of 2023 but has been delayed. The European Commission has announced that the revision could cover changes to increase speed and flexibility for CPC authorities to respond to emerging market threats, for example to address infringements more effectively by traders established outside the union and sector-wide infringements. The European Commission is also looking into the possibilities to issue fines,

² Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws

and which role the Commission could have to improve the coordination within the CPC Network.³

Based on the current legal framework, the CPC authorities have jointly acted against several global traders, such as TikTok, WhatsApp and Nintendo.⁴ A summary of what the CPC Network has carried out in the last couple of years, including an overview of market trends can be found in the biennial report from 2022 on the work of the CPC Network.⁵

Initiatives with countries/authorities outside the EU

The European Commission and the Federal Trade Commission in the US has an ongoing informal dialogue on consumer protection. The cooperation includes sharing insights and experiences on consumer issues, with an aim of increasing exchange of technical expertise and coordination on appropriate areas of policy and enforcement strategies. Several issues have been identified as important for the dialogue, for example dark patterns, digital business models that rely on AI, protection of certain consumer groups (e.g., children), environmental claims and reparability issues and payments transactions.⁶ The EU has also concluded digital partnerships with Korea, Singapore, and Japan. The partnerships contain principles on cooperation regarding digital consumer protection.⁷

FIAGC

Within the Ibero-American Forum of Government Agencies for Consumer Protection (FIAGC), under the Pro Tempore Presidency 2022-2023 of the National Directorate for Consumer Defense and Consumer Arbitration (DNDC) of Argentina, the efforts of one of its working groups have focused on issues of cooperation in light of electronic commerce and its cross-border nature.

This Group is currently made up of consumer protection authorities from Costa Rica, El Salvador, and Paraguay, under the leadership of the Dominican Republic and Colombia.

In order to create an Observatory of Electronic Commerce for Ibero-America, the first activity of the group has been the preparation and distribution, among all the members of the Forum, of an information gathering questionnaire in which participants were asked about their respective legal frameworks on e-commerce in the light of consumer protection; the challenges and opportunities identified by each authority in this regard; available statistics on complaints or claims filed by consumers in e-commerce cases, opportunities for cooperation in this area, among other aspects.

³ [Consumer protection – strengthened enforcement cooperation \(europa.eu\)](#)

⁴ [Coordinated actions \(europa.eu\)](#)

⁵ [swd_2022_108_f1_staff_working_paper_en_v3_p1_1903309.pdf \(europa.eu\)](#)

⁶ [Joint statement by Federal Trade Commission Chair Lina Khan and Didier Reynders, Commissioner for Justice of the European Commission \(ftc.gov\)](#)

⁷ [Republic of Korea - European Union Digital Partnership | Shaping Europe's digital future \(europa.eu\)](#)

Currently, many responses have been received from the authorities and work is being done on the analysis and preparation of a report based on the responses received that allows for a comparative understanding of the legal regime on consumer protection in the region.

In that sense, it has been preliminarily concluded that:

1. Most of the authorities in the region have regulations on electronic commerce and, likewise, in most cases it is immersed within the regulations on consumer protection.
2. The main challenges identified in the matter are associated with issues related to trust and security of consumers towards electronic commerce mechanisms, as well as the difficulty in taking action by consumer protection authorities given the transnational nature of certain transactions when they are international in nature. Nevertheless, cooperation and constant exchange of information have been very valuable mechanisms that have been implemented to mitigate the adverse effects that could arise.
3. Most of the authorities also indicated that they have a specific definition of electronic commerce, which have common elements that refer to "digital or electronic transactions", "exchange between suppliers and consumers for commercial purposes", among other similar terms in common.
4. In most jurisdictions, consumers are entitled of special rights in electronic commerce (e.g., right of withdrawal or repentance, reversal of payment), as well as prerogatives that oblige providers with special responsibilities (e.g., acquisition of licenses for to be able to operate with electronic payment systems or provision of mechanisms - such as digital buttons - that allow consumers to know about the current alerts of the providers they consult).

Once all the answers have been received and the draft of the report is ready, it will be shared with the members of the Forum for proper feedback and comments before being published in its final version.

EU-US Dialogue

- Commission and FTC are looking at building tech expertise and communications.
- Dark patterns, AI, vulnerability, environmental claims and repairability are all areas of focus.

ICPEN

- Current work looking at dark commercial patterns, working with OECD and GPEN.
- A webinar was held under the Australian presidency.
- The current Polish Presidency will look at synergies between different multilateral organisations.

Other

- Rwanda mentioned work in the East Africa Community Competition Authority to improve cross-border co-operation on resolving consumer issues: [Consumer Welfare | East African Community Competition Authority \(EACA\) \(ecompetition.org\)](#)

Recommendations and Possible Next Steps for UNCTAD

- The Steering Group recommends that the working group focus on getting to at least 80 responses to the 2022 Survey so that results can be logged on the World Consumer Protection Map.
- The Steering Group recommends that UNCTAD work more closely with other networks, to avoid duplication and to launch joint work where possible.
- The Steering Group recommends that UNCTAD continue with the Steering Group idea but to seek fresh membership, especially to seek input from a wider set of global regions, especially Asia.
- The Steering Group recommends the use of webinars, especially where these can be recorded, to maximise participation, to discuss best practice and other helpful approaches on cross-border co-operation.
- Other recommendations:

Given the lack of responses to the survey a key question is: why do we not have more engagement from Authorities? Without engagement, the project cannot flourish. To get engagement we need momentum and tangible content.

Enforcement agencies may not engage because:

- either they are well set, so they do not see a value in the work
- maybe they are interested but not on the right time zone.
- or they are not set up for cross-border and/or not clear on what this can achieve.

To generate more engagement, the Steering Group suggest consideration of the following:

- Generate some value-added materials. Video interviews with steering group committee members about why they see their work having value and why it is important for colleagues to join in. In the long term what can we hope to see - some major improvements in our workload - not searching for the right contact when we need to enforce abroad or hours spent reading laws to work out if we can get some assistance, identifying where we need to build some bridges etc.
- It would be great for e.g. to have a set of interviewees from under-represented countries explain why they think it is important work to work on cross border ecommerce. These can be video calls that are recorded – interviewees having seen the questions in advance. At the start of the video, situate it within the work in progress and at the end of the video publicise the survey work.
- Post the videos on the cross-border enforcement website and/or UNCTAD website (if preferred by the secretariat), generate publicity amongst members on social media.
- Repeat the cross-border enforcement conference from last year but on a different time zone – will be an early call for some of us, possibly highly beneficial to generate interest

in different time zones. We can also build on the success of last year's event to show the value of those events which will be good for marketing purposes. We can have some local speakers to make it more relevant to the audience also.

Key questions for working group and Secretariat.

- Retain tight focus on co-operation or broaden out?
- Continue with the Steering Group?
- Develop own webpage within UNCTAD or link up more with others like WCPM?
- Work more closely with other multilateral fora especially on consumer?

Intended outputs (for discussion)

- Proposed final outputs ahead of 2023 Intergovernmental group of experts, subject to agreement:
 - **Survey** – more answers to the original Survey
 - **Platforms** – options for presenting survey results
 - **Communication** – email contacts for each UNCTAD consumer member organization
 - **Co-ordination** – summary of key developments and trends in consumer cross-border co-operation from the listed networks – one suggestion received was that such a report should be compiled every year to keep connected with key co-operation developments.

Actual Outputs

Additional responses to the Survey – Received four additional responses from Hong Kong, Nicaragua, Honduras, and Ecuador. Hoping for responses from Canada and Portugal.

Proposed recommendation for Working Group:

The Working Group recommends that the Steering Group continue into the 2023-24 reporting year.

To encourage broader and more active participation in the Working Group, recommend that each WG meeting feature at least one (short) presentation by a participant on a relevant subject. The Steering Group would organise these presentations.

For the proposed focus of the group, recommend either looking at dark commercial patterns online (potentially including Artificial Intelligence) and/or examining consumer vulnerability in e-commerce.

Discussions and outputs should focus on accessible outputs designed to assist less experienced national agencies, for example through the delivery of webinars, short, published toolkits or other brief materials.

Prepared by:

Andrew Hadley

UK CMA on behalf of the Steering Group

ANNEX 1 – Working Group workplan.

- (1) Carry forward the 2021 survey on mapping different consumer protection systems across the world.
- (2) Explore possible platforms for disseminating the survey outcomes.
- (3) Compile a list of contacts of UNCTAD participant agencies in consumer protection.
- (4) Prepare an overview of cross-border work within the relevant partner networks.

Work Plan for September 2022 – July 2023

The secretariat will organize six online meetings between October 2022 and June 2023 to discuss, agree on and implement the work plan. Participants are strongly encouraged to contribute to the discussions by sharing their experiences and challenges they face and send written contributions, when requested, regardless of their participation in the meetings. This will help the secretariat and the steering group in delivering the outputs outlined in the work plan.

The secretariat shared the work plan after discussing and finalizing it with steering group members.

Below is the schedule of WG meetings planned for the current work year. The meetings will be held on MS Teams or Zoom platform on Thursday afternoons between 14:30 - 16:00 hours.

Dates	Subject
6 October 2022	Discuss areas of work
10 November 2022	Discuss comments on proposals received from members
16 February 2023	Updates from steering group on the implementation of the work plan
6 April 2023	Review of implementation of work plan
4 May 2023	Review of implementation of work plan
25 May 2023	Discussion of WG reporting to the IGE 2023

ANNEX 2 – Steering Group meetings held.

Actual Dates of meetings

Dates	Subject
15 December 2022	Workstreams and actions: survey; platform/funding; communications; coordination.
10 January 2023	Further discussion of workplan and allocation of tasks, particularly proposed coordination responsibilities and discussion with the Secretariat on WCPM.
28 February 2023	Update on WCPM following conversation with Secretariat. Discussions on progressing survey and allocation of non-responding authorities.
8 March 2023	Survey discussion; update on Coordination. Discussion on drafting of reports for IGE and on infographics.
27 March 2023	Discussion on Communications and following up with non-respondents.
5 June 2023	Final discussion on next steps for the report and IGE

ANNEX 3 – Proposals on improving communications.

INSTRUCTIONS FOR CREATING A GENERIC E-MAIL FOR USE BY UNCTAD MEMBERS TO MAKE ENQUIRIES REGARDING CROSS-BORDER CONSUMER PROTECTION MATTERS

Consumer protection agencies of UNCTAD Member States frequently encounter difficulties in obtaining information from counterpart agencies in other Member countries because they lack a point of contact (POC) to whom they may direct enquiries. In addition, as time passes, agencies may experience a rotation of personnel, which can complicate finding and maintaining contacts across agencies.

To rectify this problem, the E-Commerce Working Group has proposed that each Member State create a **generic (i.e., “non-personal”) e-mail** to facilitate communications among UNCTAD Member State Consumer Protection agency. This email address **will not change when the designated POC leaves the agency, and the designated user(s) of the email account can be easily changed without changing the address.** This will ensure that the contact information for each agency will always remain the same, thereby facilitating cross-border enquiries. The list of agency specific e-mails will be stored and maintained by the UNCTAD Secretariat.

The following is a list of action items for each Member to undertake to carry out this mission:

1. **Member Agency Obligations:**

- A. Each Member State consumer protection agency will **create a non-personal e-mail account for cross-border enquiries.**
- B. Agencies will **designate a point of contact (POC)** for receiving cross-border enquiries (preferably in the international affairs department of each agency, as applicable).
- C. Agencies have the option to designate a **Secondary POC** as a back-up user. They are encouraged to do so.
- D. Agencies will **submit the name(s) of the designated POC** to the Secretariat.
- E. When a designated POC leaves the agency, the agency will **designate a new POC and notify the Secretariat** accordingly.
- F. The **POC will monitor enquiries** to the email account and provide the information requested if practicable. In the event the matter falls outside the jurisdiction of the recipient agency, the **POC will endeavor to connect the enquiring agency to the relevant agency with jurisdiction** over the matter requested.

2. **Parameters for a Non-Personal Email Account:**

- A. Each Member State's consumer protection agency will instruct its technical staff to create a non-personal e-mail account in the following form:
cross-borderCP.inquiries@_____. The domain will be the agency's domain name.
 - B. Agencies will ensure that enquiries submitted to the non-personal email will be received **directly into the e-mail inbox of the designated POC**, rather than a separate inbox that may not be regularly checked. This may require the additional support of the agency's technical staff to connect the non-personal cross-border e-mail account to the POC's work e-mail account. If this is not possible, the POC must create a **rule from the non-personal email that will automatically forward all enquiries to the POC**.
3. Maintenance of Master List:
 - A. An Excel sheet of the POC names associated with each agency's generic email will be created and maintained by the UNCTAD Secretariat.
 - B. The list will be available only to UNCTAD Member States.
 4. Timing:
 - A. Agencies will designate a POC and submit the name to the Secretariat on the shared Excel sheet no later than September 2023.
 - B. Agencies will create the generic email no later than November 2023.
 - C. The Master List will be completed January 2024.

If you have any questions about the above, please direct them to mpanzera@ftc.gov or UNCTAD Secretariat: elizabeth.gachui@un.org or maria.bovey@un.org.

Prepared by:

UNCTAD E-Commerce Working Group Steering Committee