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## PROPOSALS FOR FUTURE WORK OF THE COMMITTEE ON CONSUMER POLICY

OECD, Paris, 23-24 March 1999

*This document provides information relevant to the item "Proposals for Future Work of the Committee" on the Draft Agenda for the 56th Session of the Committee on Consumer Policy [DSTI/CP/A(99)1] scheduled for 23-24 March 1999.*

*At its meeting on 23-24 March 1999, the Committee is invited to discuss these and any other proposals for future work that may be presented at the meeting. In addition, the Committee is invited to suggest certain topics as the subject of Forum Sessions for future Committee meetings and set priorities for the various initiatives that are to be undertaken.*

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## **PROPOSALS FOR FUTURE WORK OF THE COMMITTEE ON CONSUMER POLICY**

In December of 1998, the OECD Council approved the renewal of the Mandate for the Committee on Consumer Policy [C(98)199/REV1] through 31 December 2001. This decision was made taking into account the conclusions of the October 1998 Ottawa Ministerial Conference “A Borderless World: Realising the Potential of Global Electronic Commerce”, and in particular, the Ministerial Declaration on Consumer Protection in the Context of Electronic Commerce adopted by Ministers at this Conference [Annex 2 to C(98)177], and to the OECD Action Plan for Electronic Commerce which was endorsed by Ministers [SG/EC(98)10/REV5].

When approving the budget for 1999 and the programme of work for 1999-2000, the Council [C/PWB(98)99/VOL3/REV1] agreed that in 1999 the Committee on Consumer Policy would focus exclusively on consumer policy guidelines for electronic commerce and that thereafter there will be a review of the work of the CCP. With the goals outlined in the Ministerial Declaration in mind, the Committee’s focus within 1999 will be to complete its ongoing work to draft Consumer Protection Guidelines for Electronic Commerce. The Committee’s current budgetary situation does not provide sufficient resources for the Secretariat to take on any other projects on the Committee’s behalf at this time.

However, with the renewal of the Mandate through 2001, it will be useful for the Committee to discuss the issues it may be interested in pursuing once the Guidelines have been completed. In the course of the Committee’s discussions of potential future work, it will be important to keep in mind the Committee’s terms of reference as defined in the Committee’s Mandate [C(98)199/REV1] which maintains the focus of the Committee’s work on the examination of issues relating the consumer aspects of electronic commerce.

The purpose of this document, which includes input received from Canada, Japan, the United Kingdom, and the United States, is to briefly describe specific proposals for activities that could be undertaken by the Committee once the work to draft the Guidelines has been completed. The proposals presented in this document are intended to provide “food for thought” for the Committee as it considers what issue or issues it would like to take up in the years 2000-2001. At its meeting on 23-24 March 1999, the Committee is invited to discuss these and any other proposals for future work that may be presented at the meeting. In addition, the Committee is invited to suggest certain topics as the subject of Forum Sessions for future Committee meetings and set priorities for the various initiatives that are to be undertaken.

*Follow-up to the Consumer Protection Guidelines for Electronic Commerce*

Following approval of the Guidelines by the Committee and the Council, Delegates should work to promote their recognition and effective implementation. The Committee should work closely with business, the media, educational institutions, and consumer representatives, both nationally and internationally, to develop tools to help educate businesses and consumers about the Guidelines and their respective rights and responsibilities in the electronic marketplace.

Keeping in mind the commitments made by Member countries in the Ministerial Declaration on Consumer Protection in the Context of Electronic Commerce, the Committee could initiate work to help

“...educate users, fostering informed decision-making by consumers participating in electronic commerce, and increase business awareness of the consumer protection framework that applies to their online activities”

With the co-operation and assistance of business and consumer representatives, the Committee could develop a variety of innovative means to educate online businesses and consumers. Using both traditional methods of consumer and business education, and employing the new technologies, such initiatives could include:

- creating business and consumer education guides;
- developing a Web site containing comprehensive business and consumer information, advice, news, and links to other relevant sites;
- developing and diffusing "public service announcements" on the Internet (for example, using banner ads with links to more detailed business and consumer education materials);
- developing "teaser" Web sites (Web pages that imitate fraudulent schemes and warn consumers of the potential risks of fraud online); and
- initiating co-ordinated Internet enforcement “surf days” - intended to detect potentially deceptive business practices and provide businesses with warnings and information to help them avoid unintentionally violating the law.

The Committee could also collect and exchange information regarding the various means used to implement the Guidelines within Member Countries. This could include the preparation of an inventory of public and private sector initiatives, at both national and international levels, aimed at educating business and consumers, and ensuring that the principles contained in the Guidelines are effectively implemented online. Such an effort would also help to fulfil the Committee’s obligation to report to the OECD Council as a follow-up to the Guidelines Recommendation.

All of these efforts could be extended to include information from and co-operation with non-member countries.

### ***Cross-Border Fraud***

The global marketplace challenges the effectiveness of traditional consumer protection laws and practices, most of which have been developed to function within national boundaries. Both online and off, disputes involving international business-to-consumer transactions can pose problems when attempting to obtain redress or enforce certain regulatory requirements. Efforts to resolve cross-border disputes are often met with legal and procedural obstacles that prevent enforcement officials in one country from achieving efficient and effective results in another.

A number of government authorities, business and consumer organisations are developing agreements, codes of conduct, voluntary guidelines, and other mechanisms, which are intended, in part, to help ameliorate the problems associated with cross-border transactions. The Committee could look at both existing and proposed self-regulatory and legal mechanisms in Member countries with an eye to determining their effectiveness in helping to overcome these obstacles or their potential to hinder cross-border enforcement and redress efforts.

The Committee could look at ways in which Member countries can work together to facilitate communication, co-operation and, where appropriate, work with business and consumer representatives to develop joint international initiatives. The Committee could also examine what can be done to facilitate international co-operation among governments, judicial, regulatory, and law enforcement authorities, as appropriate, through information exchange, co-ordination, communication, and joint action to combat cross-border fraudulent, misleading and unfair commercial conduct.

The Committee could begin its examination by developing an inventory of the legal and self-regulatory measures being used within OECD Member countries and then work together to develop common technology neutral strategies to combat cross-border fraud and facilitate consumer redress.

### ***Towards an Integrated Approach to Consumer Rule-Making at the International Level***

International organisations such as the UN, the OECD, the WTO, ISO, CODEX, and APEC are increasingly considering consumer-related issues and rule-makings. On one hand, these efforts create the potential for overlap, duplication and conflict while, on the other, they offer the potential for efficiencies, harmonisation and enhanced effectiveness. At present, there is no systematic understanding of how a co-ordinated approach to international consumer rule-making could work.

Canada has proposed that the Committee should undertake a study examining how best to rationalise and harmonise the work and activities of these different agencies, thus developing a more predictable, systematic, efficient and effective approach to international consumer protection.

The objective of this study would be to develop a coherent, rationalised approach to international rule making which would maximise the strengths of the various international organisations involved and minimise expenditures and overlaps. The study would identify the steps involved in developing coherent international consumer protection measures, from issue identification through to the design of specific instruments, and would propose appropriate division of responsibilities at each stage.

A case study approach could be adopted, drawing on existing examples, such as:

- the development of the Model Code for the Protection of Personal Information by the Canadian Standards Association which is based on the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data;
- the development of environmental labelling standards through the ISO 14000 environmental management standards series in support of sustainable business practices flowing from the UNCED conference in Rio de Janeiro in 1992; and
- the current exploration by the ISO's Consumer Policy Committee of consumer standards for the Global Marketplace, which could draw on the OECD Guidelines for Protection in Electronic Commerce as well as the UN Guidelines for Consumer Protection.

An integral component of this study would be to explore the feasibility of developing appropriate inter-agency communication and co-ordination mechanisms and networks which will enhance the ability of officials to share ideas and develop integrated approaches to consumer-oriented rule making at the international level. This effort should attempt to build on work already completed or ongoing in a variety of contexts and fora.

### ***Advertising and Marketing on the Internet***

The potential consumer benefits provided through online marketing and advertising information are coupled with an increased risk of fraud and deception online. The Committee began an introductory examination of issues related to advertising and marketing directed toward vulnerable populations such as children with a half-day forum session held during its meeting on 4 September 1998. Representatives of four Member countries (United Kingdom, Sweden, Belgium and the United States) gave presentations from a national perspective regarding the potential harm that could be posed to children by the expanding use of digital computer technologies and the global network environment.

Following on that effort, the Committee could explore the full range of problems and potential solutions in this burgeoning field, including fraudulent and misleading advertising; the use of "SPAM" (unsolicited e-mail); and further discuss advertising and marketing as it relates to children. The Committee, in co-operation with the ICCP Committee's Working Party on Security and Privacy, could explore these problems and the potential private-sector and legal solutions and monitor developments within Member countries.

A study could be undertaken to determine the extent to which existing advertising and marketing laws and practices are being implemented online. Working closely with business and consumer representatives, the Committee could also examine the problems faced by businesses and enforcement officials as they attempt to comply with and apply these laws and practices on the Internet.

### ***Consumer Use of Authentication***

The use of authentication technologies and mechanisms can help provide effective protections for online consumers. The Committee could begin to analyse consumer issues related to electronic signatures and authentication for electronic consumer transactions. The Committee could undertake a study to

examine the consumer uses of authentication technologies, in particular where there are consumer vulnerabilities in the electronic marketplace. Questions to be examined could include:

- Do consumers have a choice in the authentication mechanisms they use for conducting electronic consumer transactions?
- Do existing consumer protection laws and regulations apply to the use of authentication technologies and mechanisms for electronic consumer transactions?
- How do existing digital signature and electronic signature laws address consumer issues?
- What are the practices of consumers, merchants and authentication service providers in electronic consumer transactions?
- How is risk allocated among consumers, merchants and authentication service providers in electronic consumer transactions?
- What is the consumer's liability in the case of fraudulent, unauthorised or erroneous use of the consumer's digital/electronic signature or other form of electronic authentication mechanism?
- Do existing liability limitations for consumers using other forms of payment systems (such as credit cards, ATM or electronic funds transfer) extend to existing and developing Internet-based payment systems?

The Committee's work in this area would take into consideration the work already completed and now underway in the Information, Computer and Communications Policy (ICCP) Committee's Working Party on Information Security and Privacy (WPISP). In particular, any CCP work in this area should bring a consumer protection perspective in building upon the WPISP efforts to examine the range of technologies and mechanisms for electronic authentication and the policy issues that relate to authentication for electronic communications and transactions.

### ***Chargebacks***

The re-drafting and re-submission of the Chargebacks Recommendation should also be considered a project to be undertaken after the work to draft the Guidelines has been completed.