

# Enforcement by Consumer Organisations

Wishful thinking and upcoming  
reality?

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# Three questions

- TPR's in consumer law – what kind of rules are we talking about
- Consumer entities – who are they, NGO's, agencies and administrations
- Enforcement strategies - how are they linked to the substance and the institutional architecture

# TPR's in consumer law

- Co-regulation **with** participation in health, safety and standardisation
- Consumer related self-regulation **without** participation, - google, facebook, adverts
- The **standard success story**: Internet Corporation for Assigned Names and Numbers (ICANN)
- Reminder: Western dominated rule-making (FAO, Codex, WHO, ISO/IEC, ICC)

# The institutional architecture of consumer entities

- Multi-level structure
- National: CO's (Consumer Focus, vzbv, UFC), consumer agencies (Ombud), regulatory agencies, administrations
- European: BEUC and national agencies/administrations (Reg. 2006/2004)
- International: OECD-ICEPAN but no UN-CTC

# Still..

- Institutionalised CO's (statutes) vs. action based CO's (action networks)
- Self-financed (membership fees), state sponsored and mixed forms (services with costs)
- Professionalised public agencies vs. semi-professional idealism in non-profit NGO's
- Reminder: the role of language

# Impact of consumer TPR's on enforcement strategy

- With-participation TPR's (co-regulation) – enforcement = **judicial review** and **liability**
- No-participation TPR's – enforcement = **control** of **insufficient** substance – if any- against national and/or European law (standard terms and advertising)
- **Enhancing compliance** with TPR's: Lidl (advertising with membership in Business Social Compliance Campaign) – Brest Milk Substitutes

# Impact of institutional framework on enforcement strategies

- **National design** of the architecture fosters enforcement in the interest of national consumers
- **Financial dependency** of non-national entities shapes the involvement in TPR making and enforcement (financial services)
- **Lack of professional skills** enhances reliance on better equipped administrative bodies
- Overall: institutional architecture promotes **co-ordinated action** (standard terms of airlines, data protection rules in facebook and google)

# Impact of substance + architecture on enforcement

- Primacy of **national judicial** enforcement  
– diversity of enforcement standards  
(google, facebook, bank charges)
- Eventually **transnational administrative**  
enforcement via co-operation – Reg.  
2006/2004, OECD – ICEPAN,
- The potential of **private enforcement** via  
organic solidarity (Durkheim)

# A future for **private** enforcement of TPR's via consumer organisations

- developing appropriate TPR's (transparency, accountability, legitimacy and (?) judicial review)
- network building
- raising funds
- increasing professionalisation
- Realistic only in reaction to concrete, common and newly arising consumer law issues