

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 repealing Regulation (EC) No 2006/2004 (Text with EEA relevance)

CHAPTER VI

COMMON ARRANGEMENTS

Article 33

Use and disclosure of information and professional and commercial secrecy

- 1 Information collected by or communicated to the competent authorities and the Commission in the course of applying this Regulation shall only be used for the purposes of ensuring compliance with Union laws that protect consumers' interests.
- 2 The information referred to in paragraph 1 shall be treated as confidential and shall only be used and disclosed with due regard to the commercial interests of a natural person or legal person, including trade secrets and intellectual property.
- 3 Nevertheless, the competent authorities may, after consulting the competent authority which provided the information, disclose such information that is necessary:
 - a to prove infringements covered by this Regulation; or
 - b to bring about the cessation or prohibition of infringements covered by this Regulation.

Article 34

Use of evidence and investigation findings

Competent authorities may use as evidence any information, documents, findings, statements, certified true copies or intelligence communicated, on the same basis as similar documents obtained in their own Member State, irrespective of their storage medium.

Article 35

Electronic database

- 1 The Commission shall establish and maintain an electronic database for all communications between competent authorities, single liaison offices and the Commission under this Regulation. All information sent by the means of the electronic database shall be stored and processed in that electronic database. That database shall be directly accessible to the competent authorities, single liaison offices and the Commission.
- 2 Information provided by entities issuing an external alert pursuant to Article 27(1) or (2) shall be stored and processed in the electronic database. However, those entities shall not have access to that database.

Status: This is the original version as it was originally adopted in the EU. This legislation may since have been updated - see the latest available (revised) version

3 Where a competent authority, a designated body or an entity issuing an external alert pursuant to Article 27(1) or (2) establishes that an alert concerning an infringement that it issued pursuant to Article 26 or 27 has subsequently been shown to be unfounded, it shall withdraw that alert. The Commission shall remove the relevant information from the database without delay, and shall inform the parties of the reasons for that removal.

The data relating to an infringement shall be stored in the electronic database for no longer than is necessary for the purposes for which they were collected and processed, but shall not be stored for longer than 5 years following the day on which:

- a a requested authority notifies the Commission pursuant to Article 12(2) that an intra-Union infringement has ceased;
- b the coordinator notifies the closure of the coordinated action pursuant to Article 22(1); or
- c the information has been entered in the database in all other cases.

4 The Commission shall adopt implementing acts laying down the practical and operational arrangements for the functioning of the electronic database. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 38(2).

Article 36

Waiver of reimbursement of expenses

1 Member States shall waive all claims for the reimbursement of expenses incurred in applying this Regulation.

2 Notwithstanding paragraph 1, as regards requests for enforcement measures under Article 12, the Member State of the applicant authority shall remain liable to the Member State of the requested authority for any costs and any losses incurred as a result of measures that have been dismissed and held to be unfounded by a court, as far as the substance of the infringement in question is concerned.

Article 37

Enforcement priorities

1 By 17 January 2020 and every 2 years thereafter, Member States shall exchange information on their enforcement priorities for the application of this Regulation with one another and with the Commission.

Such information shall include:

- a information concerning market trends that might affect consumers' interests in the Member State concerned and in other Member States;
- b an overview of actions carried out under this Regulation in the last 2 years, and in particular, investigation and enforcement measures related to the widespread infringements;
- c statistics exchanged by means of alerts referred to in Article 26;
- d the tentative priority areas, for the next 2 years, for the enforcement of the Union laws that protect consumers' interests in the Member State concerned; and
- e the proposed priority areas, for the next 2 years, for the enforcement of the Union laws that protect consumers' interests at the Union level.

2 Without prejudice to Article 33, every 2 years, the Commission shall produce an overview of the information referred to in points (a), (b) and (c) of paragraph 1 and shall make it publicly available. The Commission shall inform the European Parliament thereof.

3 In cases involving a substantial change of circumstances or of market conditions during the 2 years after the last submission of information on their enforcement priorities, Member States shall update their enforcement priorities and shall inform other Member States and the Commission accordingly.

4 The Commission shall summarise the enforcement priorities submitted by the Member States under paragraph 1 of this Article and shall report annually to the committee referred to in Article 38(1) in order to facilitate the prioritisation of actions under this Regulation. The Commission shall exchange best practices and benchmarking with the Member States, in particular with a view of developing capacity building activities.