

**經濟合作暨發展組織工作小組草案：
關於跨國詐欺和集團性詐欺消費者
保護綱領理事會諮文**

文件編號：DSTI/CP(2002)5

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**WORKING GROUP DRAFT: RECOMMENDATION OF
THE COUNCIL CONCERNING GUIDELINES FOR
PROTECTING CONSUMERS FROM CROSS-BORDER
FRAUD AND HARD-CORE DECEPTION**

DSTI/CP(2002)5

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秘書處註

1. 本諮文草案，包含綱領，係由消費者政策委員會（the Committee on Consumer Policy以下簡稱“CCP”）跨國界賠償工作小組草擬。目的在處理一些已敘述於先前工作小組報告「DSTI/CP（2001）7」中，並在2002年3月14日舉行的論壇會議上討論過的跨國執法挑戰之問題。本綱領已被製作成OECD理事會的諮文格式，當委員會對文字達成共識時，此綱領將送交理事會尋求批准。

2. 先前由工作小組參與成員提出的草案與非正式建議都公布在CCP的電子討論群組中。最新的草案，係由秘書處彙編，並且嘗試納入工作小組最後一輪的評論。由於所有人的主張不可能與工作小組的評論完全一致，部分內容因此附上中括弧【】，藉以標示該處另有其他建議。此外，關於秘書處對草案型式的若干建議，同時補充說明在附腳處。

3. 代表團團員們被鼓勵去廣泛傳閱這份文件到適當的政府官員處，俾使委員會在10月的會議中能有充分的資訊以進行討論。代表團團員們被邀請在CCP會議舉行前提供紙本意見給秘書處。在2002年9月27日前收到的建議，都將會被彙編成會議資料，使用在會議各項議題的

NOTE BY THE SECRETARIAT

1. This Draft Recommendation contains Guidelines developed by the Committee on Consumer Policy's (CCP) Working Group on Cross-border Remedies. It is intended to address a number of the cross-border enforcement challenges described in the preliminary report by the Working Group [DSTI/CP (2001) 7] and discussed at the Forum Session held on 14 March 2002. The Guidelines have been styled as a recommendation of the OECD Council, with the expectation that, if the Committee can develop a consensus text, it will be forwarded to the Council for approval.

2. Prior drafts and informal comments from Working Group participants are posted on the CCP electronic discussion group. This latest draft has been assembled by the Secretariat and attempts to incorporate the last round of Working Group comments. Because it was not possible in all cases to reconcile Working Group comments, parts of the text are enclosed in square brackets to highlight areas where there are alternative suggestions. In addition, several suggestions regarding the format of the draft from the Secretariat have been included in footnotes.

3. Delegates are encouraged to circulate this document widely to appropriate government ministries so that the Committee can have a fully informed discussion at the October meeting. Delegates are invited to provide written comments to the Secretariat in advance of the CCP meeting. Comments received by 27 September 2002 will be

討論中。

工作小組草案：
關於跨國詐欺和集團性詐欺消費者保護綱領
理事會諮文

理事會，

參照1960年12月14日「經濟合作暨發展組織（以下簡稱“OECD”）公約」，尤其是第15條b款；

參照1998年10月8日「電子商務環境消費者保護內閣聲明」【文件編號C（98）177（附件2）】；

參照1999年12月9日OECD通過之「關於電子商務環境消費者保護綱領諮文」【文件編號C（99）184/Final】，該諮文中聲明，會員國應該藉由“其司法、行政、和執法單位在國際層次上的合作，並經由適當的資訊交換、合作、溝通和聯合行動，來打擊跨國詐欺、誤導和不公平的交易行為”；

compiled in a room document prepared for use during discussion of this item at the meeting.

**WORKING GROUP DRAFT: RECOMMENDATION OF
THE COUNCIL CONCERNING GUIDELINES FOR
PROTECTING CONSUMERS FROM CROSS-BORDER
FRAUD AND HARD-CORE DECEPTION**

THE COUNCIL,

Having regard to the convention on the Organisation for Economic Co-operation and Development of 14th December 1960, in particular, Article 5 b) thereof;

Having regard to the Ministerial Declaration on Consumer Protection in the Context of Electronic Commerce of 8 October 1998[C (98) 177 (Annex2)];

Having regard to the OECD Recommendation concerning Guidelines on Consumer Protection in the Context of Electronic Commerce, adopted by the Council on 9 December 1999[C (99) 184/FINAL], which states that member countries should, through “their judicial, regulatory, and law enforcement authorities co-operate at the international level, as appropriate, through information exchange, co-ordination, communication and joint action to combat cross-border fraudulent, misleading and unfair commercial conduct”;

參照2000年6月27日OECD理事會決議「關於跨國企業綱領」【文件編號C（2000）96/Final】；

參照國際市場監督網（IMSN）針對打擊跨國詐欺和集團性詐欺議題進行的工作成果，尤其是IMSN關於跨國賠償的調查報告（本報告可從www.imsnricc.org 網站^①取得）；

認知到，網路的發展和電信科技的改良，在經由跨國貿易促進市場全球化的同時，提供了企業和個人進行詐欺和集團性詐欺前所未有的機會，從不同的司法管轄區域去傷害消費者和規避執法；

認知到，有很多地區的消費者保護組織，其保護消費者的集體能力有限，而電子商務的成長將讓此局限日益複雜與困難；

認知到，現行處理消費者詐欺和集團性詐欺的多數法律和執法方式，是在這些案件主要發生在國內的時代做成的，相關的法律因此無法總是適用於新興的跨國詐欺和集團性詐欺案件；

Having regard to the Decision of the Council on the OECD Guidelines for Multinational Enterprises of 27 June 2000[C (2000) 96/FINAL];

Having regard for the work done by the International Marking Supervision Network (IMSN) to tackle cross-border fraud and hard-core deception, and in particular the IMSN Findings on Cross-Border Remedies, available at www.imsnricc.org;^①

Recognising that the development of the Internet and improvements in telecommunications technologies, while facilitating the globalisation of markets through cross-border transactions, also provide unprecedented opportunities for businesses and individual engaged in fraud and hard-core deception to harm consumers from a different jurisdiction and to evade enforcement authorities;

Recognising that there are areas where the collective ability of consumer protection agencies to protect consumers is limited, and that the growth of e-commerce in particular will make these limitations increasingly problematic;

Recognising that most existing laws and enforcement methods to address fraud and hard-core deception against consumers were developed at a time when such fraud and hard-core deception was predominantly domestic, and that such laws are therefore not always adequate to address the emerging problem of cross-border fraud and hard-core deception;

認知到，涉及詐欺和集團性詐欺的企業和個體可能會利用消費者保護法律在跨國適用和執行上有其侷限性之便，而在某一個國家建立據點，卻以其他國家消費者為犯罪目標；

認知到，詐欺和集團性詐欺會削弱內國和全球市場的融合，對所有企業和消費者造成傷害，並且破壞消費者對前述市場的信心；

認知到，在全世界消費者保護組織間建立較緊密的合作關係是必要的，以打擊詐欺和集團性詐欺從一國散發並危及他國消費者；

認知到，由於詐欺和集團性詐欺犯能迅速鎖定為數眾多的消費者，並且造成實質的消費者損害，消費者保護組織需要尋求快速、有效率的方式來合作，以有效地打擊這些犯罪計畫；

認知到，雖然各會員國有不同的消費者保護法律和執法程序，（OECD）仍可以有共同的立法架構，以促進消費者保護組織間更緊密的合作來打擊詐欺和集團性詐欺；和

Recognising that businesses and individuals engaged in fraud or hard-core deception may seek to take advantage of limitations in cross-border application and enforcement of consumer protection laws by establishing their operations in one country and targeting consumers in others;

Recognising that fraud and hard-core deception undermines the integrity of both domestic and global markets to the detriment of all businesses and consumers, and undermines consumer confidence in those markets;

Recognising that closer co-operation among consumer protection agencies around the world is needed to combat fraud and hard-core deception that emanate from one country and harm consumers in others;

Recognising that, because those committing cross-border fraud and hard-core deception can quickly target large numbers of consumers and cause substantial consumer injury, consumer protection agencies should find quick, efficient ways to co-operate in order to combat these schemes effectively;

Recognising that, although member countries have different consumer protection laws and enforcement processes, there can be a common framework for the development of closer co-operation among consumer protection agencies in combating fraud and hard-core deception; and

認知到，在打擊詐欺和集團性詐欺議題上緊密的合作，可以為未來其他消費者保護議題的強化合作奠定基礎；

建議：

會員國間的消費者保護組織，在防止詐欺和集團性詐欺議題上有著共同利益者，應與其他組織合作，【適當地】執行它們的法律以對抗犯罪。

為了在消費者保護組織間建立更緊密的合作關係，會員國間應發展一套立法架構，包括：

- 【建立打擊跨國詐欺和集團性詐欺的內國法律架構；】
- 強化資訊分享，與其他調查協助、合作與諮詢；
- 【更廣泛的權限】【更好的能力】保護國內消費者免於國外企業涉及的詐欺和集團性詐欺行為；
- 【更廣泛的權限】【更好的能力】保護外國消費者免於內國企業涉及的詐欺和集團性詐欺行為；

Recognising that closer co-operation in combating fraud and hard-core deception can lay the groundwork for enhanced co-operation on other consumer protection issues in the future;

RECOMMENDS:

That consumer protection agencies in member countries, having a common interest in preventing fraud and hard-core deception, should co-operate with one another[, as appropriate,] in enforcing their laws against such practices.

That member countries should work to develop a framework for closer co-operation among consumer protection agencies that includes:

- [Establishing a domestic framework for combating cross-border fraud and hard-core deception;]
- Enhanced information sharing, and other investigative assistance, co-operation and consultation;
- [Broader authority][Betty ability]to protect domestic consumers from foreign businesses engaged in fraud and hard-core deception;
- [Broader authority][Better ability]to protect foreign consumers from domestic businesses engaged in fraud and hard-core deception;

—【更好的能力以取得】【強化取得程序】為受影響的消費者取得金錢補償；

—【延伸至非會員經濟體；且】

—【適時與第三方合作；】

會員國應致力執行這些諮文建議，如隨後附件中的綱領所詳細列舉，（諮文建議）本身亦為綱領的主體。

（會員國應）知會消費者政策委員會，就與執行本諮文有關的進度和經驗，交換資訊、檢視資訊，並且在3年內就此議題向理事會報告。

—[Better ability to obtain][Enhanced procedures for obtaining] monetary redress for affected consumers

—[Outreach to non-member economies; and]

—[Co-operation with the third parties where appropriate;]

That member countries should seek to implement these Recommendations, as set forth in greater detail in the Guidelines contained in the Annex thereto and of which in forms an integral part;

INSTRUCTS the Committee on Consumer Policy to exchange information on progress and experiences regarding the implementation of this Recommendation, review that information, and report to the Council within three years on this subject.

附件

綱領

I. 定義

A. 在本語文中，所謂的“詐欺和【集團性】【嚴重】詐欺”意指：

1. 一種模式或技倆，對事實製造虛偽的假象，包括含蓄的誤導，以導致或意圖導致，（a）對消費者顯著的財務損害，或（b）對消費者健康或安全顯著的風險；

2. 在消費者已為該項產品付款後，計劃性地不交付產品給消費者；

3. 對消費者的財務、電信或其他產品與服務，計劃性地無權收費。

B. 在本語文中，所謂的“消費者保護組織”意指一個或多個【獨立的】國家公益團體，特別是負責【進行調查或執行法律行動以保護消費者】【保護消費者】不受詐欺和集團性詐欺，【獨立或與有關當局聯手保護消費者免於反競爭行為】的會員國既有組織；在其他會員國，則指根據其內國法律要求，受委託【進行調查或執行法律行動以保護消費者】【保護消費者】免於詐欺和集團性詐欺

ANNEX:

GUIDELINES

I. Definitions

A. For the purposes of this Recommendation, “fraud and [hard-core] [serious] deception” means:

1. A pattern or practice of making misrepresentations of material fact, including implied factual misrepresentations, that cause or are likely to cause, (a) significant financial injury to consumers or (b) a significant risk to consumer health or safety;

2. Systematically failing to deliver products to consumers after they have been charged for such products; or

3. Systematically charging consumers’ financial, telephone or other accounts for products or services without authorisation.

B. For the purposes of this Recommendation, “consumer protection agency” means one or more [independent] national public bodies specifically responsible for [taking investigative or enforcement action to protect consumers][protecting consumers] from fraud and hard-core deception[, either alone or in conjunction with the authority to protect consumers from anti-competitive practices,] in member countries where such bodies exist; and in other member countries, organisations

行為的組織。

II. 打擊詐欺和集團性詐欺【內國】立法架構

A. 會員國內國的消費者保護法律應有效阻止或遏止詐欺和集團性詐欺。【特別是】，相關法律應提供：

1. 有效的制裁方式，某類和到達某種程度、足以遏止企業或個人從事詐欺和集團性詐欺行為的制裁方式；
2. 有效的【程序】【機制】以停止違法犯罪者從事詐欺和集團性詐欺行為；和
3. 有效的【程序】【機制】，替受詐欺和集團性詐欺的消費者取得財務補償。

B. 會員國應【適當地】尋求保證他們的消費者保護組織，擁有能及時採取行動、和取得任何調查所須證據的權限，並且採取行動，阻止可能影響其司法制度的詐欺和集團性詐欺行為。【上述證據可能包括目擊者陳述和相關文件。】

charged with[taking investigative or enforcement action to protect consumers][protecting consumers] from fraud and hard-core deception in accordance with the criteria laid down by their national law.

II.[Domestic] Framework for combating cross-border fraud and hard-core deception

A.The consumer protection laws of member countries should be effective in halting and deterring fraud and hard-core deception. [In particular,] such laws should provide for:

- 1.Effective sanctions, of a kind and at a level adequate to deter businesses and individuals from engage in fraud and hard-core deception;
- 2.Effective [procedures][mechanisms] to stop wrongdoers engaged in fraud or hard-core deception; and
- 3.Effective [procedures][mechanisms] to obtain monetary redress for consumer victims of fraud and hard-core deception.

B.Member countries should[,as appropriate,] seek to ensure that their consumer protection agencies have the authority to take rapid action, and to obtain whatever evidence is necessary to investigate and take action against fraud and hard-core deception affecting their jurisdiction. [Such evidence may include witness statements and relevant documents.]

C. 會員國應發展合作和資訊分享的【機制】【程序】，【適當地】存在於他們的消費者保護組織、警方、和其他執法單位，以打擊詐欺和集團性詐欺行為。

D. 會員國應【重行檢視其內國法】【考慮檢視其內國法】，【尋求】確認障礙，在保護消費者對抗詐欺和集團性詐欺相關法律的執行層面上有效合作，適當地克服這些障礙。

E. 會員國應教育消費者有關詐欺和集團性詐欺的行為，採取合適的聯合行動。【這些行動應包括與區域經濟合作組織，如歐盟的合作計畫】^②

III. 【國際】合作原則

A. 會員國應加強其能力，以合作打擊跨國界詐欺和集團性詐欺行為。同時，在被要求的情況下，消費者保護組織可以協助進行諮文建議下的特定調查與案件。消費者保護組織或許以下列原因為理由，拒絕合作，或在有限度、有條件的情況下合作：以順從其內國法律一致性要求為理由，或以利益、優先性（包括對資源之限制），或在問題的調查或程序階段欠缺共同利益等。

C. Member countries should develop [mechanisms] [procedures] for co-operation and information sharing[, as appropriate,] between and among their consumer protection agencies, police agencies, and other law enforcement authorities for the purpose of combating fraud and hard-core deception.

D. Member countries should [review their laws] [consider reviewing their laws] [seek] to identify barriers to effective co-operation in the enforcement of laws designed to protect consumers against fraud and hard-core deception and consider national legislation, as appropriate, to overcome these barriers.

E. Member countries should educate consumers about fraud and hard-core deception, undertaking joint initiatives as appropriate. [Such initiatives could include initiatives with regional economic integration organisation such as the European Union.]^②

III. Principles for [international] co-operation

A. Member countries should improve their ability to co-operate in combating cross-border fraud and hard-core deception. At the same time, co-operation on particular investigations or cases under this Recommendation is within the discretion of the consumer protection agency being asked to co-operate. A consumer protection agency may decline to co-operate, or limit or condition its co-operation on the ground that it considers compliance with the request to be inconsistent with

- B 【會員國應考慮到其內國消費者法律執法行動的成效對其他會員國重要利益的影響】。
- C 【消費者保護組織】【會員國】應與其他會員國諮商因合作而產生的爭議。
- D 會員國應【適當地】考慮加入雙邊或多邊協議，或其他方式以履行本諮文。【前述協議，可以包括與地區性經濟合作組織、如歐盟的協議】。
- E 本諮文並不企圖限制那些根據之前的理事會諮文或現有的合作協議^⑨可能存在的其他任何之合作。

IV. 【資訊分享與合作】【申報、資訊分享、機密與司法協助】

- A. 會員國對防止跨國界詐欺和集團性詐欺有共同的利益，彼此間應【適當地】經由相關資訊的分

its laws, interests or priorities including resource constraints, or the absence of mutual interest in the investigation or proceeding in question.

- B.[Member countries should take into account the effects of the conduct of their own consumer law enforcement activities on the important interests of other member countries.]
- C.[Consumer protection agencies][Member countries] should consult with one another when disagreements as to co-operation arise.
- D.Member countries should[, as appropriate,] consider entering into bilateral or multilateral arrangements or other initiatives to implement this Recommendation.[Such arrangements can include arrangements with regional economic integration organisations such as the European Union.]
- E.The co-operation contemplated by this Recommendation is not intended to limit any other co-operation that may occur in accordance with prior Recommendations of the Council or existing co-operation agreements.^⑨

IV.[Information sharing and co-operation][Notification, information sharing, confidentiality and legal assistance]

- A.Member countries have a common interest in preventing cross-border fraud and hard-core deception, and should co-

享，合作執行各自的法律以對抗這些行為。

B. 會員國認知到此重要性，必須將影響到其他國家的執法行動，迅速【、有組織與有效率】地知會其他會員國的消費者保護組織。知會的目的，在簡化根據本諮文履行的協助和互助；避免重複的行動，和避免潛在的爭端。

C. 【許多消費者保護組織與國外消費者保護組織進行資訊分享的能力有限。資訊分享的能力在對抗跨國境詐欺與集團性詐欺時是不可或缺的】。會員國應致力加強消費者保護組織在資訊分享上的能力，當議題涉及跨國境詐欺與集團性詐欺，受【本綱領第四章】【適當的安全機制】管制時。特別是，會員國應致力促使其消費者保護組織和其他會員國消費者保護組織，【在合適的案例中】分享下列資訊：

1. 公開可得的資訊。

2. 資訊提供者同意分享的資訊。

operate with each other in enforcing their laws against such practices through the sharing of relevant information[, as appropriate].

B. Member countries recognise the importance of promptly[, systematically and efficiently] notifying consumer protection agencies in other member countries of enforcement actions that affect those countries. The goals of such notification are to simplify assistance and co-operatin under this Recommendation; to avoid duplication of efforts; and to avoid potential disputes.

C. [Many consumer protection agencies have limited ability to share information with foreign consumer protection agencies. The ability to share such information is essential to fighting cross-border fraud and hard-core deception.] Member countries should strive to improve the ability of consumer protection agencies to share information in matters involving fraud and hard-core deception, subject to [appropriate safeguards][section IV of these Guidelines]. In particular, member countries should work towards enabling their consumer protection agencies to share the following information with consumer protection agencies in other member countries[in appropriate instances]:

1. Publicly available information.

2. Information that the party providing the information has

3.消費者的申訴【，取得消費者同意】。

4.關於地址、電話、網站註冊位址、公司基本資料和其他足以快速鎖定跨國境詐欺與集團性詐欺所在位置的資訊；與

5.根據法定程序，【依適當的安全機制，】可取得的文件和證詞。

D. 會員國【應 should】【應 shall】^④採取適當措施，以維護資料交換的機密性。【在分享具機密性的商業資訊和個人資訊時，某種程度的安全機制是適當的。】會員國【應should】【應shall】【最大可能限度與會員國的法律一致，】遵守被其他會員國要求履踐的程序安全條款，以保護機密性，或與他們分享的個人資料。

E. 有鑑於涉及詐欺與集團性詐欺犯罪的快速成長率，特別是那些利用網路、能以多數消費者為目標者，會員國應【發現】【致力發現】快速、有效率的方式來進行資訊分享。例如，他們應該根據現行的OECD計畫，經由線上資料庫來進行資訊

consented to share.

3.Consumer complaints[,with the consent of the consumer].

4.Information about addresses, telephones, Internet domain registrations, basis corporate data. and other information permitting the quick location of those engaged in fraud and hard-core deception; and

5.Documents and witness statements, when available, obtained pursuant to compulsory proces[, subject to appropriate safeguards.]

D.Member countries[should][shall]^④ take appropriate steps to maintain confidentiality of information exchanged. [Certain safeguards are appropriate in sharing confidential business information and personal information.] Member countries[should][shall], [to the fullest extent possible consistent with that member's laws,] respect procedural safeguards requested by other member countries to protect confidential or personal information shared with them.

E.To address the rapid rate at which those engaged in fraud and hard-core deception can target a large number of consumers, especially using the Internet, member countries should [find][work towards finding] fast, efficient ways to share information. For example, they should build on existing

分享，包括消費者申訴和調查資訊。他們也應該為了線上資訊的分享，嘗試發展新的計畫。

F.【許多消費者保護組織對外國消費者保護組織提供調查協助的能力有限。】會員國應致力授權他們的消費者保護組織，在合適時，取得包括文件和聲明在內的資訊；否則提供調查協助，對外國消費者保護組織的調查和行動，不論是直接或經由合適的【司法單位授權的機制】【法律程序】，並且受一定的安全機制控制。

G.【消費者保護組織和其他執法單位特別需要有能力，去確定那些涉及詐欺與集團性詐欺案件的位置，以採取有效的行動與之對抗。會員國認知到，正確的【網域註冊名稱和電子郵件通聯資訊】【有關網域名稱持有者資訊】是重要的，可以藉此定位這些企業和他們的資金。因此，會員國應與其他會員國、負責網域名稱註冊單位、其他相關參與者合作，以確保這些資訊的正確性。】

OECD projects to share information, including consumer complaints and investigative information, through online databases. They should also explore new projects for online information sharing.

F.[Many consumer protection agencies have limited ability to provide investigative assistance to foreign consumer protection agencies.] Member countries should work toward authorising their consumer protection agencies, when appropriate, to obtain information, including documents and statements, and otherwise provide investigative assistance for foreign consumer protection agency investigations and actions, either directly or through appropriate [mechanisms authorised by judicial authorities][legal procedures], and subject to appropriate safeguards.

G.[Consumer protection agencies and other law enforcement agencies typically need to be able to locate those engaged in fraud and hard-core deception in order to take effective action against them. Member countries acknowledge that accurate [domain name registration and e-mail routing information] [information about holders of domain names] is important in enabling the location of such businesses and their principals. Therefore, member countries should co-operate with one another and with domain name registrars and other relevant stakeholders in insuring the accuracy of such information.]

- H. 【會員國應考量消費者保護組織如何使其在其他國家所取得的司法命令具有執行力，以停止在其自己國家內的相同行為。】

V. 消費者保護司法管轄權

- A. 會員國認知到此重要性，克服一些消費者保護組織的能力限制，以採取行動對抗以內國消費者為對象的外國企業。因此，會員國應致力【賦予他們的消費者保護組織適當的權限】【使他們的消費者保護組織有能力】採取行動，對抗國外涉及詐欺與集團性詐欺的企業對內國消費者犯罪。

- B. 會員國認知到此重要性，克服一些消費者保護組織的能力限制，去採取行動對抗以外國消費者為對象的內國企業。因此，會員國應致力【賦予他們的消費者保護組織適當的權限】【使他們的消費者保護組織有能力】採取行動，以對抗內國企業欺騙、蒙蔽國外的消費者。

VI. 金錢賠償

- A. 會員國知道，剝奪詐欺和集團性詐欺企業以不正當手段取得的資金可以是遏止詐欺和集團性詐欺

- H.[Member countries should consider how consumer protection agencies could use judicial orders obtained by a consumer protection agency in another country to expedite the ability to halt the same conduct in their own countries.]

V. Jurisdiction to protect consumers

- A.Member countries acknowledge the importance of overcoming limits on the ability of some consumer protection agencies to take action against foreign businesses targeting domestic consumers. Therefore, member countries should work toward [giving their consumer protection agencies adequate authority][enabling their consumer protection agencies]to take action against foreign businesses engaged in fraud and hard-core deception against their own consumers.

- B.Member countries acknowledge the importance of overcoming limits on the ability of some consumer protection agencies to take action against their own businesses targeting foreign consumers. Therefore, member countries should work toward [giving their consumer protection agencies adequate authority][enabling their consumer protection agencies] to take action against domestic businesses defrauding and deceiving foreign consumers.

VI. Monetary remedies

- A.Member countries recognise that depriving fraudulent and hard-core deceptive businesses of their ill-gotten funds can be

的重要手段，並且了解提供【這些資金返還】【賠償】給可能受詐欺和集團性詐欺消費者的重要性。此議題對跨國買賣特別重要。會員國應【考慮】【研究此可行性】，賦予消費者保護組織權限，代表被詐欺消費者請求賠償【或支持被詐欺消費者尋求賠償】。

- B. 會員國應【考慮】【研究此可行性】，允許法院的賠償命令，在適合的詐欺和集團性詐欺案件中可以跨國界執行。
- C. 會員國應研究那些可能是可行的、和有效的安全機制，以對抗利用支付系統支援跨國詐欺和集團性詐欺犯罪，和利用支付系統阻礙消費者保護法律的跨國執法行為。
- D. 會員國應【適當的】檢測那些可能已發展出的跨國法律架構，根據雙邊或多邊的基礎，包括在緊急情況下認為適合者，去發展、擴大現行的程序，讓及時性、跨國凍結涉嫌詐欺和集團性詐欺的企業和個人資產的行為發生效力。

an important deterrent to fraud and hard-core deception, and appreciate the importance of providing [for the return of those funds][redress] to consumer victims of fraud and hard-core deception where possible. This issue is especially important for cross-border transactions. Member countries should [consider] [study the feasibility of] providing consumer protection agencies with the authority to seek redress on behalf of defrauded consumers [or to support defrauded consumers seeking redress].

- B. Member countries should [consider] [study the feasibility of] allowing enforcement of judgements ordering redress across borders in appropriate fraud and hard-core deception cases.
- C. Member countries should study what might be feasible and effective safeguards against the use of payment systems to support cross-border fraud and hard-core deception and to impede cross-border enforcement of consumer protection laws.
- D. Member countries should [, as appropriate,] examine transnational legal structures that might be developed, either on a bilateral or multilateral basis, to improve and broaden existing procedures to effect timely cross-border freezes, including when appropriate on an emergency basis, of assets of businesses and individuals engaged in fraud and hard-core deception.

- E. 會員國應考慮授權其消費者保護組織，在適當的案例中去蒐集和分享有關資產的資訊，以協助外國消費者保護組織對抗詐欺和集團性詐欺的行動。

VII. 民間合作

產業界和消費者團體在打擊跨國詐欺和集團性詐欺問題上，可以提供重要的援助。會員國應【適當的】鼓勵產業界和消費者團體間的合作，以促進本諮文所宣示的目標。這些合作應包括申訴的轉介。也可以包括從第三方來的合作，如金融機關和網域名稱註冊單位等，以阻止詐欺和集團性詐欺的跨國行為。

VIII. 延伸至非會員經濟體

會員國應邀請非會員經濟體，使其支持本諮文，在適當時並應協助他們去實踐本諮文^⑤。

- E. Member countries should consider authorising their consumer protection agencies to gather and share information about assets, in appropriate cases, in aid of a foreign consumer protection agency's action against fraud and hard-core deception.

VII. Private-sector co-operation

Industry and consumer groups can be of valuable assistance in fighting cross-border fraud and hard-core deception. Member countries shouldp [, as appropriate,] encourage co-operation with industry and consumer groups in furthering the goals stated in this Recommendation. Such co-operation could include the referral of complaints. It could also include co-operation from such third parties as financial institutions and domain name registrars in halting fraud and hard-core deception across borders.

VIII. Outreach to non-member economies

Member countries should invite non-member economies to associate themselves with this Recommendation and to implement it, with assistance where appropriate.^⑤

NOTE

- ❶ 秘書處註：理事會諮文中鮮少引用其他國際組織的工作成果。如果決定保留對IMSN的參照，此網站連結可能被移到解釋報告、或其他背景說明文件中。
- ❷ 秘書處註：此作法是少見的，在理事會諮文中明確地指涉其他的國際組織。
- ❸ 秘書處註：在一份不具拘束力的諮文中，這種棄權方式可能不被認為是必須的。如果保留，此棄權（disclaimer）應重新以“認知...”條款的形式表達之，並放在前言中。
- ❹ 秘書處註：此具強制性暗示的用字，在此無拘束性諮文中可能會導致混淆。
- ❺ 秘書處註：邀請非會員經濟體“支持”（associate）理事會諮文，通常意謂一個正式程序和相當程度的後續遵從。多數保守的延伸形式，包括提供本諮文給非會員經濟體所使用，或邀請他們參考本諮文內涵。此外，相較於附錄的綱領，與非會員相關的文字也越來越常見於諮文章節中。

註釋

- ❶ Secretariat note - References to the work of other international organisations are unusual in a Council recommendation. If it is decided to retain the reference to the IMSN, the Web site link might be moved to an explanatory report or other background document.
- ❷ Secretariat note - it is unusual to refer explicitly to another international organisation in a Council recommendation.
- ❸ Secretariat note - in a non-binding recommendation this type of disclaimer may not be considered necessary. If retained, the disclaimer might be reformulated as a “recognising..” clause and included in the preamble.
- ❹ Secretariat note - the use of language that implies mandatory action may be confusing in a non-binding recommendation.
- ❺ Secretariat note - An invitation to non-member economies to “associate” themselves with a Council recommendation typically contemplates a formal process and considerable follow-up. More modest forms of outreach include making the Recommendation “available” to non-member economies, or inviting them to “take account of” the Recommendation. In addition, the language related to non-members is more commonly included in the “Recommendation” section, rather than as part of the annexed Guidelines.

OECD電子商務消費者保護綱領 之最佳實務範例

文件編號：DSTI/CP(2002)2/FINAL
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BEST PRACTICE EXAMPLES UNDER THE OECD GUIDELINES ON CONSUMER PROTECTION IN THE CONTEXT OF ELECTRONIC COMMERCE

DSTI/CP(2002)2/FINAL
17-May-2002

前言

在各會員國政府消費者保護官員、商業組織、消費團體歷經二年的協商起草，OECD 於1999年12月9日正式批准採用「電子商務消費者保護綱領」(Guidelines for Consumer Protection in the Context of Electronic Commerce，以下簡稱消保綱領)。當消費者在判別網路上可期待的合理商業實務，當民間業者發展自律方案，以及當政府制訂及實行電子商務消費者保護政策時，OECD消保綱領提供基本的準則。

由於組成電子市集的數位網路及電腦科技具有國際性的本質，一個全球性的消費者保護方針是必要的，以確保消費者在新興電子市集中能有不遜於在傳統領域所受到的安全保護程度。在此概念下OECD消保綱領應運而生。

消保綱領通過一週年後，於2001年3月13-14日，消費者政策委員會在柏林召開一場研討會「線上市集之消費者：OECD消保綱領研討會——週年後」。藉由這場研討會，將當初起草消保綱領的代表及其他非會員國的代表聚集在一起，以檢討消保綱領實行的進度，並討論電子商務消費者保護的下一進行的步驟。

FOREWORD

The OECD *Guidelines for Consumer Protection in the Context of Electronic Commerce (the Guidelines)* provide basic principles for consumers as they determine what fair business practices to expect online, for the private sector as it develops self-regulatory schemes, and for governments as they formulate and implement consumer protections for electronic commerce. Approved and adopted on 9 December 1999 by the OECD, they represent almost two years of drafting and consultation by consumer protection officials from Member governments, business groups and consumer organisations.

Given the inherently international nature of the digital networks and computer technologies that comprise the electronic marketplace, the *Guidelines* grew from recognition that a global approach to consumer protection is necessary to ensure that consumers are afforded a level of safeguards in the emerging electronic marketplace that are not less than those received in more traditional realms.

Upon the first year anniversary of the *Guidelines*, the Committee on Consumer Policy convened a workshop "Consumers in the Online Marketplace: OECD Workshop on the Guidelines - One Year Later" (the Workshop). Through this Workshop, the Committee sought to bring together many of the same representatives involved in the initial writing process, in addition to other representatives - especially from non-member countries. Gathering in Berlin on 13-14 March 2001, the

在研討會中委員會發現消保綱領已對企業政策及政府的行動產生正面的影響，而助長了網路世界中消費者的保護。當消保綱領持續的實行時，這種正面的影響在未來幾年中將會一直持續。

在此次研討會以及其後的委員會第60次會議中作出以下決定：雖然消保綱領本身的文字在此時尚無須修訂，但基本原則的細緻化有助於對政府、企業及消費者提供更務實的指引。為達此目的，會中決定對消保綱領進一步的解釋，可以最佳實務範例或類似文件的型態呈現，以對綱領的各別原則提供更具體精確的註解。

OECD電子商務消費者保護綱領之最佳實務範例

本文所舉的範例都是假設的狀況，而每一範例企圖提供各個原則的相關資訊，因而以下各範例的成功或失敗，僅是指特定原則遵循與否，而非檢討各範例是否同

task was to examine progress on implementation of the *Guidelines* and to facilitate discussion on what the appropriate next steps would be in the area of e-commerce consumer protection.

At the Workshop, the Committee found that the *Guidelines* have had a positive impact on business policies and government action, encouraging better consumer protection in the online arena. The impact is expected to continue in the years ahead as implementation activities continue.

From the Workshop and the 60th meeting of the Committee, which followed the Workshop, it was decided that while it is unnecessary to revise the text of the *Guidelines* themselves at this time, some elaboration on the principles may be useful in order to provide additional practical guidance to governments, businesses and consumers. To this end, it was decided that such further explanation could come in the form of best practice examples or a similar document that provides an elaboration for a few discrete areas of the *Guidelines*.

BEST PRACTICE EXAMPLES UNDER THE OECD GUIDELINES ON CONSUMER PROTECTION IN THE CONTEXT OF ELECTRONIC COMMERCE

All of the examples that follow are hypothetical situations. Each example is meant to provide information on a discrete principle. Thus its success and failure as it relates to the *Guidelines* only refers to the

時實行消保綱領的全部原則。以下各範例前的（+）和（-）符號代表範例中的企業是否履行消保綱領中之原則。

關於企業的資訊

(+) 某商業性網站在首頁中含有一特定連結，而且可從網站上其他網頁進入該連結。這個連結提供相關的公司的資訊，包括公司名稱、營業名稱、公司接受法律服務的主要地址、電話號碼、電子郵件等能讓消費者詢問銷售或服務的聯絡資訊。此網站履行了消保綱領第IIIA原則（關於企業的資訊），因為網站提供消費者精確、清楚並容易於取得的公司資訊，足以使消費者及法律執行者得以辨識該公司。

(-) 某網路電腦公司從知名的標章制度中取得標章。此標章服務要求標章擁有者履行多種實際的消費者政策。該網路電腦公司將標章公告在網站上，且可在網站各處看到該標章。然而，若消費者點選標章，並不能連結至該標章制度的網站，且電腦公司的網站上也未提供該標章制度的資訊。雖然因電腦公司是有效標章服務的會員，其網站可能符合消保綱領原則，然而該網站並未

specific principle at issue. The example is not meant to show a successful implementation of all principles in the *Guidelines* at the same time. The plus (+) and minus (-) that precede the examples indicate whether the business in the example **implements or fails to implement** the *Guidelines*.

Information about the business

(+) A commercial Web site has a link on its home page that is also accessible from every other page on its site. The link provides information on the company including its legal name, which is also the name under which it trades, its principal geographic address where it accepts legal service of process, a telephone number, and an e-mail address for questions related to sales and service. **This site implements principle IIIA of the Guidelines (information about the business)** because it provides the consumer with accurate, clear and easily accessible information about itself sufficient to allow identification of the business by both consumers and law enforcement.

(-) An online computer company carries a seal from a well-known and respected seal programme. The seal programme requires seal holders to implement a variety of effective consumer policy principles. The online computer company posts the seal on its site and the seal can be viewed from anywhere on its site. If a consumer clicks on the seal however, it does not provide a link to the seal programme's site. Nowhere else on the computer company's site does

履行消保綱領第IIIA原則（關於企業的資訊），因為它未提供消費者標章制度的適當聯繫資料，也未提供簡便的方法讓消費者可查證其會員資格。

關於物品與服務的資訊

(+) 某網路家電商店提供商品的三度空間圖像，當消費者點選圖像時，商品的圖像會隨之旋轉，並能從各角度觀看商品。而在圖像旁，透過連結的方式，提供商品保證、安全以及大小、顏色、用電需求等相關資訊。此一網站履行消保綱領第IIIB原則（物品與服務的資訊），因為該網站提供消費者商品精確及容易取得的資訊。

(+) 某網路衣物商店僅提供商品的靜態圖像，詳述商品的材質、顏色並提供尺寸對照表。該網站雖然未利用最新視覺科技效果來呈現商品，但以文字敘述的方式提供商品重要的資訊，已符合消保綱領第IIIB原則（物品與服務的資訊）。

it provide information on the seal programme. While the computer company's site may implement many of the principles of the Guidelines because it is a member of an effective seal programme, **it fails to implement principle IIIA of the Guidelines (information about the business)** because it neither provides consumers with appropriate contact details for the seal programme nor an easy method of verifying its membership in the programme.

Information about the goods or services

(+) An online appliance store provides a three-dimensional picture of all of its products. When a consumer clicks on the picture the product rotates so that all sides can be viewed. The picture also allows a consumer to narrow the view to be able to read product information on the item. Related warranty and safety information is provided via a link next to the picture as well as all information relating to the size, colour and energy requirements necessary to operate the product. **This site implements principle IIIB of the Guidelines (information about the goods or services)** because it provides the consumer with accurate and easily accessible information describing the goods offered.

(+) An online clothing store provides static pictures of all of its products, but includes fabric specifications, colour, and full sizing charts. Because it provides the essential information about the goods in text form, **this site implements principle IIIB of the Guidelines (information about the goods or services)** even though it may not

(-) 某網路玩具商店販售一種會揮手並會以15種語言打招呼的電動娃娃。該網站提供清晰的娃娃照片，詳述實際尺寸大小，並說明其為低敏感性產品。此外，網站指出娃娃是靠電池來啟動，但未明確指出特定的電池類型。事實上，這種電動娃娃所需的電池只在日本才能購得，且價值1000元日幣。此網站未履行消保綱領第IIIB原則（物品與服務的資訊），因為網站未能提供充分的資訊，使消費者得以在資訊充足的情況下作出決定。

關於交易的資訊

貨幣

(+) 某墨西哥網站在西班牙提供其產品及服務的資訊。網站明確說明其價格是以墨西哥披索為單位，此一網站履行消保綱領第IIIC原則（交易資訊）因為它明確指出適用的貨幣。此外，該網站不至誤導或來自西班牙的西班牙語系消費者。

(-) 某美國網站以英文提供產品及服務的資訊，該網站只接受美金，但它未明確指出網站中標價的貨幣種

take full advantage of the latest technology in terms of visual presentation.

(-) An online toy store sells an electronic doll that can wave its hand and say “hello” in 15 languages. The site provides a clear photo of the doll, specifies its actual size, and notes that it is hypoallergenic. The site also mentions that it runs on batteries, but does not post the specific type. In fact, the doll requires a battery that can only be purchased in Japan and costs approximately JPY 1 000. **This site fails to implement principle IIIB of the Guidelines (information about the goods or services)** because it does not provide the consumer with sufficient information to make an informed decision.

Information about the transaction

Currency

(+) A Mexican-based Web site provides information on its goods and services in Spanish. The site explicitly specifies that its prices are in Mexican pesos. **This site implements principle IIIC of the Guidelines (information about the transaction)** because it clearly identifies the applicable currency. Moreover, it will not confuse or mislead a Spanish-speaking consumer who may hail from Spain rather than Mexico.

(-) A US-based Web site provides information on its goods and services only in English. While the site accepts only USD, it does not

類。此一網站未符合消保綱領第IIIC原則（交易資訊），因為它未明確指出產品及服務適用的貨幣。而且，因為網站使用英文，所以可能會讓英國的消費者認為該網站適用的貨幣為英鎊。

建議：

消保綱領要求企業在標價時僅提供適用的貨幣，而現在的科技使網站可以輕易的連結至貨幣轉換的服務。對於向外國消費者行銷的網站，提供這樣的連結或其他技術將有助於消費者在資訊充足的情況下作出決定。

(+) 當消費者在某網站上購物時，消費者可經由網站連結、彈跳視窗（pop-up window）、下拉式選單等方式，取得各種運送方式的費用資訊、以及稅率的一般資訊。該網站履行消保綱領第IIIC原則（關於交易的資訊），因為它詳列由業者徵收的特定費用（例如，運送費用），並告知消費者非由業者徵收的費用（例如，稅）。

explicitly specify any currency with its prices. **This site fails to implement principle IIIC of the Guidelines (information about the transaction)** because it does not clearly identify the currency of its goods and services. Moreover, it is possible that a consumer from the United Kingdom would visit the site and assume because the site is in English that the currency is British pounds.

TIP:

While the *Guidelines* call for a business to provide only the applicable currency when offering cost information, technology now provides sites the opportunity to easily and efficiently link to currency converters. For Web sites marketing to foreign consumers, providing this kind of information via links or other technological means will help consumers to make an informed choice.

Costs

(+) While a consumer is making a purchase from a Web site, the consumer has access to information via hyperlink, pop-up window, drop-down menu, etc. on the specific cost amounts associated with the various shipping options available, as well as general information on the applicable tax and/or duty rates. **This site implements principle IIIC of the Guidelines (information about the transaction)** because it provides the consumer with an itemisation of the specific costs collected and/or imposed by the business (e.g. shipping costs) and notice of the existence of costs not collected and/or imposed by the business (e.g. tax and/or duty rates).

(+) 在消費者最後結帳時，某網站讓消費者有機會再次檢視購買的物品，而且提供資訊讓消費者知道可能須負擔相關的稅，但該網站並未說明該負擔多少稅。此一網站已符合消保綱領第IIIC原則（交易資訊），因為消保綱領僅要求網站列出企業所徵收的費用。

(-) 當消費者已被賦予再次檢視購物車中物品的機會，並且提供付款資訊後，網站聲明運送費用外加，且網站也未提供運送服務費用的資訊。由以下兩個理由可認為這個網站未履行消保綱領第IIIC原則（關於交易的資訊），因為消保綱領要求企業必須詳列此項資訊，並且資訊提出的時間要使消費者能在被告知資訊後選擇是否購買。

建議：

消保綱領未要求企業提供有關非由企業徵收費用的資訊，其理論基礎是，在每次交易中提供這樣的資訊會過於麻煩且幾近於不可能。再則，直到消費者填寫完運送資訊（如地址及運送方式的選擇）後才提供運送費用的資訊，是不切實際的。然而，許多網站不只是簡單告知尚有其他例行的費用，更連結到提供相關費用資訊的國家或州的官方網站。

(+) When the consumer is making his final checkout and is given the opportunity to review the items he is purchasing, the Web site also offers information that the consumer may be responsible for paying duty on the items to be purchased. The site does not, however, specify how much the duty will be. **This site implements principle IIIC of the Guidelines (information about the transaction)** because the *Guidelines* call for sites only to itemise costs that are collected by the business.

(-) Once a consumer has been given the opportunity to review the items in his shopping cart and provide payment information to the site, the site offers a statement that shipping will be additional. The site does not provide the specific cost information for such service. **This site fails to implement principle IIIC of the Guidelines (information about the transaction)** for two reasons; the *Guidelines* call on businesses both to itemise this information and provide it at a time that will enable the consumer to make an informed decision on whether to make the purchase.

TIP:

The rationale for not requesting that businesses provide information to consumers on costs that are not collected and/or imposed by the business was that it would be too burdensome and next to impossible to provide the specific cost information for each transaction. Moreover, providing shipping/delivery cost information may be impracticable until after the consumer has completed the “ship to” information (e.g. a consumer’s address and delivery option).

關於交易的資訊

付款程序

(+) 某網路食品商店列出其所接受支付卡（payment card）類型的表單。當消費者訂購時，網站會顯示該物品是否仍有存貨，並且告知消費者直到物品運送後才會被扣款。網站亦規定易腐壞的產品不能退回，而不易腐壞的產品退回後，該筆款項會貸記回原付款的支付卡。此網站履行消保綱領第IIIC原則（關於交易的資訊），因為其告知消費者付款的條件與方式（例如接受何種類型的支付卡、消費者何時會被扣款、以及產品退回時如何返還款項）。

(-) 某網站接受數種類型的支付卡，但它會對使用支付卡而非電子錢的消費者收取額外的費用，在交易完成時，交易明細會包含使用支付卡的額外費用。此網站未履行消保綱領第IIIC原則（關於交易的資訊），因為其未在消費者決定是否進行交易時，即時提供相關訊息。

Many sites, however, offer more than a simple notice of the existence of other routinely applicable costs; these sites provide links to national and state authorities that provide specific relevant information on these costs.

Information about the transaction (cont'd.)

Payment process

(+) An online food store provides a list of the types of payment cards it accepts. When a consumer places an order the site provides information on whether the item is in stock and informs the consumer that it will not charge the consumer until the item is shipped. The site also provides that there are no returns on perishable items but returns on non-perishable items will be credited back to the same card used for the purchase. **This site implements principle IIIC of the Guidelines (information about the transaction)** because it informs the consumer of the terms, conditions and methods of payment, (e.g. which cards it accepts, when the consumer will be charged and how refunds will be credited).

(-) A Web site accepts several forms of payment cards, but charges an additional service fee to those consumers who use payment cards rather than e-money. At the conclusion of the transaction, the itemisation of the transaction includes the surcharge for using the payment card. **This site fails to implement principle IIIC of the Guidelines (information about the transaction)**

運送期限

(+) 某網路禮品商店販售來自世界各地的手工藝品。雖然大多數的產品都有存貨，但是某些產品必須從國外特別訂製。而網站上陳列的每個產品項目都含有連結，指出該產品是否尚有存貨、以及該產品預計何時可以出貨，並說明可能發生無法預期的延遲。而當產品事實上已比預定的運送時間延遲時，該網路商店會以電子郵件通知消費者更新後的運送資訊，並要求消費者確認是否仍然願意購買該產品。此網站履行消保綱領第IIIC原則（關於交易的資訊），因為它提供運送期限的相關資訊，且當運送發生延遲時，會更新運送日期並讓消費者有撤銷該筆交易的機會。

(-) 某網路商店承諾消費者在一星期內運送一件禮品。訂單開出後，商店得知該產品將會缺貨一段期間，但它未將產品延遲的訊息通知消費者。三個月後，當該項產品可取得時，商店給予該消費者兩種選擇，一是在二天內寄送該產品，二是消費者可撤銷該筆交易而不須負擔任何費用。此網站未履行消保綱領第IIIC原則（關於

because it does not provide the consumer with the information at a time when he or she can use it to make an informed decision about whether to enter into the transaction.

Delivery terms

(+) An online gift shop offers a wide range of hand-made crafts from all over the world. Although it maintains many of its goods in its stock, some of the items must be special-ordered from other countries. Each item displayed on its Web site contains a link that specifies whether the item is currently in stock and, if not, an estimate about when the item will be available for shipping. Also noted is the fact that sometimes unanticipated delays will occur. For items which are in fact delayed beyond the estimated shipping date, the online shop e-mails the consumer updated shipping information, and requests confirmation that the consumer still wants to purchase the item. **This site implements principle IIIC of the Guidelines (information about the transaction)** because it provide appropriate information regarding the terms of delivery, including updated shipping dates and an opportunity to withdraw where delivery is delayed.

(-) An online shop promises a consumer delivery of a gift item within one week. After the order is placed, the shop learns that the item will be out of stock for an unknown period. It does not inform the consumer about the delay. Three months later, the item again becomes available. The shop then offers the consumer the option of having the item will be delivered within two days or withdrawing

交易的資訊），雖然它給予消費者有撤銷交易的機會，但未提供精確的運送時程（在它得知無法符合原先承諾的運送日期時）。在此範例，消保綱領第II原則（公平競爭、廣告及行銷議題）補充了正確揭露需求，規定企業對於其在交易相關業務政策與執行所發出的表象，應確實遵守。

退貨與擔保

(+) 某網路汽車網站提供退貨的政策，消費者可在交易的任一階段得知該政策。其政策是允許退貨，但消費者必須自行負擔將汽車退回該企業所發生的費用。此網站履行消保綱領第IIIC原則（關於交易的資訊），因為它提供充足的退貨資訊，使消費者能在被告知資訊後決定是否進行該筆交易。

(-) 某網路書店聲明：「本書店之退貨政策遵循德國的法律」，但並未提供退貨政策的細節。此網站未履行消保綱領第IIIC原則（關於交易的資訊），因為其未以清楚、明確、易於取得的方式提供相關資訊。

from the transaction without cost. **This site fails to implement principle IIIC of the Guidelines (information about the transaction)**, even though it offered the consumer the opportunity to withdraw from the transaction, because it did not provide accurate information about the timing of the delivery (after it learned that it would not be able to meet its promised delivery date). Here, the need for accurate disclosures is supplemented by principle II of the *Guidelines* (fair business, advertising and marketing practices), which provides that businesses should comply with any representations they make regarding policies or practices relating to their transactions with consumers.

Returns and warranties

(+) An online automobile site provides information on its return policy, which is available from any point during the transaction. The policy permits returns but states that the consumer will be responsible for the costs incurred when returning the automobile to the business. **The site implements principle IIIC of the Guidelines (information about the transaction)** because it provides sufficient information about its return policy to enable consumers to make an informed decision about whether to enter into the transaction.

(-) An online bookstore states that "Our return and exchange policies comply with the law of Germany," but provides no details about these policies. **This site fails to implement principle IIIC of the Guidelines (information about the transaction)** because it does not provide information in a clear, accurate, and easily accessible

有效的資訊溝通

語言

(+) 某網站的所有資訊（例如價格、適用貨幣、約款與條件等）皆以荷蘭文表達。此網站履行消保綱領第IIIC原則（關於交易的資訊），因為網站只對懂荷蘭文的消費者提供服務。

(-) 某網站讓消費者能選擇西班牙文或法文以來瀏覽網站上產品及服務的資訊，但是僅以法文提供交易約款、條件及相關擔保的資訊。此網站未履行消保綱領第IIIC原則（關於交易的資訊），因為網站未以每種語言提供充足的資訊，使消費者能在得到充分的資訊後作出選擇。

時程

(+) 某網站提供約款及條件的選單項目、彈跳選單、或連結，讓消費者能隨時在任何網頁檢閱相關資訊。此網站履行消保綱領第IIIC原則（關於交易的資訊），因為網站提供重要資訊，讓消費者能在交易前或期間即接觸該等資訊。

manner.

Effective communication of information

Language

(+) All information (e.g. price and currency, terms and conditions, etc.) on a Web site is provided only in Dutch. **This site implements principle IIIC of the Guidelines (information about the transaction)** because it only serves consumers who read Dutch.

(-) A Web site permits visitors to select Spanish or French as the language in which to review information about the goods or services offered on the site, but provides the terms and conditions of the transaction and/or the related warranty information only in French. **This site fails to implement principle IIIC of the Guidelines (information about the transaction)** because it does not provide the consumer with sufficient information in each language to make an informed decision.

Timing

(+) A Web site provides a terms and conditions menu item, pop-up menu, or hyperlink on its site that allows a visitor to review the related information from any page on the site at any time. **This site implements principle IIIC of the Guidelines (information about the transaction)** because it provides the consumer with important information that can be accessed at any time prior to or during the transaction.

(-) 某網站，在交易完成之後即提供地址，讓消費者可以寫信要求取得交易約款及條件、或產品服務的擔保資訊。此網站未履行消保綱領第IIIC原則（關於交易的資訊），因為它未在交易時就提供足夠的資訊，讓消費者能做出被告知後的選擇（informed choice）。

記錄保存

(+) 某網站提供交易約款及條件內容是附日期戳記、可列印或下載的版本。此網站履行消保綱領第IIIC原則（關於交易的資訊），因為它讓消費者能保存該等資訊的紀錄。

(-) 某網站以彈跳視窗的方式提供交易約款及條件的資訊，但是該內容無法列印存或儲存。此網站雖然履行提供接觸資訊的原則，但其未履行消保綱領第IIIC原則（關於交易的資訊），因為它未讓消費者有機會保存該等資訊的紀錄。

確認程序

(+) 某消費者在網路百貨商店購買多項產品。該網站上，消費者可點選產品以檢視產品的大小及顏色，並可

(-) Upon the conclusion of the transaction, a Web site provides the consumer with an address of where he or she can write for the terms and conditions related to the transaction and/or the warranty information related to the products or services. **This site fails to implement principle IIIC of the Guidelines (information about the transaction)** because it fails to provide the consumer with sufficient information at the time of the transaction to make an informed decision about such a transaction.

Record maintenance

(+) A Web site provides a date-stamped, printable and/or downloadable version of its terms and conditions. **This site implements principle IIIC of the Guidelines (information about the transaction)** because it offers the consumer the ability to maintain an adequate record of such information.

(-) A Web site provides its terms and conditions in a pop-up box, the contents of which cannot be printed or saved. **This site, while implementing the provision that calls for providing access to the information, fails to implement principle IIIC of the Guidelines (information about the transaction)** because it does not allow the consumer the opportunity to maintain an adequate record of such information.

The confirmation process

(+) A consumer is buying many items from an online department store. The site allows the consumer to click on an item to view the

選擇「加入到購物車中」。在交易的過程中消費者可點選同樣的按鈕，以檢視購物車中的所有物品，在同一視窗中消費者可點選「變更」的按鈕以變更訂單。而當消費完成時，消費者可點選「完成交易」的按鈕，隨之螢幕會列出在購物車中的所有產品項目，並列出包含稅及運送費的所有費用，在同一螢幕上亦出現「變更」或「取消」訂單的選擇。此網站履行消保綱領第IV原則（確認程序），因為它讓消費者有機會去辨識所欲購買的產品、更正錯誤並表達明確同意該筆買賣之意。

(-) 某消費者在某網站上購買書籍。該消費者將6本書加入購物車後，在完成交易前，點選「back」是唯一能檢視所有購買產品的方式。此網站未履行消保綱領第IV原則（確認程序），因為此網站未讓消費者有機會去辨識、更正或變更訂單的機會。

建議：

在上述範例中雖使用購物車的訂單確認程序，但仍許多方式可讓消費者發出並確認訂單。這項原則最重要的條款是能賦予消費者以下的要素-能辨識其所欲購買的產品或服務、能更正或變更訂單、能得知所有的費

sizes and colours available and then offers an “add to shopping cart” option. At any time during the transaction the consumer is also able to view all items in his shopping cart by clicking on a similar option button. From this same view screen the consumer can modify his order simply by clicking on the modify button. When the consumer is finished shopping he can click on the “conclude order” button and the screen provides a list of all items in the shopping cart and the total cost of the items including shipping and taxes. At this same screen there is a “modify” items and “cancel” the order option too. **This site implements principle IV of the Guidelines (confirmation process)** because it gives the consumer an opportunity to identify the goods he wishes to purchase, to identify and to correct any errors and to express an informed and deliberate consent to the purchase.

(-) A consumer is buying several books at a Web site and after adding six different books to the cart the only way for the consumer to see all the items in the shopping cart before concluding the transaction is to hit the “back” button. **This site fails to implement principle IV of the Guidelines (confirmation process)** because it fails to provide consumers with the opportunity to identify and correct or modify their order.

TIP:

While the shopping cart ordering/confirmation process is used in these examples, there are many ways for consumers to place and confirm their orders. The most important item in this principle of the *Guidelines* is that consumers be offered all of the elements of the

用、能明確表達同意該訂單、以及保存準確的交易紀錄。消保綱領並非要求這些要素的達成要依照上述的順序來進行，而僅是要求在交易完成前能完成所有的要素。

principle - the ability to identify what they have ordered, the ability to cancel or modify their order, the ability to see the total cost, the ability to expressly consent to the order, and the ability to retain an accurate record. The *Guidelines* do not dictate in which order these should be done, they merely require that they all be done before the conclusion of the transaction.