

Brussels, 22 October 2009

## Dismantling barriers to cross-border online shopping. Frequently Asked Questions

### SECTION 1: THE CURRENT SITUATION

#### How is e-commerce doing in the EU?

The European e-commerce market was estimated to be worth **106 billion euros** in 2006 (an order of magnitude comparable to the size of the US e-commerce market)

70% of turnover is concentrated in **3 key markets** (the United Kingdom, Germany, and France)<sup>1</sup>.

There is **significant variation** within the EU:

- In the UK in 2008, 57% of individuals had ordered goods or services over the internet for private use in the last year.
- 66% of internet users in France have made a purchase online<sup>2</sup>.
- In Germany in 2007, 58.3% of individuals who had used the internet in the previous three months shopped online occasionally or frequently<sup>3</sup>.
- In the Nordic countries (Denmark, Sweden, Norway, Finland and Iceland), 91% of internet users had traded over the internet in the previous six months in 2008.
- Estonia, Cyprus, Greece, Italy and Portugal saw around 10% of individuals purchasing online for private use in 2008. In Bulgaria and Romania, however, the figure was respectively 3% and 4%.

In 2008, the most popular purchases online were: **travel and holiday accommodation** (42% of individuals shopping online) followed closely by **clothes and sports goods** (41%), and **by books/magazines/e-learning material** (39%). **Electronic goods** (including cameras) were bought by 25% of online shoppers.

Internet sales are also affecting high street shopping. In 2008, three out of five of all internet users **compared prices** online before making a purchase, often using price comparison websites.

Internet is the **fastest growing retail channel**. In the EU27 in 2008, 51% of retailers made sales via e-commerce. Only direct retail sales were more common, used by 79% of retailers. Thus e-commerce is more popular than mail order (30%), sales through representatives visiting consumers in their homes (21%), and telesales (17%).

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<sup>1</sup> Source: eMarketer (2007), quoted in ACSEL (2008).

<sup>2</sup> FEVAD, 'Chiffres Clés vente à distance et e-commerce', 2008.

<sup>3</sup> Bvh, 'Entwicklung des E-commerce in Deutschland (BtC)', October 2007.

### **How popular is cross-border online shopping in the EU?**

In March 2009, the European Commission published a detailed report on cross-border e-commerce<sup>4</sup> (see [IP/09/354](#)).

The report showed that **the gap between domestic and cross-border e-commerce was widening**. From 2006 to 2008, the share of EU consumers shopping online grew from 27% to 33% while cross border e-commerce remained more or less at the same level (6% to 7%).

**Business potential** for cross-border online trade is also **failing to materialize**. 51% of EU27 retailers sell via the internet, but only 21% are currently conducting cross-border transactions, down from 29% in 2006 (in the EU25). The same proportion (21%) advertises cross-border. And retailers who do trade cross-border usually only sell to very few Member States: only 4% of those retailers trade with 10 or more Member States, most trade with one or two other Member States.

Yet the **potential for more cross-border shopping is clearly there**. One third of EU citizens indicate that they would consider buying a product or a service online from another EU country if it were cheaper or better.

33% of EU consumers say they are willing to purchase goods and services **in another language**, while 59% of retailers are prepared to carry out transactions in more than one language.

### **What are the barriers to cross-border e-commerce in the EU?**

The barriers to cross-border e-commerce have been the subject of regulatory attention at EU level for many years. More remains to be achieved before the goal of consumer policy of an integrated retail internal market is achieved. The Commission's report of March 2009 sets out an exhaustive analysis of the barriers holding back consumers and businesses.

For retailers in Europe, the main regulatory barriers to cross-border e-commerce are the **fragmentation of consumer protection rules and other rules on VAT, recycling fees and levies**. The national implementation of these rules differs markedly from one Member State to another, giving rise to **a business environment that is complex, costly and unpredictable**. The adoption of proposals to tackle these obstacles is therefore central to changing the behaviour of retailers and, as a result, the opportunities for consumers.

Consumers are faced with a number of problems when trying to shop online in another country. More often than not, foreign online traders will **refuse to accept orders** from consumers living in another country. Consumers are also uncertain about what to do or who to turn to should they experience a problem, especially if it comes to **resolving a complaint with a foreign trader**.

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<sup>4</sup> 'Commission staff working document: report on cross-border e-commerce in the EU', SEC(2009) 283 final, 5 March 2009

## SECTION 2: THE MYSTERY SHOPPING TEST

### What was the mystery-shopping exercise all about?

As a follow-up to the March report on e-commerce, the European Commission launched a mystery-shopping study, which aimed to check in practice **what savings are possible** when ordering popular products from another EU country, and **how easy or difficult it is to order the products**.

Testers located in 27 EU Member States were instructed to search for a list of **100 popular products** on the Internet and to record the total price that they would have paid for the goods. When testers found a domestic and a cross-border offer, they compared the best domestic offer and the best cross-border offer for the product, all delivery charges and costs included. Then they checked the possibility of placing the order from across the border. In total, **10,964 individual cross-border tests** were carried out.

### Did the EU spend money on purchasing the products for the tests?

No. The testers checked the possibility of placing an order up to the final confirmation page. But no actual purchases were made.

### What are the findings of the mystery-shopping test?

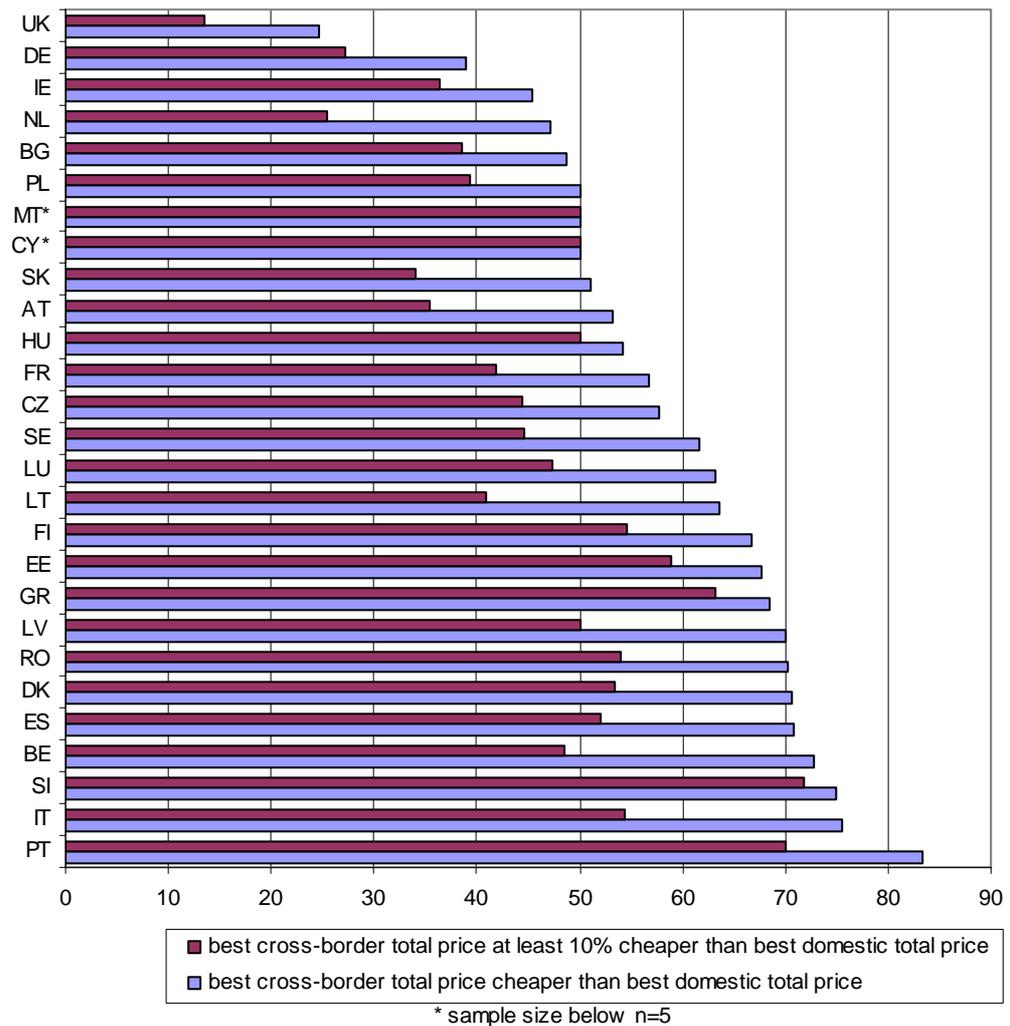
The key findings are outlined below:

- Finding a lower price is more likely when shopping cross-border

Cross-border shopping increases the chances of finding cheaper offers online because of the greater variety of offers for the same products. Figure 1 demonstrates the considerable potential for such cross-border savings. It shows in what percentage of cases savings were possible (all extra costs included), and also in what percentage of cases the savings were at least 10% (on the assumption that is the threshold that would encourage consumers to shop across borders).

The study found that consumers were able to find one cross-border offer that was at least **10% cheaper** than the best domestic offer in **13 EU countries** out of 27 (Portugal, Italy, Slovenia, Spain, Denmark, Romania, Latvia, Greece, Estonia, Finland, Hungary, Cyprus, Malta) for **at least half of all product searches**.

**Figure 1. Percentage of searches where the best cross-border offer was cheaper or at least 10% cheaper than the best domestic offer**



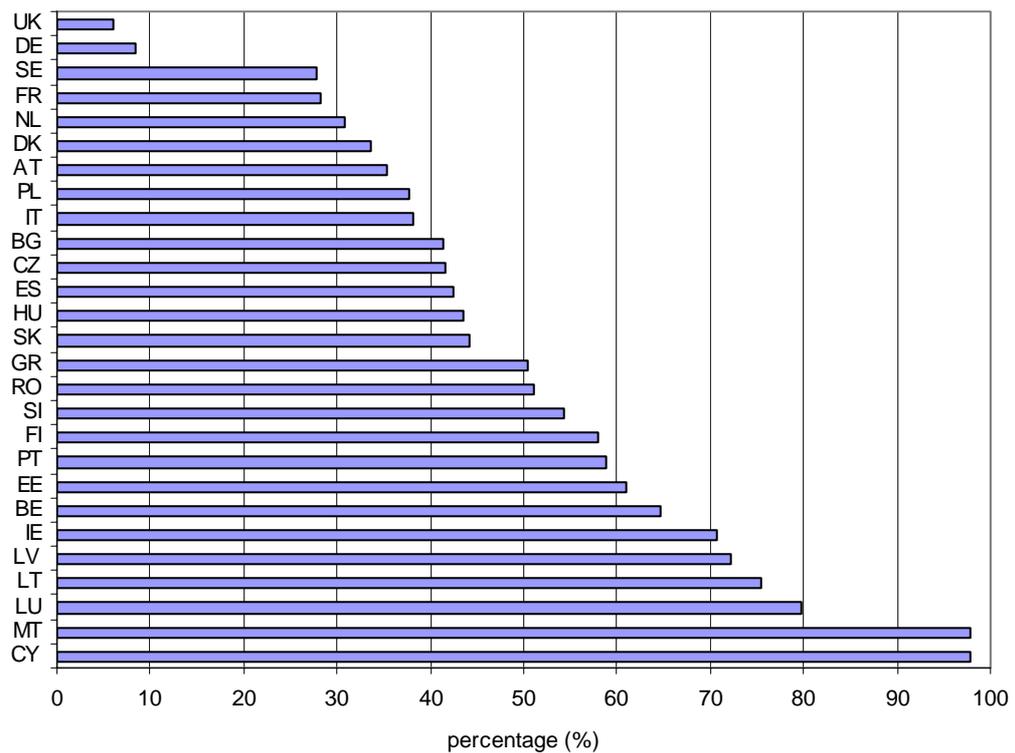
Source: YouGovPsychonomics (2009)

- Access to products that are unavailable domestically

Many products cannot be found online in several countries, and cross-border shopping has the advantage of allowing consumers to find products that are not distributed locally online.

The EU-wide test of online shops showed, that in some countries, it is very difficult to find online domestic offers for most products (see Figure 2). Shoppers in **13 countries** (Cyprus, Malta, and, Latvia, Lithuania, Luxembourg Ireland, Belgium, Estonia, Portugal, Finland, Slovenia, Romania and Greece) **could find only cross-border online offers** for at least half the products that they searched for. This is the case especially in smaller markets, where a cross-border offer may be the only way for shoppers to buy certain products, if the retailer is prepared to deliver to them.

**Figure 2. Percentage of product searches where consumers found only cross-border offers**



*Source: YouGovPsychonomics (2009)*

- The online market is fragmented and most cross-border orders fail

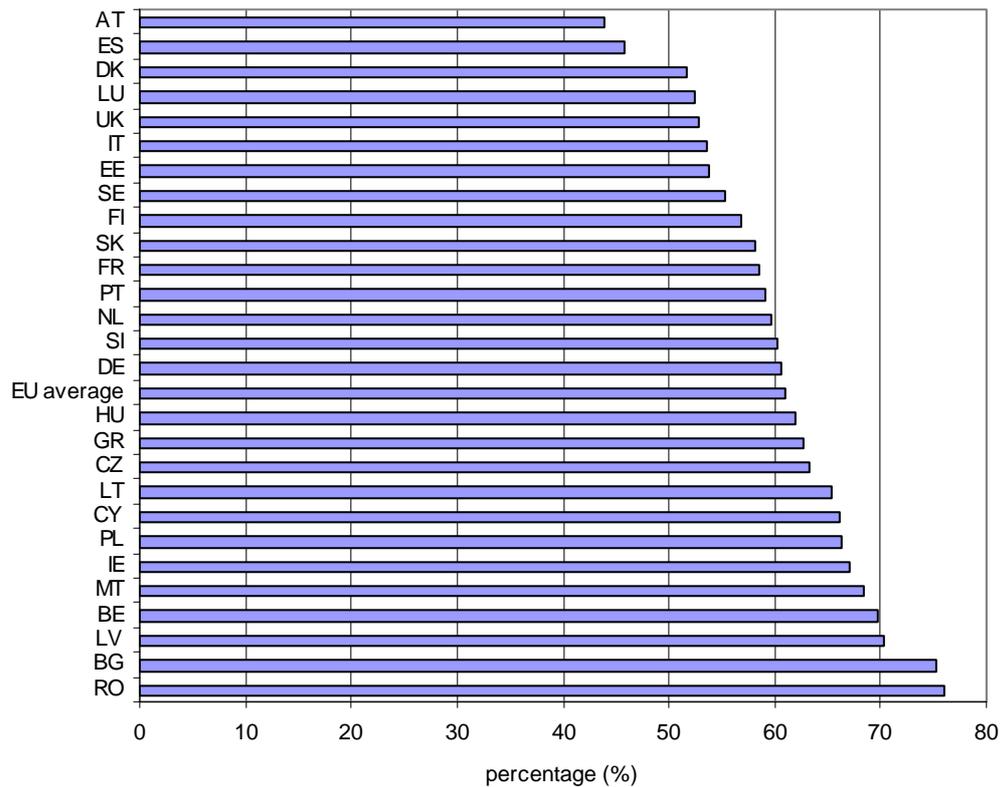
The study confirmed that consumers do not have equal access to cross-border offers: in some countries it is extremely unlikely that consumers will find foreign shops that are prepared to accept an order.

The EU-wide test of online shops shows the magnitude of the problem. Figure 3 illustrates the findings for all EU countries.

On average in the EU, in only 39% of cases was it theoretically possible to place an order with an online shop that was not located in the same country as the consumer. By the same token, **61% of all orders would have failed** either because traders refuse to serve the consumer's country or for other reasons. For example, many shoppers were not able to register on the website in order to continue the transaction, many websites refused to ship to the shopper's country and many payment options were not readily available for cross-border transactions.

Shoppers in Romania, Bulgaria, Latvia, Belgium and Malta experienced the highest failure rates.

**Figure 3. Percentage of cross-border offers technically accessible to consumers for which the ordering process failed**



*Source: YouGovPsychonomics (2009)*

## **SECTION 4: THE STRATEGY TO TACKLE BARRIERS IN CROSS-BORDER E-COMMERCE**

### **What is the EU going to do about the findings?**

The Communication on cross-border business-to-consumer e-commerce in the EU adopted today does not only diagnose the current situation (including on the basis of the EU-wide mystery-shopping test) but also presents a concrete strategy for tackling the regulatory barriers to cross-border online trade.

### **What concrete action does the strategy propose?**

Below is an overview of the action points included in the strategy, by order of priority. Each of these actions is important individually, but unlocking the potential of cross-border e-commerce requires progress on all of them.

#### **1. End the fragmentation of consumer laws**

Consumer protection rules in the EU are currently fragmented. Most EU legislation in this area contains only certain minimum requirements, to which Member States have added their own national rules over the years, making EU consumer laws a patchwork of 27 sets of national rules, for example a mix of differing cooling-off periods ranging from 7 to 15 days and differing obligations in relation to refunds and repairs.

This drives up compliance costs for traders who want to sell in several EU countries. It also confuses and discourages both the consumers who want to buy across border and potential cross-border traders.

To remedy the situation, the European Commission tabled in 2008 a proposal for the Consumer Rights Directive. The proposal simplifies four existing EU consumer rights directives into a single, EU-wide set of rules. It targets e-commerce as part of a wide-ranging overhaul of existing EU consumer rights online and in the high street (see [IP/08/1474](#) and [MEMO/08/609](#) for more details on this proposal).

Today's communication calls on the Council and European Parliament to make adoption of the proposal a priority.

## 2. Boost cross-border enforcement

Consumers will be more confident shopping if they see traders' business practices effectively monitored and illegal practices systematically stamped out. A network of national enforcement authorities, the **Consumer Protection Cooperation** (or CPC) Network, have enabled national authorities to **investigate breaches of consumer laws in cross-border cases** and ensure compliance.

The network of national enforcers, led by the EU, carries out regular EU-wide enforcement actions on specific markets (so-called '**sweeps**'), focusing on e-commerce. The sweeps first check websites for compliance with EU laws, and then enforce compliance for those sites where irregularities were detected.

The most recent sweep, conducted in May 2009, for the **online sales of popular electronic products** (such as digital cameras or mobile phones) revealed irregularities on 55% of the websites which were checked. 13 % of the problematic sites were cross-border cases. The most common problems detected were **misleading or missing information about consumer rights** (such as the right to send the product back for whatever reason and receive a full refund), missing or misleading information about the **total costs** (including all extras charges) and **contact details of the trader**. As part of the enforcement phase, national enforcers are now tackling cross-border irregularities, which requires assistance from their CPC counterparts in other EU countries (see [IP/09/1292](#) and [MEMO/09/379](#) for more details on the electronics sweep).

Enforcement results of an earlier sweep of websites selling airline tickets show that sweeps significantly improve the degree of compliance on the online market that has been targeted (for more details on the enforcement results, see [IP/09/783](#) and [MEMO/09/238](#)).

But more effective enforcement of the existing laws is needed to remove barriers and improve consumer confidence. The Commission has recently put forward a number of specific recommendations on how to achieve this, contained in the **Enforcement Package** adopted in July 2009 (see [IP/09/1080](#) and [MEMO/09/312](#) for details of the package).

## 3. Tackle unfair commercial practices

The **Unfair Commercial Practices Directive** (2005/29/EC) sets out a single set of rules on legitimate and prohibited commercial practices across the EU. One of its aims is to ensure that consumers can **trust the online offers** which they see, and that online retailers can market and advertise in a **clear and predictable regulatory environment**, thanks to a clear set of EU-wide rules as to which sales and marketing techniques are illegal in any circumstances.

But to achieve this goal it is now important to ensure **uniform implementation of the Directive** across the EU. Practice shows that the provisions of the Directive are not always self-evident and may give rise to different interpretations. The Commission will therefore publish **guidelines** by the end of 2009, to promote uniform interpretation and application. This will make it easier for serious traders to engage in cross-border practices, in particular online.

#### **4. Promote alternative dispute resolution and cross-border small claims**

Tools exist at EU level to facilitate effective remedial action: they need **more effective promotion**.

There exists the **small claims procedure for cross-border disputes** which, since 2009, simplifies, speeds up and reduces the costs of litigation for **claims not exceeding €2,000**. There is also the directive on certain aspects of **mediation** in civil and commercial matters, which strengthens mediation as a remedy to disputes.

The European Commission also facilitates consumer access to non-judicial procedures in cross-border disputes through the network of **European Consumer Centres (ECC-Net)**. The ECC-Net is helping consumers who have encountered problems with cross-border transactions, many of these cases involved cross-border online shopping.

#### **5. Simplify VAT reporting for distance sellers**

Currently, online traders must register with tax authorities in the country of destination over a certain threshold of sales, with the added complication that thresholds and VAT rates vary depending on the country. Traders over the threshold must deal with several tax authorities.

The Commission has proposed introducing a **one-stop-shop scheme for non-established taxable persons**. The scheme would allow traders to fulfil certain VAT obligations, such as to register and submit VAT declarations, in their country of establishment and to simplify the distance-selling arrangements mainly by setting a **single EU-wide threshold of €150,000**.

In addition, distance sellers are currently required to always issue a full VAT invoice even when a domestic supplier selling the same goods to the same customer is not obliged to issue an invoice. The Commission has proposed a **"simplified invoice" for distance sellers** in some cases.

The two proposals aiming to make it **easier for cross-border distance sellers to comply with their VAT obligations**. The Commission calls on the Council to speed up the adoption of these practical solutions.

#### **6. Reduce the administrative burden concerning electrical and electronic waste**

Cross-border sales of electronic goods (one of the categories of goods for which there is the most demand online) face additional further regulatory barriers. The rules on **waste of electrical and electronic equipment** (the WEEE Directive) are not currently harmonised. This results in **various levels of fees and thresholds** for the registering and reporting electrical and electronic equipment by online retailers. This is sometimes a prohibitive barrier for cross-border retailers.

The Commission has recently tabled a major proposal to harmonise the implementation of the directive. For example, under the proposal, producers could **register in one EU country** for their activity in the whole of the EU instead of having to registering in each country separately.

Today's Communication urges the Council and European Parliament to speedily adopt the proposal.

#### **7. Find practical solutions to managing copyright levies**

There are many problems now with cross-border management of copyright levies on sales of blank media and recording devices. Cross-border traders may **end up paying and reporting copyright levies in several countries for the same goods**.

Most stakeholders concerned agree that this impedes cross-border online trade. But no agreement has been reached as to how to make the existing systems work better.

The strategy calls on stakeholders to redouble their efforts to **find practical solutions** that would to allow companies to **streamline their cross-border logistics**.

#### **8. Review rules on exclusive and selective distribution**

EU competition rules have helped to remove many **anti-competitive restrictions to cross-border online marketing and sales** in distribution agreements. But certain distributions systems are **exempt in some cases** under current rules (the Block Exemption Regulation, expiring end of May 2010). The Commission is now reviewing the way in which have been applied and how this review can help to **reduce barriers to online sales**.

#### **9. End discrimination based on nationality or place of residence**

Consumers are still discriminated against on the grounds of their nationality or place of residence when trying to buy online.

This problem is specifically tackled by the Services Directive. Under the Directive, Member States must end such discrimination (but allowing traders to account for "differences in the conditions of access when those differences are directly justified by objective criteria").

The Commission is providing guidance to Member States to ensure that the provision is implemented into national laws by the end of 2009, so that it can be effectively enforced by national authorities and courts. The Commission will closely monitor the correct and full implementation, given its impact on cross-border e-commerce.

#### **10. Improve cross-border payment systems and logistics**

**Paying online** cross-border and getting the product **delivered** from another EU country remain a challenge for consumers. This inhibits factor cross-border trade.

On payment, much has been done to create a seamless cross-border market either through legislation (the **Directive on payment services**) or by supporting industry-led initiatives (the **Single European Payment Area**).

On logistics, the 3<sup>rd</sup> postal directive will lead to full market opening. This will allow postal operators either to deliver items to other **through their own network**, or to have **more choice** over which postal operator to use in another country. This will benefit consumers as it should improve cross-border logistics.

## **10. Work with industry on the .eu domains and web searches**

The Commission calls on major search engines and online players to encourage consumers' awareness of cross-border opportunities.

Online businesses should adopt **domain names ending in .eu**, the single top-level domain for Europe, in an effort to abolish national perceptions based on country domain names. Traders should create multi-country or **pan-EU websites**.

Major search engines and price comparison websites should more systematically offer **search rankings or price comparisons** that present cross-border and domestic offers. The Commission will continue to discuss with market operators how they can facilitate cross-border e-commerce.

## **11. Strengthen market monitoring**

Continued monitoring of cross-border e-commerce will also be necessary to ensure that policymakers, enforcers and citizens are aware of market developments. The Commission will continue to work with the European Central Bank and major credit card companies to develop cross-border sales statistics based on credit-card transactions.

## **12. Raise consumer awareness**

Consumers who know their rights and what to do if those rights are not respected are more likely to reap the benefits of cross-border online shopping.

Information and advice on cross-border shopping will continue to be led by the network of **European Consumer Centres (ECC-Net)**. More effort is needed to raise the awareness of the work done for consumers by the ECC-Net.

The Commission, together with a network of universities, is developing **Dolceta**, an online consumer education tool. It also supports awareness-raising campaigns on consumer rights in specific countries.

In May 2009, the Commission also launched the "**eYouGuide** to your Rights Online" to raise consumers' awareness of their rights online.

## **SECTION 3: NEXT STEPS**

### **What are the next steps?**

Work will continue on the strategy but will continue on other fronts also, including for example, on fair data collection and consideration of possible regulatory approaches

### **Follow up on the Strategy**

Progress on all the elements of the strategy will be monitored closely through the Consumer Market Scoreboard, a tool developed by the European Commission to assess how specific markets are performing for consumers (see [MEMO/09/44](#) for more details on the Scoreboard).

### **Fair Data Collection online**

Increasingly, companies are using sophisticated techniques to collect personal data, profile consumers and to use consumer data to better target their advertising and offers.

The Commission wants to make sure that the consumers legitimate concerns are taken into account and that no detriment arises from this process.

The Commission will intensify the contacts with business, consumer advocates and privacy officers and experts by setting up a forum that will further identify sources of consumer detriment and hold preliminary discussion on the best way to tackle them. The Commission is currently finalising the list of invitees and the first meeting will take place in February 2010.

Full text of the Communication:

[http://ec.europa.eu/consumers/strategy/facts\\_en.htm#E-commerce](http://ec.europa.eu/consumers/strategy/facts_en.htm#E-commerce)

See also: [IP/09/1564](#)