COMMISSION DECISION

of 17 March 2008

amending Decision 2007/76/EC implementing Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance

(notified under document number C(2008) 987)

(Text with EEA relevance)

(2008/282/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) [1], and in particular Article 7(3), Article 8(7), Article 9(4) and Article 12(6) thereof,

Whereas:

(1) On 22 December 2006, the Commission adopted Decision 2007/76/EC implementing Regulation (EC) No 2006/2004 [2]. That Decision lays down rules for the implementation of Regulation (EC) No 2006/2004 as regards mutual assistance between competent authorities and the conditions governing that assistance.

(2) Decision 2007/76/EC should be amended to specify the information the authorities are obliged to supply and the time limit for the notification of the enforcement measures taken as well as their effect after a request for enforcement measures.

(3) Decision 2007/76/EC should also be amended to specify the information to be supplied for the notification of enforcement measures or a request for mutual assistance following the notification of an alert.

(4) It is also appropriate to lay down the main principles governing the coordination of market surveillance and enforcement activities to ensure effective enforcement throughout the Community.

(5) The measures provided for in this Decision are in accordance with the opinion of the Committee set up by Article 19(1) of Regulation (EC) No 2006/2004,

HAS ADOPTED THIS DECISION:

Article 1

In Decision 2007/76/EC the following Article is inserted after Article 7:

'*Article 7a*

Coordination of market surveillance and enforcement activities

The principles governing the coordination of market surveillance and enforcement activities are laid down in Chapter 6 of the Annex.'

Article 2

The Annex to Decision 2007/76/EC is amended in accordance with the Annex to this Decision.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 17 March 2008.

For the Commission

Meglena KUNEVA

Member of the Commission

[1] OJ L 364, 9.12.2004, p. 1. Regulation as last amended by Directive 2007/65/EC (OJ L 332, 18.12.2007, p. 27).

[2] OJ L 32, 6.2.2007, p. 192.

ANNEX

The Annex to Decision 2007/76/EC is amended as follows:

1. in point 1.1. (c), the following entries are added:

'(viii) name of product or service,

(ix) COICOP code, [Classification of Individual Consumption According to Purpose (United Nations statistical methodology, http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl = 5)],

(x) Advertising and sales medium involved.';

2. after point 1.3.4., the following point is inserted:

'1.3.5. When an enforcement measure is taken, the requested authority shall notify, pursuant to Article 8(6) of Regulation (EC) No 2006/2004, the measures taken, and the effect thereof on the intra-Community infringement to the Commission and to all the other competent authorities designated by Member States as being the authorities responsible for the enforcement of the legislation that is subject to the infringement.

It shall provide, with the enforcement measures taken and the effect thereof on the intra-Community infringement, the following information:

(a) the details of the requested and of the applicant competent authorities;

(b) the name of the seller or supplier;

(c) the name of the product or service;

(d) the classification code;

(e) the advertising or sales medium involved;

(f) the legal basis;

(g) the type of intra-Community infringement;

(h) the estimated number of consumers likely to be harmed and the estimated financial detriment.';

3. in point 2.1.5 the first sentence is replaced by the following:

'2.1.5. The applicant authority shall request the Commission to remove the information from the database as soon as technically possible and, in any case, not later than seven days after the closure of the case, if following a request pursuant to Article 6 of the Regulation (EC) No 2006/2004:';

4. after point 2.1.5 the following point is inserted:

'2.1.6. The requested authority shall notify the Commission and the other competent authorities concerned of the enforcement measures taken pursuant to Article 8(6) of Regulation (EC) No 2006/2004 as soon as this is technically possible and in any case not later than seven days after the measures were taken.';

5. the title of Chapter 3 shall be replaced by 'Alerts';

6. in Chapter 3, the number '3.1.' is added at the beginning of the text;

7. in Chapter 3, the following points shall be inserted at the end of the existing text:

'3.2. When a competent authority takes enforcement measures related to an alert, it shall, pursuant to Article 7(2) of Regulation (EC) No 2006/2004, notify these measures to the Commission and to all the other competent authorities designated by Member States as being the authorities responsible for the enforcement of the legislation that is subject to the infringement.

It shall provide, with the enforcement measures taken, the following information:

(a) the details of the competent authority which has taken the measures;

(b) the name of the seller or supplier;

(c) the name of the product or service;

(d) the classification code;

(e) the advertising or sales medium involved;

(f) the legal basis;

(g) the type of intra-Community infringement;

(h) the estimated number of consumers likely to be harmed and the estimated financial detriment.

3.3. When a competent authority receives a request for mutual assistance related to an alert, it shall notify the request, identifying the type of request, to the Commission and to all the other competent authorities designated by Member States as being the authorities responsible for the enforcement of the legislation that is subject to the infringement.

It shall provide with the request received, the following information:

(a) the details of the competent authority requesting mutual assistance;

(b) the name of the seller or supplier, if available;

(c) the name of the product or service;

(d) the classification code;

(e) the advertising or sales medium involved;

(f) the legal basis;

(g) the type of intra-Community infringement;

(h) the estimated number of consumers likely to be harmed and the estimated financial detriment.';

8. after Chapter 5, the following Chapter is added:

'6. CHAPTER 6 — COORDINATION OF MARKET SURVEILLANCE AND ENFORCEMENT ACTIVITIES

6.1. In order to fulfil the obligation pursuant to Article 9(2) of Regulation (EC) No 2006/2004, all the competent authorities concerned may decide that one of them will coordinate the enforcement action. The competent authorities, while taking into account the specific features of each case, shall normally designate as coordinating authority the authority where the trader has its headquarters or main centre of activities, or where the greater number of consumers affected are located.

6.2. The Commission shall facilitate the coordination if invited to do so.'