

<b>I. ADMINISTRATIVE ENFORCEMENT</b>	
<b>Which administrative mechanisms are available to enforce the Directives?</b>	<p>In Luxembourg, Directives 93/13 (Unfair Contract Terms), 2008/122 (Timeshare), 98/6 (Price Indication Directive), 1999/44 (Consumer Sales and Guarantees), 2005/29 (Unfair Commercial Practices), 2009/22 (Injunctions), 2011/83 (Consumer Rights) and 90/314 (Package Travel) are implemented by the Consumer Code dated April 14, 2016; Directive 2006/114 (Misleading and Comparative Advertising) is implemented by the law of December 23, 2016 on misleading and comparative advertising (hereafter the "<b>Law</b>").</p> <p>The Consumer Code and the Law are enforced by the "Ministry responsible for consumer protection" (article L. 311-4, Consumer Code), i.e. currently the Ministry of the Economy, subject to the special competences granted to (article L. 311-5 of the Consumer Code):</p> <ul style="list-style-type: none"> <li>- the Supervisory Commission for the Financial Sector (<i>Commission de Surveillance du Secteur Financier</i>, "<b>CSSF</b>") (<a href="http://www.cssf.lu/">http://www.cssf.lu/</a>);</li> <li>- the Supervisory Authority for the Insurance Sector (<i>Commissariat aux Assurances</i>, "<b>CAA</b>") (<a href="http://www.commassu.lu/">http://www.commassu.lu/</a>);</li> <li>- the Ministry of Health (<a href="http://www.ms.etat.lu/">www.ms.etat.lu/</a>);</li> <li>- the National Commission for Data Protection (<i>Commission Nationale pour la Protection des Données</i>, "<b>CNPD</b>") (<a href="https://cnpd.public.lu/">https://cnpd.public.lu/</a>); and</li> <li>- the Transport Community (<i>Communauté des Transports or Verkéiersverbond</i>).</li> </ul>
<b>Who can file administrative complaints? Can investigations be initiated ex officio?</b>	<p>The right to take legal action for the protection of the collective interests of consumers is recognized to any association which has as its purpose the protection of the collective interests of consumers.</p> <p>The approval of associations shall be granted by decision of the Minister responsible for consumer protection, who shall inform the Commission of the European Union of its decision if the approved association so requests.</p> <p>Approval is granted for a period of five years and is renewable.</p> <p>Applications for approval and renewal are sent by registered letter with acknowledgment of receipt to the Minister responsible for consumer protection.</p> <p>An investigation may also be initiated <i>ex officio</i> by:</p> <ul style="list-style-type: none"> <li>- the Ministry of the Economy;</li> <li>- the CSSF;</li> <li>- the CAA;</li> <li>- the Ministry of Health;</li> <li>- the CNPD; and</li> <li>- the Transport Community.</li> </ul> <p>The above associations and authorities, as well as any person, may bring an action before the competent court in order to put an end to or prohibit any unlawful act.</p>
<b>Do any specific procedural requirements</b>	<p>The complaint can be sent directly to the competent authority:</p> <ol style="list-style-type: none"> <li>1) by letter : Ministère de l'Economie et du Commerce Extérieur</li> </ol>

<b>apply to filing administrative complaints?</b>	Direction du marché intérieur et de la consommation, L-2914 Luxembourg 2) by email : consommateurs@eco.etat.lu; 3) by telephone: (+352) 247-84361; or 3) by fax : (+352) 22 16 07.
<b>Do the administrative authorities have an obligation to investigate the complaint?</b>	The administrative authorities are required to investigate any complaints they receive in a non-anonymous form .
<b>Are there any specific requirements regarding the provision of evidence to the competent authorities?</b>	The law does not provide for any specific requirement. Generally, a complaint should describe the issue as fully as possible and should be supported by any relevant document.
<b>II. ENFORCEMENT THROUGH COURT ACTION</b>	
<b>Which court actions are available to enforce the Directives?</b>	Aside from a claim for damages under article 1382 of the Civil Code, procedures for the issuance of a cease-and-desist order are provided by the Consumer Code (article L. 320-1 to L. 320-7).  The proceedings take place before the judge presiding the Chamber of the District court, sitting in commercial matters (" <i>Magistrat président la Chambre du tribunal d'arrondissement siégeant en matière commerciale</i> "), who renders a decision on the merits of the case.  The Public Prosecutor (" <i>Procureur d'Etat</i> ") can file a criminal complaint.
<b>Who can start a court action?</b>	Any affected person may bring a claim for damages under article 1382 of the Civil Code.  (i) Any person, (ii) any professional organisation, (iii) any consumer association (iv) the Ministry of Economy, (v) the CSSF, (vi) the CAA, (vii) the Ministry of Health, (viii) the CNPD, and (ix) the " <i>Communauté des Transports</i> " may file a request for the issuance of a cease-and-desist order depending on the type of breach involved (breach of obligations regarding price information - article L.320-1, Consumer Code) or unfair commercial practices - article L. 320-2 to 7, Consumer Code).
<b>Can court actions be initiated by competitors?</b>	Any affected competitor (who has suffered a prejudice as a result of the infringement) may file a claim under article 1382 of the Civil Code.  Competitors having a direct and legitimate interest may initiate an action for the issuance of a cease-and-desist order in respect of unfair commercial practices (Article L. 320-2, Consumer Code).
<b>Can the case be handled through an accelerated procedure?</b>	The procedure for the issuance of a cease-and-desist order is similar to summary proceedings (" <i>procédure de référé</i> "). This means that the case can be decided in a short period of time and the time limit for appeal is fifteen days.
<b>Are there any specific requirements regarding the provision of evidence to the court?</b>	The law does not provide for any specific requirement regarding the provision of evidence to the court. The general rules of evidence as laid down in the Civil Code and the New Civil Procedure Code apply.

	In case of misleading or comparative advertising, the judge may require the advertiser to provide evidence of the accuracy of the information in the advertisement (article L. 320-2, Consumer Code). If insufficient evidence is provided, the judge may consider the data as inaccurate.
<b>Are there specific procedural reliefs for consumers or consumer associations?</b>	Neither the Civil Code, nor the Consumer Code contain any provision in this respect.
<b>III. SANCTIONS</b>	
<b>What are the possible civil sanctions and remedies for the infringement of the provisions of the Directives?</b>	<p>Civil damages may be awarded by the civil court on the basis of article 1382 of the Civil Code. These damages are more of an indemnifying nature than a sanction.</p> <p>The district court (<i>tribunal d'arrondissement</i>) can also order fines of EUR 251 to EUR 50,000 for any breach of the injunctions or prohibitions relating to the provisions implementing Directives 98/6/EC (Price Indication), 93/13/EEC (Unfair Contract Terms), 97/7/EC (Distance Contracts) and 2011/83/EU (Consumer Rights) and fines of EUR 251 to EUR 120,000 as regards the Directive 2005/29/EC (Unfair Commercial Practices).</p> <p>The judge can also order the publication of the judgment (article L. 320-1 to L. 320-7, Consumer Code).</p> <p>There is no correlation between the level of monetary fines and the trader's turnover and no distinction is made in the determination of the monetary fines depending on whether the trader concerned is a natural or a legal person.</p>
<b>What are the possible criminal sanctions for the infringement of the Directives' provisions?</b>	The criminal sanctions for the infringement of the provisions implementing the Directives are (i) a fine from 251 EUR to 120,000 EUR in respect of unfair commercial practices, and (ii) a fine from 251 EUR to 50,000 EUR for the the failure to comply with a cease and desist order.
<b>What are the possible administrative sanctions for the infringement of the Directives' provisions?</b>	The administrative authorities (as set out above) cannot impose fines. They may however carry out searches / seizures to fulfil their duties (article L. 311-8, Consumer Code).
<b>What are the contractual consequences of an administrative order or a judgment on an individual transaction under the Directives?</b>	In case of an infringement of the Consumer Code is confirmed by a judgment, the consumer will be able to show that his/her consent was erroneously obtained and thus apply for the avoidance of the contract.
<b>Can authorities order the trader to compensate consumers who have suffered harm as a result of the infringement?</b>	Consumers can file a claim for damages before the courts, in accordance with the general rules on tort (article 1382, Civil Code), even if they have not initiated the cease-and-desist order procedure.
<b>Can the administrative authorities or the courts require the publication of their decisions?</b>	The judge can order the publication of the judgment on the inside or outside of the establishment of the defendant or in a newspaper, at the expense of the latter, provided the decision is final (article L. 320-1 to L. 320-7, Consumer Code).

<b>IV. OTHER TYPES OF ENFORCEMENT</b>	
<b>Are there any self-regulatory enforcement systems in your jurisdiction that deal with aspects of the Directives?</b>	<p>The Council of the Advertising Industry of Luxembourg ("<i>Conseil de la Publicité du Luxembourg</i>") and the Committee for Ethics in Advertising ("<i>Commission pour l'Ethique en Publicité</i>") were established in 2009. The role of the Council of the Advertising Industry of Luxembourg and the Committee for Ethics in Advertising is the promotion and the defence of advertising and its freedom as well as the implementation of a code of ethics. (See <a href="http://www.conseilpublicite.lu">http://www.conseilpublicite.lu</a>).</p>
<b>Are there any out-of-court dispute settlement bodies available that deal with aspects of the Directives (e.g. mediation, conciliation or arbitration schemes ombudsmen)?</b>	<p>A Consumer Ombudsman was set up under the authority of the Ministry of the Economy as a contact point for the out-of-court settlement of consumer disputes. The Consumer Ombudsman is responsible for the following:</p> <ul style="list-style-type: none"> <li>- informing consumers and professionals about the possibilities for out-of-court settlement of disputes between consumers and professionals;</li> <li>- receiving requests for out-of-court dispute settlement and, if necessary, transmitting it to any other qualified entity competent in the matter, or handling it itself;</li> <li>- intervening in any out-of-court dispute settlement for which no other qualified entity is competent.</li> </ul> <p>The services of the Consumer Ombudsman are free of charge.</p> <p>The Consumer Ombudsman may request any documents or information relevant to the dispute brought before him.</p> <p>The Consumer Ombudsman may convene the parties to facilitate the search for an amicable solution, or propose a solution, hear the parties and third parties and, generally, collect all information required.</p>