

## **Ad Hoc Expert Group Meeting on Consumer Protection (11-12 July 2013)**

*Geneva, Palais des Nations, Salle XVIII*

### **SUMMARY OF THE CHAIRPERSON**

**12 July 2013**

The Chairperson of the Second Ad Hoc Expert Group on Consumer Protection (11 and 12 July 2013) meeting would like to report on the discussions and proposals advanced in the last session of the meeting held on 12 July 2013 from 10 a.m. to 1.20 p.m.

The UNCTAD Secretariat reported on two issues of interest for consumer experts present in the meeting: (i) the way forward for the preparation of the 7<sup>th</sup> Conference to Review the UN Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (UN Review Conference) of 2015; and (ii) the issues to be developed in the Secretariat Report for that Conference. The content of this presentation was as follows:

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#### **Preparation of the 7<sup>th</sup> UN Review Conference**

UNCTAD will be serving the 7<sup>th</sup> Conference to Review the UN Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (UN Review Conference) of 2015. In so doing, the next Intergovernmental Group of Experts Meeting on Competition Law and Policy (2014) will serve as a preparatory meeting to the UN Review Conference.

UNCTAD is required to report to the UN Review Conference on the work carried out during the two Ad Hoc Expert Group Meetings (EGM) on Consumer Policies, which took place in 2012 and 2013. The UNCTAD report to the UN Review Conference will include a summary of the Agreed Conclusions of the First Ad Hoc EGM and the Secretariat Report of the Second Ad Hoc EGM, as well as any issues which the IGE 2014 might propose of the consideration of the UN Review Conference.

During the preparatory process for the UN Review Conference (from now until 2015), the Secretariat will consult and seek input from Member States on the work programme of the Conference to be decided upon during the next IGE in 2014.

### **Summary of the discussions**

The Second Ad Hoc Expert Group Meeting on Consumer Protection (11 and 12 July 2013) was devoted to the state of implementation of the United Nations Guidelines on Consumer Protection (UNGCP) in 2013. As contained in UNCTAD's Implementation Report on the UNGCP (TD/B/C.I/CLP/23), and reiterated throughout the meeting, the Guidelines have been unanimously recognised as remaining still valid and useful some areas were discussed for a potential future inclusion.

During the first day of Expert Group Meeting, several potential issues for inclusion were discussed (see programme of work as adopted). Two of these issues were recommended to be included in the potential revision of the UNGCP, by all experts. These issues were: *e-commerce* and *financial services*. However, the individual contributions by experts placed different emphasis on different aspects of these two topics.

In respect to e-commerce, all experts recognised the considerable contribution of the OECD and national experiences. The relevant instruments of the OECD that were reviewed included: Guidelines for Consumer Protection in the Context of E-commerce (1999), Policy Guidance for Addressing Emerging Consumer Protection and Empowerment Issues in Mobile Commerce, Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders, Recommendations of the Council on Consumer Dispute Resolution and Redress, and Policy Guidance on Online Identity Theft, Policy Guidance for Protection and Empowering Consumers in Communication Services.

UNCTAD was unanimously asked to build on this body of work for the preparation of the 7th UN Review Conference. In particular, several concrete issues were discussed as being relevant including the scope of e-commerce with respect to online and mobile payments, cross-border e-commerce, and physical and digital goods and services; the need for appropriate national regulatory framework and treatment no less favourable than in traditional commerce; the identification of rights and obligations of consumers and providers; formal, informal and alternative redress mechanisms; the identification and prevention of fraud; data protection and privacy; information and education campaigns; international cooperation; and substantive issues such as security and transparency of the transactions, misleading/deceptive/fraudulent online advertisement, disclosure policies and cooling-off periods.

Concerning the issue of financial services, once again all experts acknowledged the work of the OECD, as well as many national and regional experiences, as major advances since the adoption

of the UNGCP. The OECD G-20 High-level Principles on Financial Consumer Protection (HLP) of 2012 were presented, and several experts commented on its scope, coverage and relevance. Some Experts were of the view that although the HLP were relevant, the UNGCP revision should not merely duplicate existing work but go further to include additional issues, such as the scope of financial services, particularly new and complex products; remittances; the identification of rights and obligations of consumers and providers; institutional structure, especially separate and unitary agency architectures, and cooperation with other relevant entities; substantive issues such as civil and criminal responsibility, remuneration policies, deposit guarantees and responsible lending; informal, formal and alternative redress mechanisms; information and education campaigns; the identification and prevention of fraud; International cooperation; and wide principals such as equal treatment and non-discrimination, special consideration for vulnerable consumers, universal access and combatting of financial exclusion.

It was agreed, without exception, that e-commerce and financial services were key issues that required inclusion in the UNGCP, and there were a number of additional issues for which experts made proposals for consideration. These included data protection, Cross-border trade, Tourism, Collective proceedings and class actions, Principle of integration with other governmental policies, Public and universal services, Energy, Transport, Real Estate, Access to knowledge, and abusive Advertising. Of these issues, many experts disagreed on the degree to which data protection should be addressed in the revision, with some suggesting that it should not be considered at all.

There was widespread, but not universal, recognition of the need to expand the scope of the UNGCP revision. It was suggested that a number of these issues could be addressed generally in the UNGCP, rather than warranting new sections for each. Further, it was also proposed that the role for identifying the 'main' issues among this list could fall under the auspices of an established working group.

### **Monitoring assessment and evaluation**

Several experts were of the view that there was a need for ensuring appropriate monitoring mechanisms for the implementation of the UNGCP. Some delegates proposed the establishment of a UN Commission for Consumer Protection, the main functions of which would include acting as a platform for the exchange of best practices, experiences and expertise; creating a system of monitoring and evaluation of compliance with UNGCP; and providing incentives for better implementation of the UNGCP. In contrast, it was also suggested that most of these functions may be performed effectively and cost-efficiently through voluntary peer reviews of consumer policies, without the need of establishing a new UN body.

Regarding the development of the issues discussed during the previous day, experts expressed their interest in assisting the Secretariat to prepare a report for the upcoming IGE in 2014 and later for the 7<sup>th</sup> Review Conference in 2015.

In this process of reporting to the UN Conference, the Secretariat will invite interested Member States and relevant stakeholders to voluntarily nominate experts who can assist in the preparation

of the UNCTAD Report to that Conference, by participating in *ad hoc working groups*, one for each category of issues previously discussed; e-commerce, financial services, other issues and monitoring mechanisms. Each of the working groups will, under the responsibility and support of the Secretariat, identify the best practices and common agreement on each category and may put forward an articulate proposal if and when overall agreement has been reached.

During the discussions on the formation of working groups, a number of Member States and observers conveyed their interest in participating in these groups. The Secretariat noted all interest and outlined that any other parties were free to join the working groups at a later date, if they wished to do.

The forthcoming programme of work will be communicated to Member States and relevant stakeholders shortly.