



# Protecting Consumers

The results and impact of the EU-Wide website sweep



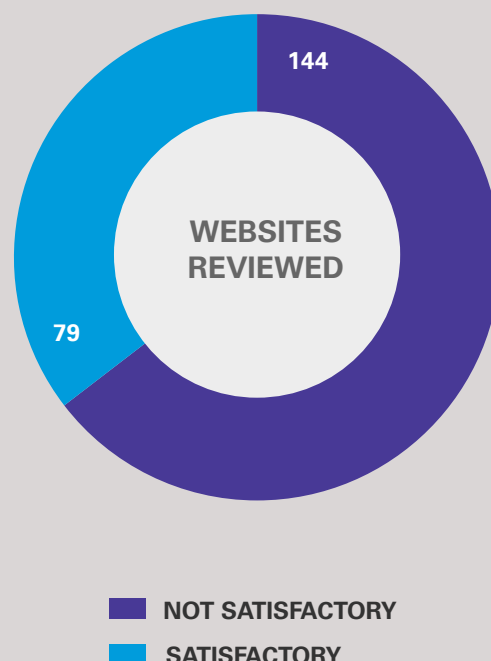
# Are consumers being deceived by online reviews?

On the 20 January 2021, the European Commission and national consumer protection authorities published the results of an EU-Wide website screening ("sweep") of online customer reviews. Sweeps are conducted on a yearly basis and comprise of website screening to identify breaches of consumer law in a particular online market. These sweeps are coordinated by the European Commission and carried out simultaneously by national enforcement authorities in participating countries.

## CONCERNING RESULTS

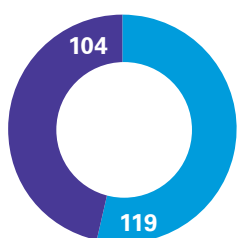
The European Commission with 26 member states, Norway and Iceland checked **223 major websites** for misleading customer reviews. The key findings from the sweep identified that **two thirds** of the online shops, marketplaces, booking websites, search engines and comparison service sites analysed, triggered doubts about the reliability of the reviews.

**65% OF WEBSITES ARE NOT DOING ENOUGH TO ENSURE REVIEWS ARE AUTHENTIC**

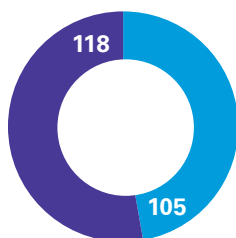


In 144 out of the 223 websites checked, authorities could not confirm that these traders were doing enough to ensure that reviews are authentic, i.e. that they were posted by consumers that actually used the product or service that they reviewed

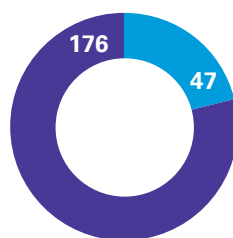
## OTHER KEY FINDINGS FROM THE SWEEP IDENTIFIED THAT:



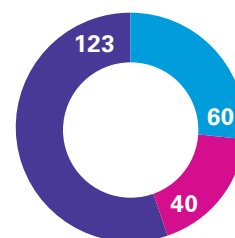
**104 websites** do not inform consumers how reviews are collected and processed.



**118 websites** do not contain information about how fake reviews are prevented.



**176 websites** do not mention whether incentivised reviews are flagged or prohibited.



**123 websites** potentially violate the Unfair Commercial Practices Directive. Authorities also had doubts for a remaining 40 websites.

## WHAT IS THE LAW?

Misleading practices regarding consumer reviews are dealt with by the Unfair Commercial Practices Directive, particularly its articles 6 and 7.

This legislation has been recently updated by the “Better Enforcement Directive” (Directive (EU) 2019/2161), which will apply from 28 May 2022.

To make enforcement easier it is explicitly provided that selling, buying and submitting false consumer reviews in order to promote products is prohibited. There is also a clear obligation on the business to inform the consumers about the handling of reviews.

In Ireland, the public consultation process of the Scheme of the Consumer Rights Bill 2021 completed on 30 June 2021 and submissions are currently being reviewed. The Scheme will give effect to the “Better Enforcement Directive” (Directive (EU) 2019/2161) and the “Digital Content and Sales Directive” (Directive (EU) 2019/770 and 2019/771). The Directives must apply from 28 May 2022.

## WHAT HAPPENS NEXT FOR THE IMPACTED WEBSITES?

The national authorities will contact the organisations concerned to rectify their websites and, if necessary, initiate enforcement actions according to their national procedures.



## SWEEP AREAS

The sweeps are conducted yearly, often on specific industries with an online presence such as websites selling air tickets, electronic goods, tickets for cultural and sporting events, and travel services. Over the past few years, sweeps have been conducted on the following topics:



**Consumer credit**  
(2021)



**Misleading sustainability claims**  
(2021)



**COVID-19 consumer scams**  
(2020)



**Delivery and right of withdrawal**  
(2019)



**Price transparency & drip pricing**  
(2018)

## WHAT SHOULD YOUR TOP CONSIDERATIONS AS A WEBSITE OWNER BE?

We have identified the following key areas that we believe organisations should focus on to help meet the necessary regulatory obligations:

| AREA  | CONSIDERATION  |
|---|--|
| <b>Internal Policies</b>                        | <ul style="list-style-type: none"><li>Do you have documented policies regarding reviews on your website and how to protect online consumers. Do your policies consider how you manage vulnerable consumer?</li><li>Are your policies reviewed on a regular basis to ensure they are up to date and in line with the latest regulations?</li></ul>  |
| <b>Verification Procedures</b>                  | <ul style="list-style-type: none"><li>Do you have a robust authentication process to ensure reviews are genuine and does this process follow the GDPR principles?</li><li>Do you know what legal basis should be selected to be able to authenticate the reviews?</li><li>Do you know what data should be collected as part of this process (e.g. Email, phone number, IP address, etc.)?</li><li>Do you have the appropriate safeguards in place to demonstrate compliance with the GDPR?</li></ul> |
| <b>Transparency of Communication on website</b> | <ul style="list-style-type: none"><li>When did you last conduct an end-to-end accuracy and accessibility review of your site and customer facing policies?</li></ul>   |
| <b>Customer Information</b>                     | <ul style="list-style-type: none"><li>When did you last review your key Privacy Procedures?</li><li>When did you last conduct a Consumer Protection Risk Assessment?</li><li>How do you capture, store and use the consumer's personal data?</li><li>Do you comply with the data minimization principle?</li><li>Have you identified a valid lawful basis for the collection of customer information?</li><li>Can the consumer withdraw their consent at any point in time?</li></ul>                |
| <b>Remediation</b>                              | <ul style="list-style-type: none"><li>Are you one of the 144 organisations identified by the European Commission sweep as not satisfactory?</li><li>Do you have a remediation plan in place to deal with any areas of non-compliance identified through the sweep?</li></ul>   |

## DATA PROTECTION CONSIDERATIONS

As a data controller, organisations must ensure that the information provided in the websites is adequate and accurate. In order to do this, it is essential that organisations can demonstrate compliance managing Data Subject Rights and protect the Personal Data processed during the authentication of reviews. The use of Personal Data may discourage users from leaving reviews of products or services on line. However, it is more likely that reviews will be genuine when linked to individuals (email and IP address).

According to Article 6 of the GDPR, organisations need to have a legal basis to process personal data. The legal basis to collect and process personal data from consumers that leave reviews on websites is consent. Organisations need to put in place an adequate consent management process as consumers have the right to withdraw their consent at any time. In addition, the website needs to give all the relevant information in the form of a privacy notice, so consumers are informed about their rights as Data Subject, this information needs to be accessible and provided in simple and plain language. Furthermore, organisations need to ensure that they have the correct processes in place to monitor the collection, retention and management of the data subject's consent.

### KEY CONSIDERATIONS



**Identify what Personal Data is being processed**



**Establish a consent management process**



**Review the cookie banner**



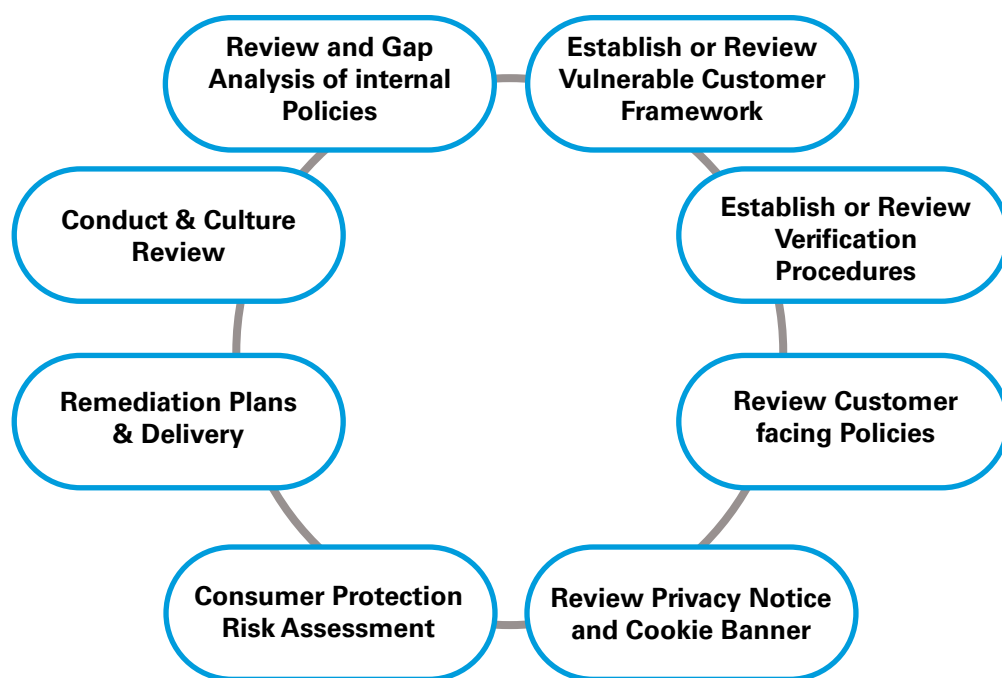
**Update the website's privacy notice**



**Ensure the organization's contact details are visible**

## HOW KPMG CAN HELP

With our combination of Risk and Regulatory expertise KPMG is uniquely placed to support you. We specialise in translating regulatory requirements into practical, operational and compliant processes and controls to protect our clients and their customers. We can help ensure that you have the appropriate processes, systems and training in place to meet your regulatory obligations.



# Contact us



**Gillian Kelly**

*Partner  
Risk Consulting*

**E:** [gillian.kelly@kpmg.ie](mailto:gillian.kelly@kpmg.ie)  
**T:** +353 1 410 1120



**Jackie Hennessy**

*Partner  
Risk Consulting*

**E:** [jackie.hennessy@kpmg.ie](mailto:jackie.hennessy@kpmg.ie)  
**T:** +353 1 700 4171



**Tom Hyland**

*Director  
Risk Consulting*

**E:** [tom.hyland@kpmg.ie](mailto:tom.hyland@kpmg.ie)  
**T:** +353 1 700 4223



**Yvonne Kelleher**

*Managing Director  
Risk Consulting*

**E:** [yvonne.kelleher@kpmg.ie](mailto:yvonne.kelleher@kpmg.ie)  
**T:** +353 1 700 4349



**Gary Lynch**

*Associate Director  
Risk Consulting*

**E:** [gary.lynch@kpmg.ie](mailto:gary.lynch@kpmg.ie)  
**T:** +353 1 700 4150



**Carmen Cronje**

*Associate Director  
Risk Consulting*

**e:** [carmen.cronje@kpmg.ie](mailto:carmen.cronje@kpmg.ie)  
**t:** +353 1 700 4455



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