

TACD

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DES CONSOMMATEURS

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CORE CONSUMER PROTECTION PRINCIPLES IN ELECTRONIC COMMERCE

The global nature and unique characteristics of electronic commerce (e-commerce) require governments and businesses to consider new approaches to consumer protection. The immediacy of transactions, the remoteness of buyer and seller, and the difficulty of authenticating the parties challenge attempts to tailor consumer protections enacted for the "physical marketplace" to fit the new "virtual marketplace."

Establishing minimum standards for conduct in e-commerce will foster consumer confidence, fair competition, and economic development around the world. Therefore, the TACD urges the Organization for Economic Cooperation and Development (OECD) to complete and adopt its "Guidelines for Consumer Protection in the Context of Electronic Commerce" by the end of 1999, taking into account the core consumer protection principles listed below.

Furthermore, the TACD urges other organizations of countries, as well as countries individually, to include in their guidelines, frameworks or legislative proposals on e-commerce these core consumer protection principles.

1. Consumers should have transparent and effective protections that are at least at the same level as those afforded in other forms of commerce;
2. Businesses should disclose their legal names and physical locations, and provide consumers with an easy means of contacting them, both online and offline;
3. Marketing material should be clearly identified as such in any electronic format in which it is conveyed;
4. Information about the businesses, the products or services they offer, and the terms of the transactions, including price, delivery, payment, taxes, cost of transportation, duties, etc., should be stated in a clear, conspicuous, accurate and easily accessible manner;
5. Businesses should not make any representations or omissions, or engage in any practices, that are likely to be unfair, deceptive or fraudulent;
6. Businesses should be able to substantiate any claims they make, express or implied;
7. Businesses should develop and implement methods by which consumers can confirm the decision to purchase or withdraw from a purchase before a transaction is completed. Consumers should have no liability for unintentional or erroneous transactions where the business failed to provide an adequate opportunity to correct the error;
8. Businesses should develop and implement methods by which consumers can receive confirmation of their purchases and retain records of the transactions.
9. Businesses must abide by any post-purchase cancellation rights that may be provided by self-

- regulatory guidelines and the law in consumers' jurisdictions;
10. Businesses should develop and implement methods to prevent identity theft and other frauds and verify that payment is being made by the authorized account holder. The burden of proof regarding authenticity should rest with the business and/or payment systems operator, as appropriate. Consumers should be responsible to notify the appropriate entity promptly once aware of possible theft or loss, and should have no liability for transactions they did not authorize;
 11. Consumers' payment and other information that they provide to businesses should be secured from theft or abuse;
 12. Consumers should have no liability to pay for products or services that were never delivered or were misrepresented. In those events, electronic payment methods should provide for "charge-back rights" and prompt return of any payments made;
 13. Businesses should develop and implement simple procedures for consumers to indicate that they do not wish to receive unsolicited electronic mails (e-mails) and honor their "do not e-mail" requests;
 14. Consumers' privacy rights should be respected in accordance with the recognized principles set out in the 1980 OECD Guidelines Governing the Protection of Privacy and Transborder Flow of Personal Data and taking into account the OECD Ministerial Declaration on the Protection of Privacy on Global Networks;
 15. Consumers must have methods of redress that are practical, accessible, affordable, timely and enforceable no matter where businesses against whom they have complaints are located;
 16. The countries in which consumers reside have the obligation to protect them in e-commerce and must guaranty that there are appropriate means for resolving consumers' disputes. Consumers should never be denied the protections and remedies afforded to them by the laws, rules and regulations of their respective jurisdictions.

In addition, the principles embodied in the TACD Electronic Commerce Working Group Resolutions and Declarations numbers one through seven, adopted on April 24, 1999, should be considered by the OECD and other organizations of countries, as well as individual countries, in the development of guidelines, frameworks or legislative proposals concerning electronic commerce.