



UNGCP Briefing on Other Issues

1. About the UN Guidelines for Consumer Protection

The United Nations Guidelines for Consumer Protection (UNGCP) were adopted by the UN in 1985 and act as an international reference point of the consumer movement. They give important legitimacy to the principles of consumer rights and practical support and guidance for developing national consumer protection legislation.

The UN Guidelines for Consumer Protection are available in six languages:

[Arabic](#) [Chinese](#) [English](#) [French](#) [Russian](#) [Spanish](#)

The guidelines best known section is Art 3, the list of '*legitimate needs*' of consumers, which currently reads as follows:

- (a) The protection of consumers from hazards to their health and safety;*
- (b) The promotion and protection of the economic interests of consumers;*
- (c) Access of consumers to adequate information to enable them to make informed choices according to individual wishes and needs;*
- (d) Consumer education, including education on the environmental, social and economic impacts of consumer choice;*
- (e) Availability of effective consumer redress;*
- (f) Freedom to form consumer and other relevant groups or organizations and the opportunity of such organizations to present their views in decision-making processes affecting them*
- (g) The promotion of sustainable consumption patterns;*

For some years now, CI has 'translated' the list into our proposed clear consumer rights as follows:

- the right to the satisfaction of basic needs
- the right to safety
- the right to be informed
- the right to choose
- the right to be heard
- the right to redress
- the right to consumer education
- The right to a healthy environment.

During the current revision process we have proposed amendments and addition to the legitimate needs as follows:

To guideline 3 f) we propose the addition of: '*and for those views to be dealt with in an equitable manner*'.

We also propose two new '*legitimate needs*' as follows:

New 3 h): *Access to knowledge; that is, more equitable public access to the products and tools of human culture and learning; and*

New 3 i) : *Guaranteed access to essential goods and services;*

These amendments are to update the UNGCP, and indeed our own position, in the light of new developments in access to knowledge and the role of consumer associations, and to bring the guidelines closer to the 'right' to 'satisfaction of basic needs' on which the legitimate needs are too vague.

The guidelines are part of the work of the United Nations Conference on Trade and Development (UNCTAD) and their revision is being led by the Competition Law and Consumer Protection Policy section. In 1999, the guidelines were updated with a new section on sustainable consumption and production (section G) to reflect environmental concerns. In 2015 the guidelines will be updated again, this time incorporating new areas, including financial services. CI will be lobbying on this and other areas of the guidelines.

2. CI's rationale for working on the revision of the UN Guidelines for Consumer Protection

CI's work on this is an essential part of our international advocacy. This revision presents an opportunity to improve consumer protection for billions of consumers around the world.

Consumer Justice and Protection is a Priority Issues Programme for Consumers International. The revision of the Guidelines is a key part of that programme for 2014.

3. Background and timetable

1985 UN Guidelines for Consumer Protection first adopted

1999 Last revision of Guidelines

2012 (July) UN conference on competition & consumer protection: CI makes case for inclusion of financial services and privacy in text and access to basic goods and services in *legitimate needs*.

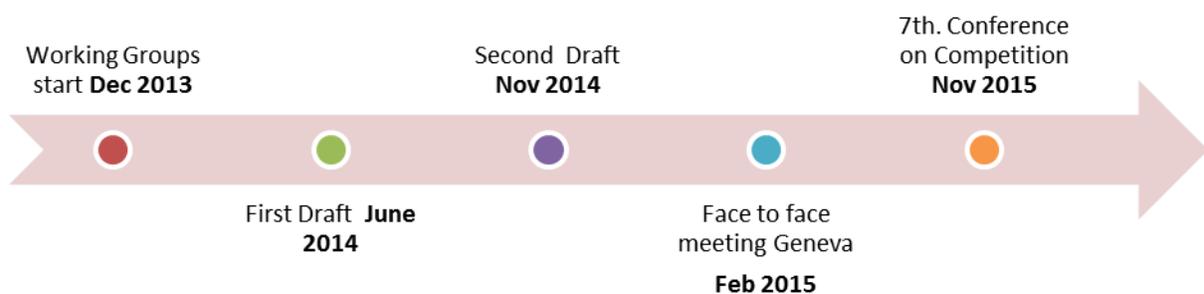
2013 (July) UN conference on 2015 revision

2013 (December) UN establishes four working groups (Financial services, E-commerce, Implementation, other issues) to draft the 2015 revisions.

2014-15 CI contributes to the 1st draft (Jan-May) and 2nd draft (Nov 14-Jan 15) of the revised guidelines and lobbies for improved consumer protection on all four working groups.

2015 (Feb) UN meeting in Geneva with UNCTAD

2015 Secretariat report presented to the 7th UN Review Conference. Following this the final revision of the guidelines are expected to be adopted by the General Assembly in 2016.



4. CI's Activities

CI will participate in all 4 working groups. CI will:

- **Contribute to the redrafting** of the Guidelines text through the working groups.
- **Lobby** the chairs and members of the working groups.
- **Support members** with webinars, briefings and other materials to support member lobbying of their national delegations.

5. What is the 'Other Issues' working group

In July 2013, during the conference held in Geneva by the Ad-hoc expert group on consumer protection, a number of issues other than Financial Services and Electronic Commerce were raised by delegates as to be included in the Guidelines revision as well as Implementation issues, which will have its own working group. CI's proposal for 'other issues' included several issues currently missing or in need of expansion.

As one of the outcomes of the ad-hoc meeting, a working group to consider all these issues was established. It should be noted that previous to the Geneva meeting UNCTAD stressed that there was consensus only on Financial Services and Electronic Commerce as themes to be dealt with in this revision. However, following the creation of the Other Issues working group there is a recognition that there is a need to engage in discussions to evaluate which, how and when these issues can be included or amended in the Guidelines. The list is as follows:

- Data Protection
- Cross-Border Trade
- Tourism
- Collective proceedings and class actions
- Integration with other government policies
- Public and Universal Services
- Energy
- Transport and Real Estate
- Access to knowledge
- Abusive advertising

6. Membership of the Other Issues working group

Differently from the other working groups, there was no call for countries to volunteer for this working group during the Ad Hoc Expert meeting in Geneva. It should be noted that membership of all working groups is open to all UN Members and accredited Organisations including Consumers International. The membership of the Groups may evolve over the consultation period (until the final text is agreed). The Other Issues working group is chaired jointly by Brazil and Germany.

7. CI Recommendations on Other Issues: overview

CI's recommendations for revision of the UN Guidelines are based on consultation with CI members. The detailed text changes are set out in tracked changes in Annex A of our evidence to the Ad hoc expert group meeting in Geneva in July 2013. It can be found here: http://unctad.org/meetings/en/Contribution/IGE2013_UNGCP_CI_en.pdf

For a clearer reading, we present recommendations for each of the other issues proposed. We refer to the numbered paragraphs of the Guidelines as 'old para' when we refer to the existing paragraphs of the guidelines' text; 'new para' when we refer to the paragraphs of our proposal.

It must be noted that the paragraph numeration changed in relation to the existing text due to our addition of new insertions, paragraphs and sections.

CI Recommends:

Data Protection

We have made proposals for amendments to deal with data protection. The provisions are located in several places throughout the text. In this context, we repeat the point that the treatment of data protection in the UNGCP cannot be accomplished simply through the e-commerce section, as the principles of privacy and data protection that are applicable online are equally applicable offline. In Annex C of our submission to UNCTAD we detailed our position and rationale for the changes we are proposing.

Specific insertions to the Guidelines related to Data Protection can be found in:

Para 1 (new subpara (i)).

New para 11.

Cross border trade

Though it is stated as cross border trade in the UNCTAD's list, it is thought to refer to cross border transactions, an area in which consumers are engaged more and more through electronic commerce and tourism. Nevertheless, CI's proposal addresses some issues related to cross border trade in:

Old para 10 (new 14): procedures and regulations should not become barriers to international trade.

New para 22: protection against emergence and maintenance of monopolies and prevent cross borders supply cartels.

Old para 19 (new 24), on prevention of predatory pricing.

Old para 28 (new 35), inserting the regional level in standards elaboration and implementation.

Old para 46 (new 56): unjustifiable barriers for trade.

We specifically address cross border transactions in the context of section IV on *International Cooperation* where we propose strengthening consumer protection across borders giving e-commerce or tourism as examples. We draw attention to the need for cross-border dispute resolution mechanisms:

Old para 63 (new 87 b): insertion to promote consumer protection enforcement across borders.

Old para 69 (new 93): insertion on respect to international regulations with human, social, cultural and economic rights of all people.

Tourism

As tourism is growing steadily around the world, CI's proposal for amendment were inserted in:

Old para 15 (new 19), that declares that economic interests of tourists and visitors must be protected as well as residents

Old para 63 (New 87 b): countries must ensure enforcement of consumer protection across borders when transactions were made by tourists.

Collective redress proceedings

Old para 14 (new 18) have an insertion that includes group actions when physical safety of products is recalled.

Old para 32 (new 40) added collective redress as one of the tools for consumer for redress.

Integration with other government policies

It is not clear what exactly UNCTAD intends to mean regarding this issue in the Other Issues set of items, but it was referred as 'Principles of integration with other government policies' so can be interpreted as a general principle about the harmonization of consumer protection within all government policies that can affect consumers.

It could be also interpreted as relevant to some of the issues which we have promoted which are not explicitly listed. One of these is new subpara (k) in para 1 regarding the application of the guidelines to state-owned enterprises.

Another are government surveys in new para 8 (between old paras 6 & 7), and accessibility of laws and standards; new para 10 (between old paras 7 & 8).

Public and Universal Services / Energy

CI's proposal and our submission to the 2012 UNCTAD Ad Hoc meeting stressed the need for the access of essential goods and services to all consumers, as one of their legitimate needs. We mention this in:

Para 1 (g), an insertion on the affordability of basic services for consumers.

Para 1, new subpara (k): we propose to ensure the access regardless if the company is private or state owned.

Para 3, new subpara (i), that guarantees access to basic services for all consumers.

New para 8 focuses in consumer satisfaction of goods and services, compliance with product safety and development of mechanisms for prevention and compensation.

Old para 31 (new 38) have insertions on consumer participation in regulation in new subpara (c) and the need for governments to ensure the availability of these services.

New para 39 asks governments to adopt measures to ensure universal access to essential services, and proposes scope for national governments to declare new ones such as the internet as essential.

Old para 44 (new 54) contains a proposal to shift subsidies from consumption to connection, in order to achieve the goal of universal service

Old para 52 (new 62) ask for measures to protect vulnerable consumers in the case of diminution or removal of subsidies to basic services.

On the Section related to measures for specific areas, we added:

Old para 56 (new 73), an insertion calls to guarantee access to essential goods and services.

Old para 59 (new 78) stressed the concept of accessibility and affordability on water

New para 80) include a similar on Energy.

Old para 61 (new 81) suggest amendments on pharmaceutical products with a view to making health care more universally available.

On the International Cooperation section, we made insertions in:

Old para 63 (new 87 c), to ensure consumers universal access to services, and affordability.

Old para 69 (new 92), for the promotion of consumer participation in regulation.

Transport and Real Estate

We made no recommendations on both transport and real estate.

Access to knowledge

This is a major priority area for CI. It is raised directly at strategic level in new insert (h) in para 3 (the '*legitimate needs*') where we ask for more equitable public access to products of human culture and learning.

In Para 1 (j), we touch this issue indirectly, when we ask for parity in the treatment of digital and analogous consumers.

New para 6 propose a fair balance for intellectual property rights policies.

New para 10 addresses the need for unrestricted access to information for consumers on regulations, laws and standards, and that such information should be available on internet.

New paras 27 & 28 refer to digital content and services and product licences

New para 49 addresses the issue of universal access to internet and consumer education, with affordable prices.

New para 50 asks for neutrality in access to internet.

Abusive advertising

A new para 74 addresses specifically this issue, focussing on addictive products such as tobacco and alcohol, and the advertising aimed at children in particular regarding unhealthy food.

Other 'other issues'

The list of other issues still leaves out some issues which we have raised. They include:

- participation in cultural and educational affairs (Para 1), (which we address to some extent through access to knowledge)
- many insertions to strengthen the language, or to refer to neglected dimensions such as disability (old para 11, new 15,) or gender (old 35, new 44)
- the role of consumer organisations (eg para 3f) such as testing: (old para 30, new 37)
- Social responsibility; new insert into old para 7 (new 9);
- Food wastage: insert into old para 58 (new 77);
- Competition: Insert into para 1g), and new para 22.

8. CI Members role

Members made a significant contribution to CI's recommendations to strengthen the UN Guidelines for Consumer Protection. This was set out in our evidence submitted to UNCTAD for the conference in Geneva in July 2013. These recommendations will remain our position and much of the rest of the work is advocacy. Members can assist in the following ways:

- Provide CI with contacts to CI for your National delegations to UNCTAD
- Lobby your national delegation to support CI's position on the 'other issues'.

9. Contacts at CI (*Note 3*)

- Robin Simpson will co-ordinate the other issues work on the UN Guidelines for Consumer Protection (rsimpson@consint.org)

- Antonino Serra Cambaceres is managing CI's programme of work across all of the Guidelines. aserra@consumidoresint.org (Buenos Aires)

10. Next Steps

CI is already lobbying the relevant chairs of the Working Groups to advance our recommendations. Where relevant, CI will contact Members from key countries in the UNGCP revision to lobby their delegations.