

Current issues

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14 June 2011

3/11

Editorial

Consumer safety net extends across borders..... 2

Articles

Real environmental acts should be praised..... 3

Behavioural economics dominates the sector 3

Dubious factual claims removed from hologram wristband marketing 4

Fees for withdrawing cash should not come as a surprise 5

Groundbreaking appeals clause 6

Summary prospectus helps in choosing a mutual fund 7

Revolting 'feast' leaves a bad taste in the mouth 8

Credit card usage costs to be more transparent 8

New trends in payment and billing 9

Debt Collection Act to be amended 10

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[Editorial]

Consumer safety net extends across borders

This spring, the latest Consumer scoreboard, which analyses consumer conditions in each EU member state, was published in the EU. In Finland, citizens still have faith in the state and organisations. Three out of every five consumers have encountered misleading advertising in Finland. However, 79% of all vendors still feel that state authorities actively monitor compliance with the rules set forth in consumer law.

In the European Commission's annual Eurobarometer, it was found that only less than half of all European consumers felt trusting, knowledgeable and secure as a consumer on the market. The Finnish consumers, on the other hand, felt quite trusting and considered themselves very knowledgeable. They have a strong command of their basic rights, as in other Nordic countries.

Despite differences in national consumer policy, the problems faced are often quite similar in nature. In this issue we will talk about the marketing of the Power Balance wristband. The Australian consumer protection authority decided to reject the claims made, which lacked any credible explanation, and demanded rectification. We received information regarding the matter from the International Consumer Protection and Enforcement Network (ICPEN). After this decision was made, it was easier for authorities in Finland to reach an agreement with the importer of the wristband.

A policy concerning fitness club memberships is currently being drafted. A British High Court ruled that the maximum agreement period would be one year. The court deemed that longer periods of obligation would be excessive. This is also an excellent guideline for Finnish positions. The Danish Consumer Ombudsman intervened in a so-called penny auction (in Finland, known as the senttihuutokauppa), and sent the case to be heard by Cypriot authorities under the Decree concerning the application of the Regulation of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws.

Protection authority networks benefit from each others' decisions. In some countries the measures taken are more effective, sanctions tougher and resources in order. All countries benefit from the fact that businesses see extensive cooperation between the authorities. Market regulation oversight enhances a feeling of trust and well-being.

Anja Peltonen
Director

Real environmental acts should be praised

Even though the environment, climate and greenness occasionally blur into one another in marketing, environmental marketing is also done in a responsible manner.

The Finnish Consumer Agency has recently begun monitoring the environmental marketing of businesses with an exceptionally close eye. It is essential that marketing does not exaggerate: terms such as "environmentally friendly" must be justifiable. Environmental claims must hold up to scrutiny for the entire lifecycle of a product. Sometimes consumers react strongly to environmental claims. Closer examination, however, shows that advertising claims really are based on environmental work.

The Consumer Agency focused its attention on VR Group marketing. There was concern over the claim that travelling by electric train is emissions-free is misleading, because virtually all electricity is mixed in the power grid, regardless of the way it is produced.

Upon request, the company explained the facts on which claims of the environmental impact of electric train travel were based. According to information on the company website, the electricity ordered by the company is produced by Kemijoki and Oulunjoki hydropower or a combination of the two. A representative of the power company explained that an authorised third party has verified that the amount of hydroelectricity sold was, in fact, produced and purchased as stated. The Finnish Consumer Agency deems that the company did not provide false or misleading information to consumers concerning the emissions-free nature of electric train travel.

The Fortum Corporation's marketing of emissions-free hydroelectricity also raised suspicions. However, after further investigation, it was found that the company had indeed stuck to provable statements in its advertising, offered the customer additional information on its product offering presented on its website, and did not, for example, exaggerate the impact of emissions-free hydroelectricity on the environment. In other words, the company did not provide consumers with false or misleading information on the origin or emissions-free nature of hydroelectricity. In addition, the company's advertising never made any claim that, by using hydroelectricity, the consumer could generally contribute to a deceleration of climate change. Consequently, advertising did not exaggerate the consumer's ability to influence the environment.

kuv/9453/41/2009

kuv/4838/41/2009

Behavioural economics dominates the sector

How do consumers behave on the market and why? This is a familiar question for advertisers. Now there's a push to bring this thinking to political decision-makers and other social actors.

In recent years a more realistic and multifaceted concept of consumer has received an increasing amount of attention in discussions held on a variety of fora. Behavioural economics attempts to characterise consumer market activity by means of behavioural sciences and psychology. This change in thinking challenges the principles of conventional neoclassical economic theory, in which the consumer is seen primarily as a rational decision-maker.

In OECD circles consumer market behaviour has been under scrutiny for a long time. Published in 2010, the Consumer Policy Toolkit has been a groundbreaking tool. At a brainstorming session to be held next autumn, the lessons outlined in the Toolkit will be applied to communications services. The

terms of agreement for such things as broadband and telephone connections and other communications services will be discussed by member states.

National guides for use in political decision-making have been produced in different member states. For example, in Canada a guide for use in the drafting of social policy decisions has just been jointly produced by authorities and consumer organisations. The guide is helpful for authorities when assessing consumer impact in, for example, health care reform.

A book with new ideas for the business sector

Anja Peltonen, Director of the Finnish Consumer Agency, serves on the OECD Committee on Consumer Policy Secretariat. She has recently written a book on consumer and company market behavior. Titled "Kunnioita asiakasta – lisää luottamusta" ("Respect the Customer - Build Trust"), the book introduces this line of thinking to the business sector.

Consumer decision-making models in different member states are primarily addressed in connection with political decision-making. The assessment of consumer impact is already required in many member states in support of regulation. In Peltonen's book, this thinking is applied to, for example, how a company can take advantage of an approach in a genuine effort to achieve customer-oriented marketing and customer service.

Dubious factual claims removed from hologram wristband marketing

No research data found to support claims of a hologram wristband.

At the end of last year, the Australian Competition and Consumer Commission (ACCC) intervened in the marketing of the Power Balance wristband. The wristband name was coupled with the following words: "Balance, power, mobility." The wristband is claimed to optimise the body's energy flows, making it possible to enhance performance, among other things.

The company importing the wristband to Australia issued a notice admitting that it had no scientific data to prove that the wristband endowed the user with the performance gains promised in advertising. The company promised to remunerate all customers who felt that they had been misled.

Also in Finland, the Consumer Agency focused its attention on the Power Balance hologram wristband marketing. No research data on the promised effects were listed, but rather marketing emphasised personal user testimonials and stated that results varied from individual to individual. Despite this, the marketing conveyed a clear message to the consumer that use of the wristband provided general results as described in real situations.

Facts from the mouths of celebrities must still be facts

In advertising materials, celebrities endorsed the wristband. Even when using personal testimonials in advertising that contain factual claims, it is the advertiser that assumes responsibility for them. These types of testimonials can only be used where it can be demonstrated that the product has the same effect on other consumers. The advertiser must be able to present reliable research data, proving that the product generally possesses the claimed effects. When using a personal testimonial that makes no concrete claims, research data is not required.

According to the Consumer Protection Act, false or misleading information must not be used in marketing or customer relations, if that information, in and of itself, leads to the customer making a

purchase decision that they would otherwise not have made. False or misleading information can apply to, for example, the effects gained from having used a consumer good.

Pryme Sports Oy, the wristband marketer in Finland, originally issued a 30-day money-back guarantee. Now, after a round of talks, the company also removed all factual claims that cannot be proven from the wristband marketing.

KUV/108/42/2011

Fees for withdrawing cash should not come as a surprise

If withdrawing cash from an automated teller (ATM) is subject to any fees, the consumer must be informed of this. The proprietor of ATMs and banks are each responsible for informing the consumer of any fees.

Bank-owned Otto ATMs got some competition in the spring of 2008, when Nosto ATMs, which are managed by EuroCash Finland Oy came onto the market. Some consumers were surprised by the fact that, if they withdrew cash from a Nosto machine, their own bank would charge a fee for the withdrawal. The Consumer Agency felt it necessary to determine whose responsibility it would be to inform the consumers, and in what way.

Consumers can withdraw cash for free at banks. This is why ATMs can be considered an extra service that must be paid for by the bank and, in turn, just cause for charging a reasonable fee.

Even EU legislation stipulates that fees may be charged for cash withdrawals from ATMs. According to a European payment services directive, banks cannot make any distinctions between payments made at home and across national borders. This means that, if a Finnish consumer withdraws euros from an ATM in, for example, Belgium, they will be charged the same service fee as they would in Finland, and the fee would be drawn from their account in Finland. The payment service directive, however, does not stipulate what different types of fees might be used within a member state.

In actuality, today's consumers have fewer possibilities to withdraw cash from banks than before. Some banks have done completely away with their cash services or restricted their offering significantly. This could result in the need to reassess whether automated cash distribution can still be considered an extra service.

Fee information through a variety of channels

Information on whether fees are charged for withdrawing cash is, under the Consumer Protection Act, considered essential information, which is why it must be provided to the consumer. However, under the Payment Services Act, the proprietor of an ATM is not responsible for informing the customer of any fee increases, provided that they receive fee information from the bank.

The bank must inform its own customers of any fees charged for the withdrawal of cash from ATMs. This is due to the fact that the bank is responsible for informing its customers of all fees it charges on the basis of the customer relationship.

Cash withdrawal is one of the more commonly used basic bank services and involves the largest percentage of the bank's consumer customers. This is why basic bank services must be reasonable. Customers should also be informed of them effectively and in such a manner that the consumers have easy access to information on the fees charged for each bank service at that time.

This type of information is easy to keep constantly available on the bank website and/or online bank login page. However, the fee must also be easily found on manual price lists in bank offices.

The Finnish Consumer Agency still recommended that Eurocash Oy list any withdrawal fees on the screen of its Nosto ATMs before the consumer completes their cash withdrawal. This allows the consumer to cancel the transaction if they should so desire.

The Finnish Consumer Agency has also required that other proprietors of ATMs provide the same type of general information on whether fees will be charged for use of the machine. The proprietors can direct customers to ask for more detailed information from their own bank or card issuer.

Competition also affected

Eurocash Finland Oy and two other ATM operators felt that the various fees charged by banks for making cash withdrawals on their Otto machines and others often restricted new operators from entering the market and competing. They brought the matter before the Finnish Competition Authority for investigation as a practice violating competition neutrality.

The Competition Authority received commitments from Nordea, OP-Keskus and Sampo Bank promising that they would price their customers' domestic, non-customer ATM withdrawals and withdrawals made on Otto machines with Visa and MasterCard cards attached to their accounts in a non-discriminatory manner. The Competition Authority requires that these commitments be observed.

Non-discrimination does not mean that the banks should charge customers the same fee for its own ATMs and those of other operators. The non-discrimination obligation affects how much difference in fees there may be, due to the fact that the banks must pay a variety of costs for withdrawals made on their own ATM and those operated by others.

KUV/3018/41/2007, KUV/3064/41/2008

Groundbreaking appeals clause

The new Communications Market Act includes a significant change concerning appeals related to disciplinary measures.

If necessary, the Consumer Ombudsman can, by law, prohibit a company from, for example, marketing in a certain manner. These types of disciplinary measures, however, may be opposed. If a prohibition is opposed, the Consumer Ombudsman must bring the matter before the Market Court if

they want to enforce the prohibition. This is a rigid, clumsy practice, and prohibitions are only issued in the most serious cases.

There has been a long-standing discussion on whether the parties' obligations are in order. A more natural approach would be to have the appellant bring the matter before a court of law if they feel there are no grounds for the decision. Indeed, this is precisely how other laws applicable to authorities are formulated. At present, old laws concerning the Consumer Ombudsman have not been addressed in this respect, but improvements are already evident in the new legislation.

Entering into effect in May 2011, the Communications Market Act entitles the Consumer Ombudsman to order a telecommunications company to cease use of any number or service that deliberately misleads consumers. Violation of this order is punishable with a fine. Indeed, companies must be given the opportunity to be heard, according to the degree of seriousness. Decisions to shut down a number cannot be appealed. The new approach is written so that: "A telecommunications operator or any party which is prohibited from engaging in operations" can, under the Act "refer a decision, other than a temporary prohibition, to the Market Court within 30 days following notification of the decision."

Summary prospectus helps in choosing a mutual fund

The amended Mutual Funds Act intends to mandate summary prospectuses for consumer use.

The Ministry of Finance is currently drafting an amendment, which will fully enact the Mutual Funds Directive issued in 2009. From a consumer standpoint, the amendments to the Act are primarily a positive development.

The proposal to make summary prospectuses mandatory is particularly welcome. According to the proposal, a fund management company would have to draft a brief document that contains key information on the fund for each mutual fund it manages. The summary prospectus should be clearly understood by the investor, without requiring additional documentation. It would have to provide the reader with a reasonable understanding of the nature and attendant risks of the investment product.

A concise and reader-friendly summary prospectus would clearly be in line with concepts of consumer behaviour based on the latest research data. In the future, more attention should be given to the fact that the consumer does not always act rationally on the market. Decisions are often made intuitively and there is a limited amount of time available for filtering through a flood of information. This is addressed in, for example, the OECD Consumer Policy Toolkit.

Investor protection is also considered in the comprehensive reform of securities legislation

Legislation concerning securities is currently undergoing extensive reform. The goal is to enhance the clarity and understandability of regulations. In the proposal the concept of marketing is expanded to include, for example, information given in individual sales negotiations. This is good for the consumer, because key principles, such as prohibiting the use of false and misleading information, also extends to sales situations.

The processing of customer complaints is one point of note. At this time, the Securities Complaint Board is the only arbitration and mediation organ that issues recommendations for resolving disputes over securities. It does not, however, handle class-action complaints as the Consumer Complaint Board does. The Consumer Complaint Board, on the other hand, does not have any authority over securities. Not even the Act on Class Actions is applicable in the issuing of security warrants, so consumer protection is not as effective as usual in consumer matters.

Read the statements:

Revolting 'feast' leaves a bad taste in the mouth

The use of violence in advertising is rarely justified, not even under the guise of humour. The Finnish Consumer Agency intervened in an advertisement, in which violence was used for effect in violation of good taste.

The Consumer Agency received reports from consumers, who were shocked by an advertisement for Leaf Finland's Malaco TV-Mix sweets assortment. The advertisement showed a competition, in which the competitors had to perform unpleasant tasks to win, such as eat bullfinches, their own fingers or live elves. The competition announcer purposefully urged the competitors in the advertisement to perform the above-mentioned tasks, reacting with admiration and encouragement to competitors who had completed them.

Even though this was clearly a parody of a certain television series, this kind of brutal behaviour has no appropriate connection to the product being marketed, i.e. sweets.

The Consumer Agency felt that eating live elves and one's own fingers was degrading to human dignity and gave the impression that causing harm to oneself or other human beings is acceptable or even desirable.

The company was required to never again show any acts that involve violent images, degrade human dignity or are otherwise offensive.

KUV/4039/41/2010

Credit card usage costs to be more transparent

An airline's policy to charge a fixed fee for use of a credit card was not in the best interests of the consumer.

The Finnish Consumer Agency issued a complaint to Finnair Plc concerning the practice of levying a EUR 7.50 surcharge for all purchases made with a credit card. Under the recently enacted Payment Services Act, it is possible to charge fees for paying with a credit card, provided that there is a real, practical need for them. Credit card companies typically charge a company offering the option of paying a certain percentage for each sum paid - in other words, costs vary.

Payment cost correlation is a prerequisite for equity

Credit card costs should be charged according to the actual usage costs, when charging the payer directly. Use of a payment service results in extra charges for the consumer that are not necessary to using the basic service.

With a decreasing use of cash, it must be ensured that the act of paying will not become another way for merchants and service providers to make a profit. After all, the goal of the Payment Services Act was to increase transparency and, in turn, secure the cost correlation of payments. Previously, the costs of paying with a credit card were paid by the merchant and other payees, which then transferred these costs to the prices of their products and services

KUV/8388/41//2010

New trends in payment and billing

There are plans to replace direct debiting in Finland with a new automatic payment model. At the same time, bills will become e-invoices.

At the end of October this year, Finland will join SEPA (Single Euro Payments Area), along with 31 other European Union member states. After this, banks in Finland will no longer handle payments with Finnish account numbers and payment instruments. At the same time, Finnish direct debiting will be replaced by the new Pan-European SEPA direct debiting system.

However, in addition to the new SEPA system, Finnish banks still want to retain a national direct debiting service, in which the consumer would give their bank a permanent commission for the payment certain bills. This service would be called automatic payment or direct payment.

For more than a year, the Federation of Finnish Financial Services has been in talks with the Finnish Consumer Agency and Financial Supervisory Authority on how existing direct debiting will be changed and what the new automatic payment service content will be like. For the time being, a consensus has been reached, at least concerning the fact that direct debiting can be changed in alignment with the new service, unless the consumer specifically disputes their notification.

Consumers will receive a joint letter to the banks and the pay-to vendor, which explains the change and the policy options. Customers using online banking services can either accept or reject the proposal on their online bank. If the consumer does nothing, the change will take effect.

Bills go electronic

The transition to automatic payments also means that bills will become e-invoices. According to a model introduced by banks, online banking customers will receive a billing notification only as an e-invoice on the online bank and the bank would automatically pay the bill on the due date.

The Finnish Consumer Agency considers the model problematic, because online bank codes are not in actuality available to all consumers. Banks could refuse to pay the bills of, for example, people flagged as having defaulted on payments. Following discussions held with the Federation of Finnish Financial Services, online banking codes will still be given to these types of customers.

The same type of service offered to online banking customers will be offered to those consumers who do not use online banking services. They will, however, also receive a copy or notification of the bill.

The Finnish Consumer Agency is monitoring the situation and will intervene if the model causes problems for consumers.

[KUV/2489/48/2011](#)

Debt Collection Act to be amended

A working group appointed by the Ministry of Justice will begin cleaning up the Debt Collection Act.

Issued in February, an EU directive concerning late payment gave cause to re-evaluate the Debt Collection Act. Enactment of the directive requires significant changes to legislation on payment periods and the consequences delayed payments.

In addition to implementation of the directive the Debt Collection Act will be formulated in such a manner that good collection practices will receive better support from legislation. Clauses concerning collection costs will also be revised, in order to ensure that these only cover reasonable costs actually incurred by collection.

A representative of the Finnish Consumer Agency will participate in the working group. The working group will submit its report and any amendment proposals by the end of 2011.



The task of the Finnish Consumer Agency is to safeguard and strengthen the position of consumers in society. The Director General of the Consumer Agency also acts as the Consumer Ombudsman, and the Ombudsman's tasks are included in the activities of the Agency.

The Consumer Ombudsman's responsibilities are to monitor and enhance the legal position of consumers, and to ensure that marketing and contractual terms comply with the rules. Matters concerning warranties and collections from consumers are also within the Ombudsman's jurisdiction. The Consumer Ombudsman may also assist consumers in court.

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