



Opinion of the National Consumers Council on information provided to consumers on comparison websites

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Using purchase assistance tools to search for a product, compare the prices and quality of products and services and review stores is now commonplace for most Internet users. Comparison websites are more and more frequently used by consumers in the online purchasing process. In May 2013, a survey commissioned by LSA magazine revealed that over half of Internet users consult at least one comparison website before making non-foodstuff online purchases (particularly high-tech products). Information found online also has an impact on purchases made in brick-and-mortar stores.

General websites exist alongside specialised ones (insurance, tourism, banking, etc.) covering all areas of the economy. In spite of their success, the reliability and fairness of the information provided on these websites, especially as regards how representative the offers compared actually are and concerning the independence of these sites, are sometimes uncertain and open to criticism.

In 2008, under the aegis of FEVAD (E-Commerce and Distance Selling Federation) and with government support, a comparison website Confidence Charter was established. This Charter's signatories (11 in 2012) made commitments for greater transparency, including displaying prices inclusive of all costs.

Since then, many more comparison websites have sprung up and the issue of the objective nature of the information provided is now even more relevant. In this respect, Article 147 of Act No. 2014-344 of 17 March 2014 on consumer affairs added a new Article L. 111-5 to the Consumer Code. This Article obliges websites offering comparisons of prices and the features of products and services to supply fair, clear and transparent information. The content and procedures will be set by decree.

Article L. 111-5 of the Consumer Code is drafted as follows:

Article L. 111-5. – *Without prejudice to the information obligations set forth in Article 19 of Act No. 2004-575 of 21 June 2004 on confidence in the digital economy, any and all person whose business activity involves providing online information for the comparison of prices and the features of products and services offered by professionals is bound to supply fair, clear and transparent information, including that relating to advertising within the meaning of Article 20 of said Act, the procedures and content of which are set by decree.*

This article has broad scope and the decree should, as regards information to consumers, set out substantive rules and presentation methods that are cross-cutting enough to apply to all comparison websites.

Moreover, the decree will further detail the requirement laid down in Article 20 of Act No. 2004-575 of 21 June 2004 on confidence in the digital economy in respect of identification of online advertising and the individual or legal entity on behalf of whom/which it is carried out.

In July 2014, the National Consumers Council was tasked with listing the information to be provided by comparison websites. The purpose of this opinion is to set out the substantive rules and information presentation methods that should be supplied to consumers using websites offering comparison services.

To this end, the working group sought to specify the concept of comparison websites and to detail the procedures and the content of the information to be displayed on these websites.

1. Comparison websites and comparison services

Discussions at the work meetings led to the following conclusions:

Online comparison activities can be defined as:

- listing product and service offers from professionals and enabling consumers, using the comparison website's own search and comparison engine, to search for and compare such product and service offers
- and, where applicable, helping consumers with their searches and purchases by providing them with services such as reviews from other consumers, chatrooms and any other relevant and fair information for such assistance

The above-mentioned definition concerns a service provided by certain websites to assist consumers with online purchases. Many websites now offer a comparison service but there are two separate categories:

1. Websites which compare products and services but do not take any money nor carry out transactions with consumers. For our purposes, these can be called comparison websites. They usually provide consumers with direct access to the offer they select on a linked website. Consumers then order the product or service from that linked website. The latter may pay for this listing service.
2. Distance selling websites on which the core activity is the comparison of products and services which they offer for sale directly to consumers. The products and services are either sold by the sites themselves and/or by third parties.

In line with the wording of Article L. 111-5 of the Consumer Code, the working group chose a broad notion of comparison activity.

- filing fees and/or admin costs and/or booking fees and/or cancellation fees
- shipping costs
- any special terms applying to the announced price
- Commercial warranties for the compared products

This information should be tailored to the specific features of each sector depending on trade practice.

The information must be matched to each offer and continuously displayed (for each search) for all offers, on the basis of the data supplied to the comparison website by the listed sites.

2.2 Information relating to the comparison service

All websites on which the core activity is providing a comparison service must supply information to consumers in the following manner:

2.2.1 Information to be displayed on the website's comparison results pages

The following information should appear in an understandable, clear and systematic manner (for each search), in French, on the site's results pages:

- **At the top of the list:**
 - The fact that the list of available offers is not exhaustive
 - The default sort criterion used by the website, including definition, must be clearly shown using, for example, a roll-over, pop-up or icon. If the default sort criterion is the price, this must be stated.
 - When there is a charge for listing, the website must mention this
- **For each offer:**
 - For offers listed for a charge and for which payment influences the ranking, the website should state that they represent advertising within the meaning of Article 20 of the Act on confidence in the digital economy by displaying the word "Ad" on the comparison results page

2.2.2 Details of information to be displayed in a special category

The website should display further details and explanations concerning the content of the following information in a special category:

- The sort criteria available to consumers, with a clear explanation of their definition and content
- Whether there is a contractual and/or equity-based relationship between the website and the listed professionals or websites

- If there is a contractual and/or equity-based relationship between the website and the listed professional, it should be specified whether or not compensation is paid and the potential impact of said compensation on the ranking
- Details of what a price “inclusive of all costs” consists of or, otherwise, details of how the prices set out on the website are made up and the possibility of additional costs
- Potential changes to commercial warranties according to the products compared
- The fact that the list of offers found is not exhaustive
- How often and how the compared offers are updated

The special category is used to provide consumers with a better understanding of the information supplied to them.

The information on this special page must be in French, be relevant and easily accessible by clicking on a caption, logo or any other icon, on all the website’s pages.

3. Scope

To avoid any distortion of competition and to effectively protect French consumers, even in respect of comparison services based outside France, the guidelines set out above must be binding on all websites that offer comparison services as a core activity to consumers located in France and which are accessible from France, regardless of where the website is based.

4. Professional regulations

Once this draft opinion is adopted, professionals should continue to work on this issue and take positive steps forward by, for example, drawing up ethical standards, including at sectoral level.

Businesses are encouraged to take up this responsible approach, particularly by AFNOR certification. This would underscore their determination to advocate fair, clear and transparent information rules.

5. Follow-up proposals

An implementation assessment should be conducted within two years of publication of the opinion.

The working group also suggests a thought process into introducing an online comparison website status.

With an eye to the work of the Advisory Committee for the Financial Sector (CCSF) on comparison websites in the insurance sector, the working group would like there to be special focus on compliance with personal data protection obligations when information is collected.

The working group would also like to see information on the NF Z74-501 standard on online consumer reviews more widely publicised to foster dissemination to websites for which the core activity is providing a comparison service.

Lastly, the working group suggests that this opinion be presented and upheld during work on comparison websites at EU level. As this is a Europe-wide phenomenon, the working group feels that France should be involved in the work currently being carried out by the Commission to push the guidelines set out in this opinion.