

Working together across borders to protect and empower consumers

ISSUES NOTE

This provides background information for discussion at the OECD Consumer Policy Ministerial Meeting.

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KEY POINTS

Complex international supply chains, global online marketplaces, transboundary technologies, such as artificial intelligence (AI), and heightened consumer interest worldwide in addressing climate change, underline the importance of effective cross-border consumer policy and enforcement co-operation. Indeed, OECD evidence indicates cross-border transactions can give rise to amplified risks, such as more frequent scams, exposure to unsafe products and difficulties obtaining redress.

Many jurisdictions are strengthening global and regional consumer policy and enforcement co-operation frameworks, but face ongoing challenges, including a lack of legal authority to engage with agencies in other jurisdictions. Effective co-operation also requires robust domestic frameworks, which may need improvement in some cases.

The OECD, working in collaboration with other international and regional organisations, is well positioned to help jurisdictions address some of these challenges, such as by fostering dialogue and providing guidance on improving enforcement effectiveness.

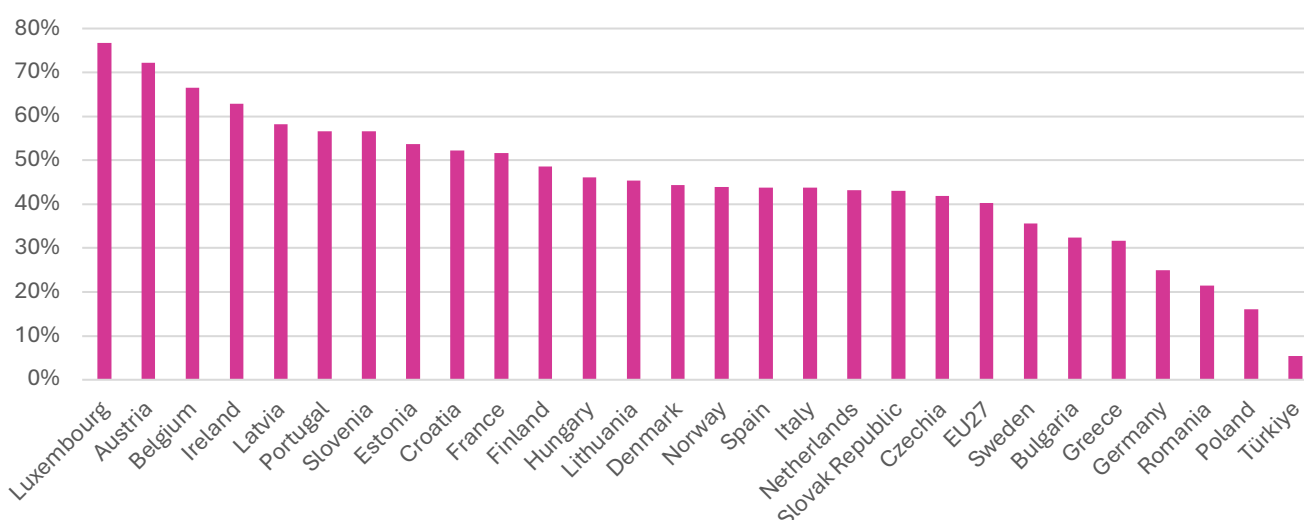


THE NEED FOR GLOBAL CONSUMER POLICY AND ENFORCEMENT CO-OPERATION

Enabled by e-commerce and digital business models, cross-border consumer transactions continue to grow.¹ While solid data is lacking, it is estimated that globally, cross-border e-commerce was worth around USD 3 trillion in 2022.²

In 2023, around 40% of online shoppers in the European Union had purchased products from sellers in foreign countries (within or outside the European Union) within the previous three months.

Figure 1. **Percentage of online consumers purchasing from abroad in the last 3 months, 2023**



Source: Eurostat (2024), "Digital economy and society: ICT usage in households and by individuals", <https://ec.europa.eu/eurostat/web/digital-economy-and-society/data/comprehensive-database> [isoc_ec_ibos].

¹ OECD (2019), *Unpacking E-commerce: Business Models, Trends and Policies*, OECD Publishing, Paris, <https://doi.org/10.1787/23561431-en>; López González, J. and S. Sorescu (2021), "Trade in the time of parcels", *OECD Trade Policy Papers*, No. 249, OECD Publishing, Paris, <https://doi.org/10.1787/0faac348-en>.

² UNCTAD (2024), *Digital Economy Report 2024 – Shaping an environmentally sustainable and inclusive digital future*, United Nations Publications, New York.



The expansion of cross-border e-commerce has led to increased consumer choice. However, OECD evidence indicates that cross-border purchases also give rise to amplified risks, including more frequent scams and greater difficulties obtaining financial redress when things go wrong.³ Additionally, despite being banned or recalled domestically, large volumes of unsafe products are traded across borders.⁴ Many other challenges of today's interconnected economies, which are characterised by complex global supply chains, global online marketplaces, transboundary technological advancements such as AI, and heightened consumer interest globally in mitigating the pace and gravity of climate change, are distinctively borderless. As discussed in other issues notes supporting the OECD Consumer Policy Ministerial, the cross-cutting nature of these challenges also underlines the increasing intersections between consumer policy and other policy areas, such as competition, digital, privacy, environmental, trade or gender policy, suggesting benefits from multidisciplinary policy and enforcement approaches.

Effective international consumer policy and enforcement co-operation is therefore essential to maintain trust in cross-border transactions, help protect consumers from harmful practices and unsafe products, facilitate redress for consumers harmed by illegal conduct, and tackle the broader challenges of the digital and green transitions. A number of tools are available to achieve these goals. For example, bilateral and multilateral dialogues within and among international fora allow policymakers and enforcers to share insights on emerging consumer issues, exchange best practices and foster convergence in consumer law, policy and enforcement. Sweeps (i.e. co-ordinated screening of websites to identify

deceptive practices or unsafe products) and awareness-raising campaigns at international level allow for harmonised approaches to enhance effectiveness in addressing challenges. The sharing of information related to cross-border investigations, subject to relevant enabling legislation, can also be important for enforcement co-operation. For example, in 2018, as part of the UK Competition and Markets Authority (CMA)'s action against a ticket resale website that misled consumers about the tickets available through its website, the Federal Trade Commission (FTC) in the United States assisted the CMA with information it had obtained under its legislative authority (the U.S. SAFE WEB Act) from US entities associated with the ticket resale website. The FTC also relied on this legislative authority to share information with foreign counterparts, which facilitated the agency's redress to foreign victims of a sweepstakes scam in over 50 countries.⁵

Yet evidence suggests that impediments to co-operation remain. Results from a 2017 OECD survey among 28 consumer authorities indicated that a lack of legal powers and inadequate resources were substantial obstacles to international enforcement co-operation.

According to the United Nations Trade and Development's (UNCTAD) World Consumer Protection Map, only 43% of the 82 jurisdictions for which data is available indicated having experience in cross-border co-operation.⁶

A recent World Bank survey of consumer authorities indicated that only around half of the respondents have arrangements in place allowing for joint investigations with foreign counterparts.⁷

³ OECD (2022), "Measuring financial consumer detriment in e-commerce", OECD Digital Economy Papers, No. 326, OECD Publishing, Paris, <https://doi.org/10.1787/4055c40e-en>.

⁴ OECD (2023), "Online product safety sweep report", OECD Digital Economy Papers, No 354, OECD Publishing, Paris, doi:10.1787/c1faa51e-en.

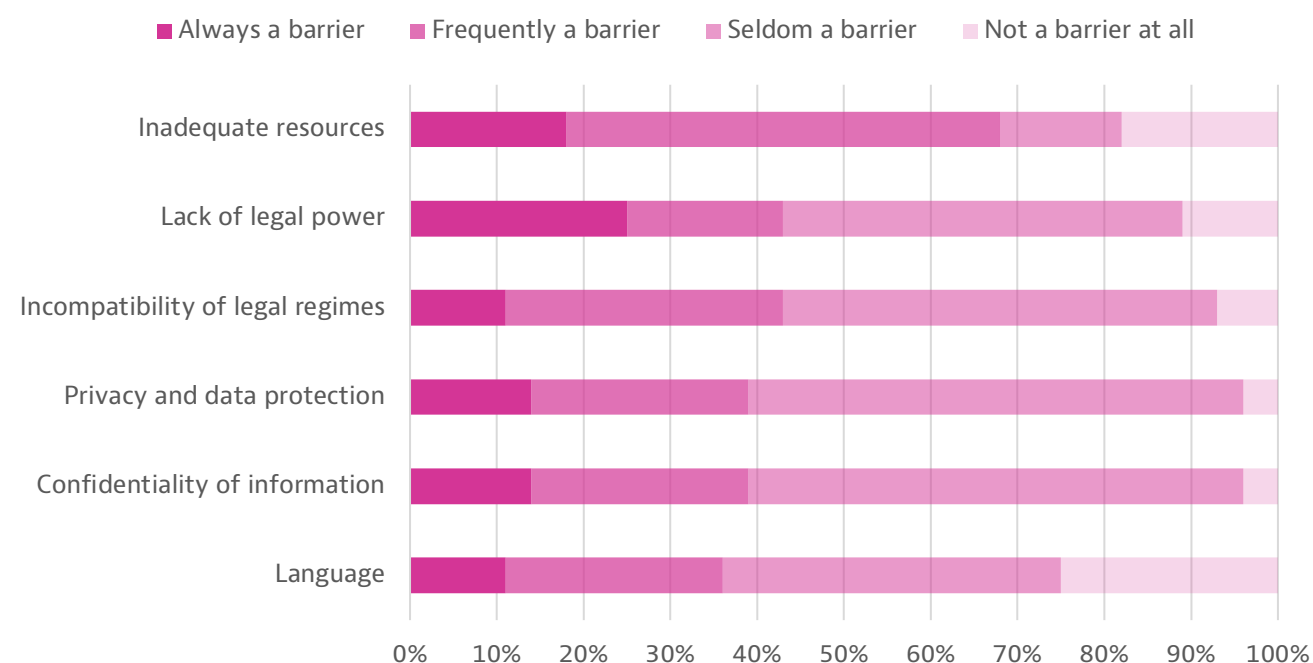
⁵ FTC (2022), "U.S. Federal Trade Commission Returning Almost \$25 Million to Consumers Worldwide Who Were Defrauded by Next-Gen Sweepstakes Scheme", Press Release, <https://www.ftc.gov/news-events/news/press-releases/2022/07/us-federal-trade-commission-returning-almost-25-million-consumers-worldwide-who-were-defrauded-next>.

⁶ UNCTAD (2024), *World consumer protection map*, <https://unctad.org/topic/competition-and-consumer-protection/consumer-protection-map> (accessed on 16 July 2024).

⁷ World Bank (2024), *GRIDMAP Toolkit: Global Regulations, Institutional Development and Market Authorities Perspective. Consumer Protection Module*, World Bank, Washington, DC.



Figure 2. **Barriers to international consumer protection enforcement co-operation, 2017**



Note: Based on the results from an OECD survey of consumer protection authorities in OECD Member and partner economies (N = 28).

Source: OECD (2018), "Consumer protection enforcement in a global digital marketplace", *OECD Digital Economy Papers*, No. 266, OECD Publishing, Paris, <https://doi.org/10.1787/f041eead-en>.



EFFECTIVE CROSS-BORDER ENFORCEMENT COOPERATION REQUIRES STRONG DOMESTIC FRAMEWORKS

In today's interconnected and digital markets, jurisdictions often face consumer challenges originating beyond their borders and need to rely on each other's ability to address harmful practices and products. Accordingly, effective cross-border enforcement co-operation hinges on robust domestic frameworks, providing consumer and product safety authorities with powers to investigate infringements, share relevant information, exchange evidence and take action to stop harmful business conduct. It also requires that they be able to impose or pursue meaningful sanctions, such as fines or other financial penalties, on businesses to deter them from infringements.

In several jurisdictions, sanctioning powers have been strengthened over the past years.

Most recently, for example, in the United Kingdom, the 2024 Digital Markets, Competition and Consumers Act provided the CMA with significant new enforcement powers, including the ability to directly impose financial penalties of up to 10% of a company's global turnover – paralleling their powers in competition law enforcement. In Australia, fines for breaches of consumer law were similarly raised in 2018 to match those under competition law. Additionally, in 2022, maximum admissible penalties in both fields of law increased five-fold, to the greater of AUD 50 million (USD 33 million), three times the value of the benefit obtained or 30% of a company's turnover during the breach period.⁸ Moreover, the European Union's 'Omnibus Directive' (2019/2161) on better enforcement and modernisation of EU consumer protection rules provides EU Member States

with the possibility of setting higher fines for certain consumer law infringements in their legislation. For instance, in Italy the maximum fines for unfair commercial practices were raised from EUR 5 million (USD 5.4 million) to EUR 10 million (USD 10.8 million).⁹ And in the United States, the Consumer Product Safety Improvement Act of 2008 (CPSIA) increased the maximum civil penalty amounts for violations to USD 120 000 for each violation and USD 17.15 million for any related series of violations.¹⁰

While these developments are promising, there is still room for improvement. For example, despite the extensive harmonisation of consumer protection rules in the European Union, currently no possibility exists to fine businesses at the EU level for cross-border consumer law infringements. Furthermore, in Australia, the significant increase of admissible penalties for breaches of consumer and competition law contrasts significantly with the lower penalties relating to product safety. For example, failure to report a serious illness, injury or death associated with a consumer good or related service exposes an individual to a maximum fine of AUD 3 300 (USD 2 190) and a company to AUD 16 650 (USD 11 060). As OECD evidence indicates, in 2017, some jurisdictions were still lacking meaningful sanctioning powers, such as financial penalties or cease-and-desist orders.¹¹ Strengthening the tools and powers available to enforcers to take effective action could therefore be an important priority.

⁸ See Treasury Laws Amendment (More Competition, Better Prices) Bill 2022 at https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd2223a/23bd028 (accessed 15 August 2024)

⁹ Legislative Decree no. 26/2023.

¹⁰ <https://www.federalregister.gov/documents/2021/12/01/2021-26082/civil-penalties-notice-of-adjusted-maximum-amounts> (accessed on 16 July 2024).

¹¹ OECD (2018), "Consumer protection enforcement in a global digital marketplace", *OECD Digital Economy Papers*, No. 266, OECD Publishing, Paris, <https://doi.org/10.1787/f041eead-en>.

THE OECD AS A KEY FACILITATOR OF GLOBAL CONSUMER POLICY AND ENFORCEMENT CO-OPERATION

The OECD has a long history of supporting international co-operation, enabling a global dialogue among policy makers, enforcers, businesses, civil society, and other stakeholders.¹²

This engagement has led to the development of international standards, guidance and awareness campaigns and helped align consumer policy frameworks globally.

There are in particular various examples of co-operation with other international fora engaged in consumer policy. Notably, the OECD has a history of longstanding co-operation with the ICPEN. For example, the ICPEN provided input to the development of the 2003 *OECD Recommendation concerning Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders* and is today contributing to the OECD's work on misleading environmental claims. In 2001, the OECD expressed support for the launch of *econsumer.gov*, an ICPEN initiative allowing consumers to report cross-border complaints, and consumer protection enforcers (currently 65) to share consumer complaint data and other information. More recently, since 2016, the OECD has organised several joint meetings and events on consumer policy with the Association of Southeast Asian Nations (ASEAN), including a joint workshop on behavioural insights and sustainable consumption in 2022.¹³ The ASEAN High-Level Principles on Consumer Protection, along with the United Nations Guidelines for Consumer Protection (revised in 2015)¹⁴ and the Guidelines on E-commerce of the Common Market for Eastern and Southern Africa (COMESA) explicitly reference and were informed by the 2016 *OECD Recommendation on Consumer Protection in E-commerce*. Furthermore, since 2017, the OECD has supported the organisation of G20 events on consumer policy. Such co-operation has resulted in

2018 in the release of an *OECD Toolkit for Protecting Digital Consumers*,¹⁵ in a 2019 G20 report on challenges to consumer policy in the digital age,¹⁶ and in 2021 in the organisation of a G20 panel on online disclosures.

To help address legislative barriers to enforcement co-operation and assist jurisdictions in the implementation of related principles in the 2003 and 2016 *OECD Recommendations on Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders and Consumer Protection in E-commerce*, in 2021 the OECD released an *Implementation Toolkit on Legislative Actions for Consumer Protection Enforcement Co-operation*.¹⁷ The toolkit, which was developed in consultation with the ICPEN, sets out ten guiding principles for legislative actions to improve countries' enforcement co-operation powers in three areas: investigations, enforcement, and co-operation practices. It is a practical resource that aims to help consumer authorities that do not have the legal authority needed to co-operate on enforcement to make the case for obtaining the relevant legislative tools and provides guidance to ensure related reforms are fit for purpose. The above instance of enforcement co-operation between the US FTC and UK CMA, for example, was enabled by domestic legislation in the United States.



¹² Besides consumer advocates (e.g. Consumers International) and the business community (through Business at OECD (BIAC)), several regional or international organisations, including ASEAN, COMESA, FIAGC, GPEN, ICPEN, UNCTAD or the World Bank, regularly take part in OECD consumer policy discussions. The OECD is also actively contributing to discussions in other fora, including the COP28 and G20.

¹³ OECD Web Archive, Nudging Consumers towards Greener Choices, <https://web.archive.oecd.org/2022-02-24/622165-nudging-consumers-toward-greener-choices.htm>.

¹⁴ UN (2016), *Guidelines for Consumer Protection*, https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf (see Para 65).

¹⁵ OECD (2019), *Toolkit for Protecting Digital Consumers – A Resource for G20 Policy Makers*, <https://web.archive.org/web/20240415102201/https://www.oecd.org/digital/consumer/toolkit-for-protecting-digital-consumers.pdf>

¹⁶ OECD (2019), *Challenges to Consumer Policy in the Digital Age – Background Report*, G20 International Conference on Consumer Policy, https://www.caa.go.jp/policies/policy/consumer_policy/international_affairs/assets/consumer_policy_cms105_200821_06.pdf.

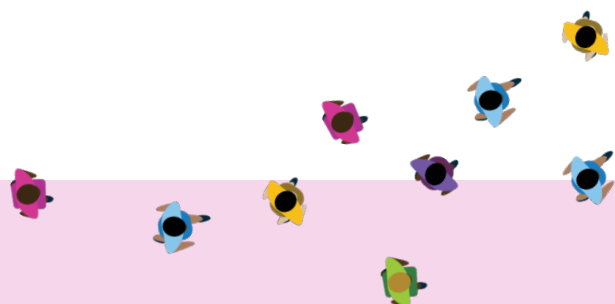
¹⁷ OECD (2021), "Implementation toolkit on legislative actions for consumer protection enforcement co-operation", *OECD Digital Economy Papers*, No. 310, OECD Publishing, Paris, <https://doi.org/10.1787/eddc57-en>.



The OECD also supports the development of multilateral tools in the area of product safety. Addressing a need to foster information sharing and product recalls awareness globally, in 2012, the OECD launched the GlobalRecalls portal, a database open to product safety authorities, businesses and consumers, listing recall notices (currently over 44 000) issued by authorities from around the world. The portal also incorporates data from the EU Safety Gate and the rapid alerts systems of ASEAN and the Organization of American States (OAS). Additionally, the OECD in 2021 released a *Communiqué* and accompanying guidance,

laying out key commitments for consistent product safety pledges. These are voluntary commitments that online marketplaces can sign up to, to strengthen product safety online.¹⁸

As the importance of international co-operation grows, so does the OECD's role as a global locus for consumer policy dialogue and cross-country comparative policy analysis and empirical consumer research. The launch of the Global Forum on Consumer Policy is a promising step further in that direction.



QUESTIONS FOR DISCUSSION

1

How can international co-operation help to address the consumer challenges of our time and those of the future?

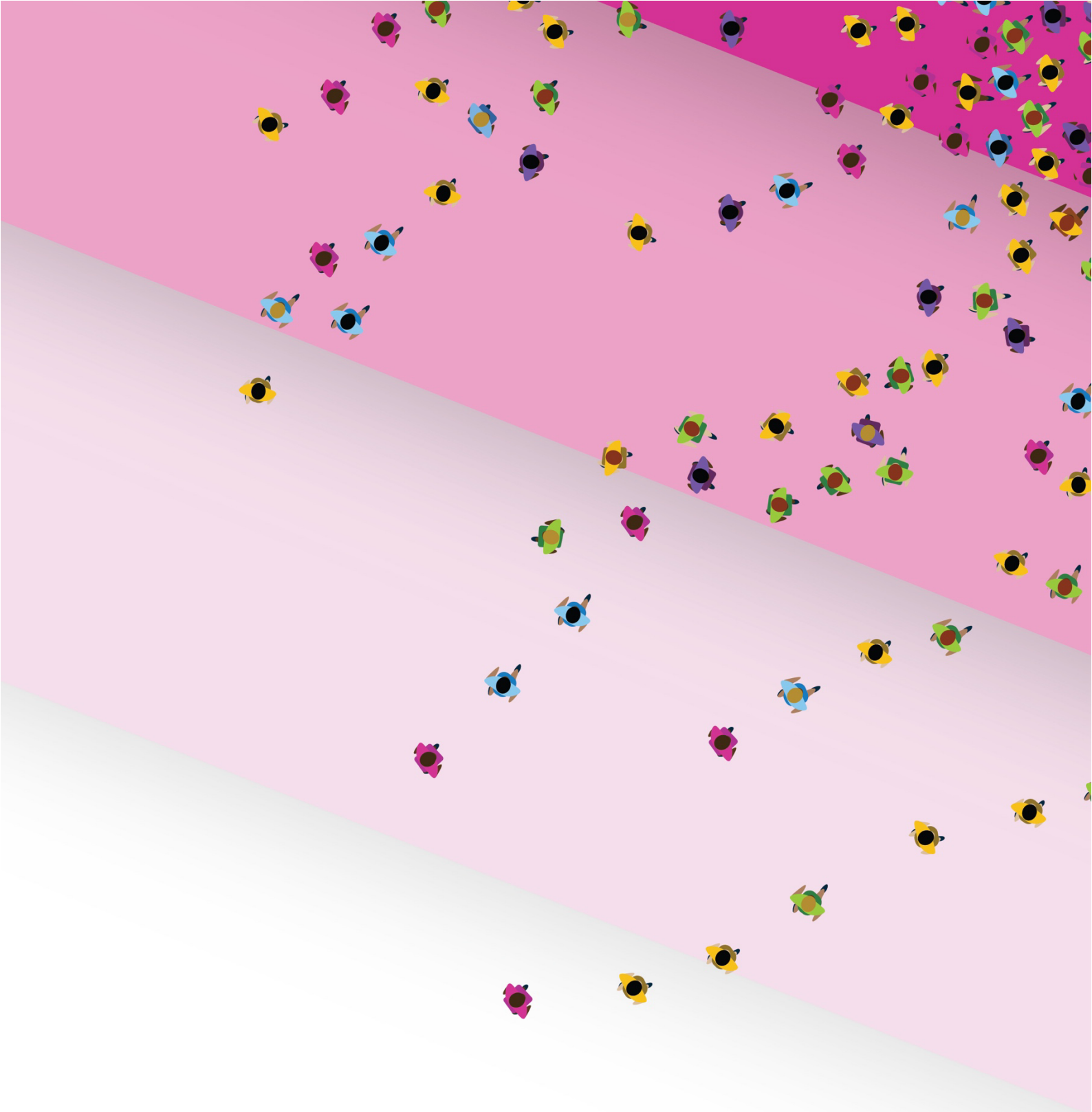
2

What can be done to improve global consumer policy and enforcement co-operation and to ensure that consumer laws are effectively enforced?


3

What future role can the OECD play, in collaboration with other international organisations and stakeholders?

¹⁸ OECD (2021), *Communiqué on product safety pledges* [DSTI/CP/CPS(2021)4/FINAL].



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