

# Annual Report 2006





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In 2006, the European Consumer Centre Dublin dealt with 3,558 contacts from consumers. Out of this number 697 (20%) were information requests (including referrals), 2,005 (56%) were complaints requiring legislative advice and the remaining 856 (24%) were cross-border cases that required the intervention of ECC-Net. 38 (4%) of those cases were referred to Alternative Dispute Resolution (ADR) bodies.

In relation to pro-active work, focus was given to the two areas which generate the most complaints: shopping online and air passenger rights. ECC Dublin once again co-authored the ECC-Net Report on Shopping Online along with ECCs Sweden, Denmark and Poland, and gave a presentation at the launch of the report in Stockholm in June. A second edition of ECC Dublin's *Shopping Online* leaflet was published at the end of the year as well as online advertising on the theme.

ECC Dublin also co-authored, along with ECC UK, the ECC-Net air passenger rights report, the results of which were presented at a press launch in Dublin at the end of November. Presentations were given by the Director of ECC UK, an Irish MEP and a representative of the European Commission, DG Health & Consumer Protection. Earlier in the year, in February, to coincide with the first anniversary of the implementation of the new legislation, ECC Dublin published a new version of their air passenger rights leaflet, carried out online and magazine advertising on the theme, distributed ECC Dublin luggage tags at Dublin airport, and issued a press release.

Nine further press releases were published over the course of the year on themes ranging from advice when travelling to the World Cup, to accessing healthcare in Europe and from buying online to buying counterfeit goods in Italy. As a result 193 media articles and interviews were recorded. ECC Dublin also re-designed the website [www.eccdublin.ie](http://www.eccdublin.ie) to include new content and a new design. Users of the web site increased beyond expectation to 157,596 visitors in 2006, a 49% increase on 2005 figures. In addition ECC Dublin issued its monthly e-bulletin to a subscription base that had surpassed 1,000 by the end of the year. ECC Dublin also produced a leaflet on accessing healthcare in the EU with a grant from the Department of Foreign Affairs in Ireland.

In relation to ADR development, this moved slowly with only one successful nomination, that of the Financial Ombudsman. Nonetheless, discussions continued with other potential nominees and work continued on promoting ADR to business associations.

Co-operation continued with a host of relevant organisations in Ireland. Most especially the Office of the Director of Consumer Affairs, the National Consumer Agency, the Consumer Association of Ireland, Citizens Information Centres and the Euro Info Centres. Towards the end of the year, ECC Dublin joined the EICs, SOLVIT, EUROJUS, FIN-NET and Europe Direct in Ireland to form a like-minded group who would exchange information and look at joint promotion of the EU. Legislative comment was given on proposals relating to the EU small claims procedure, the distance selling directive and timeshare.

ECC Dublin attended ECC-Net meetings and conferences, welcomed study visits from ECCs in Belgium, Spain, France, Estonia and Lithuania, and made study visits to ECCs in Spain, the UK and France.

*Tina Leonard,*  
Director, July 2007

# Staff Profile



**Director**  
*Tina Leonard*



**Legal Adviser**  
*Elena Calavia*  
(until 12/2006)



**PR & Marketing**  
*Mary Denise O'Reilly*



**Administrator**  
*Emma Byrne*



**Dispute Resolution Adviser**  
*Susan Reilly*



**Consumer Adviser**  
*Arthur Hilliard*



**Consumer Adviser**  
*Juan Bueso*

## Student Work Placements

*Katarzyna Kobylinska,*  
Law Graduate, Poland. (February – May)

*Stephen Stokes,*  
UCD Law graduate. (July – August)

*Antje Kluge,*  
Law student, Germany. (July – August)

*Niamh Hill,*  
UCC, Law student. (October – December)

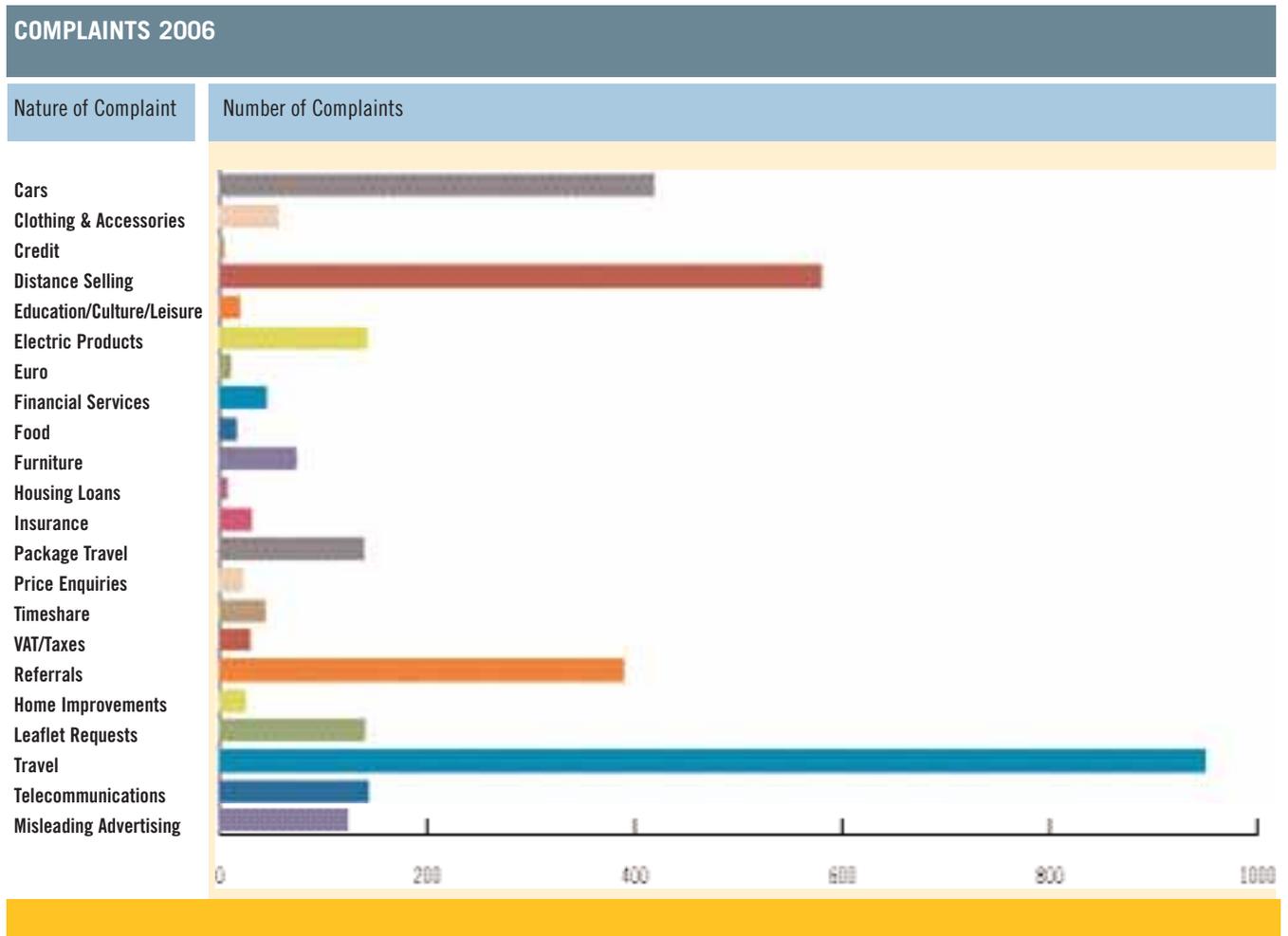
## Board of Directors

**Chairman**  
*Dermott Jewell,*  
CEO, Consumers Association of Ireland

**Directors**  
*Colin Bird, (until 08/2006)*  
Office of the Director of Consumer Affairs  
*Mary Barrett, (until 06/2006)*  
Consumer Policy Section, Dept of Enterprise,  
Trade & Employment  
*Josette Cuthbert,*  
Regional Coordinator, Comhairle  
*Brona Carton,*  
European Commission, Food & Veterinary Office  
*Frank Friel,* Solicitor  
*John Shine, (from 08/2006)*  
Deputy Director, National Consumer Agency

# Assistance to Consumers

## Overview of Complaints Received



In 2006, ECC Dublin dealt with 3,558 contacts from consumers. This was a marginal increase on 2005 when 3,365 complaints were received. Of these contacts, 697 were requests for information and 2,005 were complaints requiring legal advice. The remaining 856 were cross-border cases which required active interventions, whereby ECC Dublin mediated with the company against whom the complaint was made on behalf of the consumer. In 2006 ECC Dublin secured in excess of €50,000 in refunds and compensation

for those consumers. This amount does not include the value of obtaining repairs and replacement goods.

As in previous years, the majority of complaints were received from consumers based in Ireland, most of whom had complaints against companies in the UK and Spain. The number one area of complaint related to air passenger rights (22% of total complaints), followed by distance selling (16%), cars (12%), and telecommunications (4%).

Consumers mainly contacted ECC Dublin by telephone (54%), a decrease from 65% in 2005. The decrease can be accounted for by the huge increase in contact made by email or through ECC Dublin's website. 33% of all contacts were made this way reflecting an increase on the figure of 16% who contacted ECC by email in 2005, and results from ECC's policy to promote e-contact. Visits decreased once again from 8% to 5% of all contacts, which is appropriate given that ECC Dublin does not offer a 'face to face' service.

#### THE TOP 4

<b>2006</b>	1. <b>AIR PASSENGER RIGHTS</b>	950	(27%)
	2. <b>DISTANCE SELLING</b>	579	(16%)
	3. <b>CARS</b>	418	(12%)
	4. <b>TELECOMMUNICATIONS</b>	143	(4%)
<b>2005</b>	1. <b>TRAVEL (INC. PACKAGE TRAVEL)</b>	1073	(32%)
	2. <b>DISTANCE SELLING</b>	407	(12%)
	3. <b>MISLEADING ADVERTISING</b>	253	(8%)
	4. <b>CARS</b>	146	(4%)

## Main Problems Encountered

### Air Passenger Rights

The number of complaints relating to air passenger rights increased in 2006 to 775 which represents 22% of all complaints compared with 571 or 17% in 2005. The figure in 2004 (pre-air passenger rights legislation) was just 314 or 7% of all complaints. The increase comes as no surprise given that more people are flying and there is an increased awareness of the existence of legislation covering air passenger rights (EC Regulation 261/04). However the entitlements given in this legislation, covering delayed and cancelled flights and denied boarding, are supposed to be offered to consumers who experience such problems. This does not always happen and so consumers have to apply to airlines afterwards to seek reimbursement or compensation and sometimes this is denied. Further problems occur relating to delayed, damaged or lost luggage, and this is the area about which ECC Dublin receives the most complaints.

In the ECC-Net *Report on Air Passengers' Complaints*, published in November 2006, the many problems with interpretation of the relevant legislation were made clear. In addition, lack of compliance by airlines and poor enforcement across Europe were highlighted. The European Commission also undertook an external review of the legislation which found that the legislation was unclear in many places and that enforcement needed to be strengthened.



## Air Passenger Rights

In 2006, the greatest number of air passenger complaints (25%) related to luggage complaints, compared with 23% the previous year. The Montreal Convention gives passengers the right to compensation for damaged, delayed and lost luggage but the means of calculating compensation varies widely from airline to airline. In addition, while the legislation does not specify that receipts are required, many airlines require this.

Furthermore, many airlines specify in their terms and conditions that they will not recompense for high value items such as laptops and digital cameras that are lost from checked-in luggage, as these should be carried by hand. Because the terms of the Montreal Convention are vague, it is up to the courts to interpret what consumers may be entitled to. Irish consumers may take action through the Small Claims procedure against Irish airlines and some foreign airlines that are also registered in Ireland.

The second highest category of complaint in 2006 at 21% was about cancelled flights. The biggest issue here is whether consumers are entitled to additional financial compensation if their flight is cancelled. According to the current legislation airlines do not have to offer this compensation if there were 'extraordinary circumstances' that caused the cancellation and if the cancellation could not have been avoided even if all 'reasonable measures' had been taken. Unfortunately the meaning of the terms 'extraordinary circumstances' and 'reasonable measures' are unclear in the legislation and so airlines are often free to use this explanation as a reason for not compensating passengers.<sup>1</sup>

The third highest category of complaint in 2006 related to 'other' issues at 20%. This category consists on a number of issues not governed by EU or international legislation but by the terms and conditions of the airline and include complaints on appropriate ID, reimbursement of taxes and charges for flights not taken, missing second flights due to a delay, pricing issues and denied check-in due to later arrival among others. The increase in these type of complaints show how many new issues air passengers face, with increased restrictions and separately listed charges for air travel.

The number of complaints received in relation to delayed flights decreased to 12% of overall complaints in 2006 compared with 24% in 2005. This may be due to the fact that consumers now realise that no additional financial compensation is owed due to a delayed flight. This misunderstanding was widespread in 2005 when the legislation was newly introduced. However, there is an ongoing problem relating to delayed flights where passengers are not always given the 'duty of care' they are entitled to, namely food and refreshments, overnight accommodation if required and a telephone call or email. Sometimes airlines ask passengers to apply after the fact for reimbursements. This is not acceptable and indeed breaches the European Regulation.

The instances of complaints regarding denied boarding are low once again with only 4% of air travel complaints relating to this. This is not surprising as the instances of denied boarding are generally not as common as delays or cancellation and furthermore, this is where the legislation is most clear about passengers' entitlements.

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<sup>1</sup>At time of writing questions on the interpretation of 'extraordinary circumstances' when the cancellation was caused by engineering problems, have been sent to the European Court of Justice by a judge from a Danish court. The ECJ opinion will give some clarification of that specific issue.

## Case Studies

Five Irish consumers were denied boarding on a flight from Bangkok (Thailand) to London (UK), operated by a Scandinavian air carrier. Consumers were offered vouchers to the value of €300.00 each. The consumers requested the intervention of the Irish ECC, who contacted the company's customer services in the UK and a cheque for €3,000.00 was issued, i.e. €600 per passenger, in accordance with Regulation (EC) No. 261/2004.

Five Irish consumers expected to fly from Belfast (Northern Ireland) to Geneva (Switzerland) with a British airline but the flight was cancelled. They decided not to fly as the alternative flight offered did not suit their needs. The consumers were reimbursed the money paid for the tickets but they also claimed the compensation stated by Regulation (EC) No. 261/2004. As the response from the airline was not satisfactory, the consumers sought the assistance of the Irish ECC, who contacted the airline directly and €1,250.00 compensation was offered.

Six Spanish consumers expected to fly with an Irish airline from Charleroi (Belgium) to Valladolid (Spain) but the flight was cancelled. The consumers were offered an alternative flight to Girona (Spain) but found it difficult to obtain the refund of the expenses incurred in reaching their final destination. The consumers requested the assistance of the Spanish ECC and the case was shared with the Irish ECC, who contacted the airline and a refund of €525.14 was issued, although no further compensation was offered as the airline invoked 'extraordinary circumstances'.

While travelling from Ireland to Spain with a Spanish airline, an Irish passenger's bag was lost. The consumer claimed compensation under the terms of the Montreal Convention but the airline only offered €400.00. The consumer requested the intervention of the Irish ECC as his letters seeking further compensation were ignored. The case was shared with the Spanish ECC, who managed to raise the amount offered up to €800.00.

An Irish consumer tried several times to book a flight online through a Spanish airline's website. Each time an error notice appeared on the screen so the consumer gave up. Although no booking confirmation was received for the attempted bookings, the airline charged the consumer credit card 3 times the price of the flight in question. The consumer complained but only one third of the amount was refunded. The case was sent to the Spanish ECC, who contacted the airline insistently until the outstanding €1,539.00 was refunded.

## Shopping Online

The total number of complaints received in 2006 under the heading of 'distance selling' numbers 579 or 16% of total complaints. This is an increase on 12% in 2005 and just 9% in 2004. The category includes shopping online, internet auctions, and other distance sales such as those via catalogue. The biggest problem area within this category is shopping online. The total number of complaints received in 2006 was 407 or 70% of complaints received in this category.

What is interesting about the shopping online complaints is that their nature has not changed since first analysed in 2004. Once again the biggest area of complaint for online shoppers was problems with delivery, including non-delivery, delayed delivery or partial delivery. Most complaints were received against web traders based in the UK and Germany.

In relation to problems with delivery, it is often difficult to know whether the problems are due to incompetent customer service or deliberate breaching of the relevant legislation. Neither is acceptable. Distance selling legislation specifies certain information that all web traders must include on their sites, including full contact details and information on delivery and consumers' right to a cancellation period. This information is often not present and consumers are not always aware that they have a cancellation period of 7 days in which they can change their mind and get their money back without having a specific reason to do so.

Once again enforcement has a part to play, as do web traders themselves in ensuring the law is not breached and showing consumers that they are providing a safe environment to shop in. Consumer education has a part to play too.

This is particularly important when it comes to online fraud, a growing trend reported across the ECC-Net since 2004. It is also important when it comes to buying on internet auctions. Although ECC Dublin did not receive many complaints from internet auction shoppers in 2006 (36/6% in total), it is important to note that in the case of internet auctions, the current distance selling legislation does not apply (although some companies have incorporated these provisions to their terms.) Consumers must, therefore, heed the advice of the internet auction site they are shopping on, and participate in the complaint resolution process provided by the site.

## Case Studies

An Irish consumer bought a product (iRiver) online through a French based e-trader. As the product turned out to be faulty after 6 months, the consumer contacted the trader seeking repairs or replacement. As these remedies were not possible at the time, the trader offered a voucher for the 85% of the cost, arguing that the product had been used and its value decreased. The Irish ECC contacted directly the company's customer services in the UK and pointed out the consumer's entitlements under Directive 1999/44/EC. As a result of this mediation, the consumer was refunded the full amount in cash, €460.00.

A Polish consumer resident in Ireland ordered two laptops by phone after checking the products displayed on the website of a UK based e-trader. As the laptops dispatched were not as described, the seller agreed to take them back for replacement. The consumer was told to pay the postage (€135.00) and promised that that money would be refunded. As the items were no longer in stock, the consumer was refunded and a new order for different laptops was processed.

The two new laptops were dispatched but with no webcam as ordered. The trader sent two cameras but the consumer rejected delivery as the cameras were not of the same specification. At that stage the consumer noticed that there was no sign of a refund for the postage expenses and that a re-storage charge of €85.20 had been applied. Apparently, some misunderstanding arose due to language barriers and as no agreement was reached, the consumer requested the intervention of the Irish ECC, who contacted the trader directly and secured the refund of €220.80 plus the delivery of two cameras worth €54.00 each.

An Irish consumer won a bid in an internet auction and paid through a secure online payment service. The trader, based in the UK, argued that the delivery was attempted but the courier did not find the house. The consumer requested the delivery of the item but the trader asked for new payment of the delivery cost. As no agreement was reached, the consumer sought the assistance of the Irish ECC, who contacted the company directly and the full refund was issued, €171.02.

An Irish consumer subscribed to a DVD collection offer. A free DVD player was part of the promotion but was never received. In addition, a number of DVDs in the collection were not delivered. The consumer wrote to the company in the UK and telephoned on numerous occasions to no avail. The Irish ECC, in light of Directive 1997/7/EC on Distance Selling, contacted the company on behalf of the consumer and managed to resolve the case in favour of the consumer, who received a full refund, €316.74.

## Cars

In 2006, 418 or 12% of total complaints related to cars, a big increase on 146 (4%) in 2005.

There are many reasons for this increase: more car rental complaints; more people purchasing cars abroad and complaints against Vehicle Matching services.

### Vehicle Matching

The biggest area of complaints received in the car sector in 2006 related to UK companies offering a Vehicle Matching service to car sellers in Ireland. In 2006, 169 complaints, or 40% of car complaints, were recorded against 4 different UK companies offering a Vehicle Matching service. This problem had been noted in the Annual Report of 2005 and as anticipated, this developed as a problem area in 2006.

The scenario is that an Irish person who has a car for sale advertised on reputable website or magazine, is contacted by one of these companies offering to match their car with a buyer. This service costs approximately €115. Complainants to ECC Dublin report that words like “guarantee to sell” and “will match until sold” are used. Inevitably a buyer is not found, and when consumers complain they are referred to the terms and conditions on the companies’ websites. The terms and conditions state that there is no guarantee a buyer will be found and so the consumer is refused a refund. It has been impossible for ECC Dublin to resolve these disputes amicably with the sellers and so ECC has turned to the Irish and UK consumer enforcement agencies to assist. A full file on complaints received was forwarded to Irish enforcement body the National Consumer Agency at the start of 2007 to facilitate referral to their UK equivalent. However, the difficulty in finding specific breaches of consumer law in these cases, make the outcome less than positive. In the meanwhile ECC Dublin will continue to provide information to consumers on the issue.

### Car Rental

The second highest number of complaints in this category related to car rental (129 or 31% of car complaints). These complaints come from foreign residents with complaints against Irish car rental companies in addition to Irish people with complaints against foreign car rental companies. The biggest singular issue remains one of the retrospective charging of credit cards for alleged damage done to rental cars. Many of these problems could be avoided by consumer vigilance, such as never leaving a rental car back without inspection. ECC Dublin will focus on this as an information area in the second half of 2007, as well as analysing the type of complaints received in this area.



### Car Purchase

Complaints relating to the purchase of new and second hand cars numbered 112 (27% of car complaints) in 2006. There has been a steady growth in complaints to the ECC in this specific area as it becomes more popular for Irish people to buy cars, new or second-hand, abroad, particularly in the UK. This is cyclical and depends on currency rates and market prices. At the moment, it seems that in many cases it is better value for Irish consumers to purchase cars in the UK, despite the fact that they must pay Vehicle Registration Tax (VRT) in the Republic of Ireland on the car. The majority of complaints received relate to after sales service.

Whether a car, or any other 'product' is purchased in Ireland or abroad, the retailer still has the obligation to remedy a defect. Where the purchase of cars is concerned, it is not always practical to bring a car back to a UK garage for repair work. However, this can be overcome by the retailer paying a service provider/garage to carry out the repair in Ireland, as often happens in other countries where borders are shared and buying cars in other jurisdictions popular. In 2007 ECC will monitor this area of complaints and any trends that arise.

## Case Studies

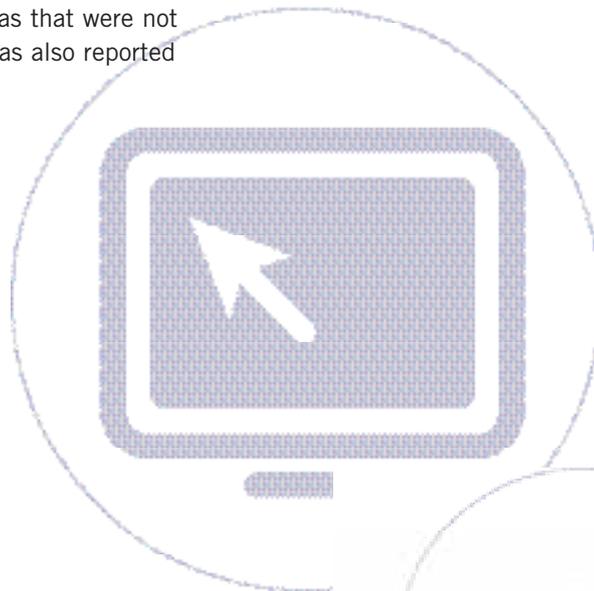
An Irish consumer booked a rental car for his holiday in Canaries (Spain) through a global car rental supplier. On the last day, the consumer returned the car early in the morning and the car was not inspected. The car was left in parking area and key in the letter box as instructed. Back in Ireland, the consumer found out that he had been overcharged €324.62 when checking his credit card statement. The consumer contacted the company, who mentioned that the car was damaged. The consumer wrote to the company and said that the car was left in perfect condition. The letter of complaint was replied to by the company, who reiterated the consumer's responsibility but refunded €166.81 as "the invoice for the repairs was less than estimated". The consumer requested the assistance of the Irish ECC to recoup the outstanding amount. The case was forwarded to the Spanish ECC, who managed to secure the refund of the outstanding €157.81.

A British consumer hired a car in Ireland. After driving approx. 100 miles the vehicle (with 40,300 miles on the clock) broke down as the result of a broken clutch. She was charged €900.00 to replace the clutch and for towing the car. The consumer requested the assistance of the Irish ECC directly, who contacted the company on her behalf and a refund for €900.00 was issued, as the company failed to prove that the damage was actually caused by the consumer.

## Other

The fourth highest category of complaint related to 'telecommunications' at 143 or 4% of total complaints received. As in 2005, the majority of these were made against a UK satellite TV services company. Many of these complaints related to service issues and problems with billing (offers not honoured and cancellations not processed).

While, for practical reasons, the majority of cross-border complaints made by Irish-based consumers are against companies based in the UK, the second highest ranking country against whose companies complaints are made is Spain. Many complaints related to electronic goods and even jewellery bought while on holiday in Spain. In particular, problems related to the purchase of cameras that were not 'as described', a situation that was also reported in the previous year.



## Case Studies

An Irish consumer telephoned a British satellite TV supplier to subscribe to its services but although the installation of the disk never took place, the consumer was billed €184.06. Despite having written to the company to clarify the issue, the consumer kept receiving a number of demands for payment. The Irish ECC contacted the company on behalf of the consumer and all charges were cleared.

A group of ten Irish consumers stayed in a hotel in London. There were a number of problems with room allocation, the heating system and other shared facilities. The consumer requested the intervention of the Irish ECC as her correspondence to the hotel was ignored. The Irish ECC contacted the company directly and a refund of €637.68 was issued.

An Irish consumer bought four cartons of cigarettes in Malaga (Spain) but was charged €1,650 (i.e. for forty four cartons). As she signed the credit card receipt, the consumer's credit card company stated that they were unable to reverse the charge. The consumer wrote to the shop but she did not receive any response. The Irish ECC shared the case with the Spanish ECC and after pointing out that such amount of cartons could not be carried and should have been reflected in the store's stock, the trader checked its records and agreed to refund €1,500.

A Latvian consumer bought a laptop in Ireland. Back in Latvia, the product experienced a number of faults, which were reported to the shop but they said that the contract could not be cancelled as he was not in Ireland. Six months later the consumer returned to the store and requested a refund but he was only given the details of the manufacturer to make a claim under the terms of the warranty. A year later the problem occurred again and the consumer requested the intervention of the Latvian ECC. The case was shared with the Irish ECC, who contacted the company. As a result the trader agreed to take back the product and refund the consumer €1,599.

A Spanish consumer bought a computer from a global firm with European headquarters based in Ireland. Sixteen months after purchase the computer broke down. According to the technical support in Spain, the motherboard was damaged and it transpired that it was part of a defective batch. The company refused to carry out the repairs free of charge since they only offer a 1 year warranty and the consumer ended up paying the bill for repairs but requested the mediation of the Spanish ECC, who shared the case with the Irish ECC. The company was contacted and the rights of the consumer under Directive 1999/44/EC were pointed out. The case was closed successfully as the company agreed to refund the money paid for the repairs, €820.18.

## Alternative Dispute Resolution (ADR)

When ECC Dublin assists with a cross-border complaint, its Advisers use amicable intervention with the trader in order to resolve a dispute. If this does not work then the only recourse for the consumer is to take cross-border court action or to go to an Alternative Dispute Resolution (ADR) body. As a cross-border court action would be prohibitively costly, not to mention difficult and time consuming, the best method of access to redress for consumers is through ADR. The biggest problem with this is that are not enough ADR bodies available in Ireland and also in some other EU countries. This has a negative impact on the right of both Irish and foreign consumers to access redress when they cannot resolve their consumer complaint. *(See Focus Area below).*

A total of 38 ADR disputes were received in 2006 which was a slight increase on 2005 figures (27). The cases can be broken down as follows:

E-COMMERCE/DISTANCE SELLING	14
AIRLINE	10
CAR HIRE	6
FURNITURE	2
CARS	2
FINANCIAL SERVICES	1
CLOTHING	1
TELECOMMUNICATIONS	1
BOATS	1

In 2005 there was just 2 'distance selling' disputes received. However in 2006 a total of 14 was received, which represents 49%, or almost half of the disputes received.

### ADR Cases Against Irish Traders

Of the 38 cases received, 14 of these were against Irish retailers. 9 could not be referred to ADR as none was available. ECC Dublin referred 5 disputes to ADR and all of those cases related to the car hire industry. The ADR in question (the Car Rental Council for Ireland), rejected 3 cases, all of which related to the price charged for damage caused to the vehicle while in the consumer's possession. The consumers involved in each dispute felt that the charges for repairs were excessive. However the Council disagreed with this and felt that the charges were in accordance with the work that was needed to repair each vehicle. The other two cases were resolved with €130.50 and €332.55 being awarded to the consumers.

### ADR Cases Against Foreign Traders

Of the 24 disputes brought by Irish consumers against traders in other EU countries, just 1 case was sent to ADR. This case is still being dealt with by an ADR in Italy. 5 cases ended up in the small claims system in the UK. This is because when the ECC Dublin is unable refer a dispute to ADR in the UK, the consumer will be provided with information on the UK Small Claims Court. Although a consumer must be willing to travel to the UK to attend the Court hearing, the feedback received from the consumers who decided to take this course of action was that the defendants had admitted the claim and payment was made through the court as settlement for each claim. In 1 case, the consumer rejected the possibility of ADR, in another the company refused to participate. However, as with cases against Irish traders (*see above*), the majority of cases remained unresolved as in 16 cases no ADR was available.

## Case Studies

In October 2004 the consumer took delivery of her leather suite from a company based in Northern Ireland. One month later the recliner chair became faulty and the consumer contacted the company to report the fault. In December 2004 a repair man was sent to fix the recliner chair, however this could not take place as he did not have the part needed. A further 3 months passed and in March 2005, another repair man arrived to carry out the repair. In April 2005 the chair became faulty for a second time and again the consumer contacted the company, who finally sent a repair man out in August 2005, but as he did not have the necessary parts to repair the furniture he said he would not be able to repair the chair. In September 2005, the consumer contacted ECC Dublin for assistance, however all attempts to communicate with this company failed and the consumer was advised to take action through the Small Claims Court in Northern Ireland. The defendant admitted the claim and a full refund of €3,099.17 was sent to the consumer.

The consumer hired a car from an Irish car rental company at the agreed price of €89.43. At the end of the hire period the car was returned to Cork airport and inspected by the staff. There was no damage to the car and the consumer received his signed confirmation of this. A short time later the consumer received his credit card statement which showed that two amounts had been deducted, the agreed price, plus an additional amount of €182.31. When the consumer queried this he was informed that a nail had damaged one of the tyres. The Consumer telephoned the car hire company on a number of occasions and later sent a formal letter of complaint the company failed to respond. The consumer then sought the assistance of the ECC Dublin who intervened on his behalf. This company also ignored all letters sent by ECC Dublin. The file was then referred to the arbitration procedure of the Car Rental Council for Ireland. A refund of €130.50 was offered and accepted by the consumer.

An Italian consumer's luggage was delayed on a flight with an Irish airline from Berlin to Dublin in April 2005. The consumer reported it immediately and was informed that she would be entitled to €60.00 per day for the following three days to cover any interim expenses she incurred while her luggage was delayed. On 27th April 2005, she received a letter stating that airline was "...pleased that your baggage has now been restored to you..." and informed her that a payment of EUR 180.00 had been authorized to her. The consumer was surprised by this as her baggage had not been recovered and was, in fact, still missing. The consumer complained to the airline and finally received a letter from the company in October 2005 advising her that she was not entitled to compensation and should claim under her travel insurance. The consumer sought the assistance of ECC Dublin who made several attempts to contact the airline but no reply was received. ECC Dublin then hoped to deal with the dispute via ADR but there was no ADR scheme for the airline industry. The consumer was made aware of the Small Claims Court in Ireland but it was explained that to avail of this procedure she would need to travel to Ireland to attend the hearing. This was not a suitable option and the file had to be closed unresolved.

# Focus Areas

## Air Passenger Rights



Mary Denise O'Reilly and Katarzyna Kobylinska of ECC Dublin en route to Dublin Airport with ECC Dublin free luggage tags.



At the launch of the ECC-Net Air Passenger Rights Consumer Complaints Report L-R: Mairead McGuinness MEP, Jesus Orus Baguena, DG Sanco and Tina Leonard, ECC Dublin.

Once again, the topic of air passenger rights was focused on in 2006, reflecting the increase in complaints received on this topic throughout the year.

In February, to mark the first anniversary of the introduction of the air passenger rights Regulation (EC Reg 261/04), ECC Dublin issued a press release highlighting problems with air travel as told to the ECC in the previous year. At the same time an online advert with *Pigsback.com* focused on air travel as did a print ad with *Prudence* magazine in March. The same month, the ECC Dublin *Air Passenger Rights* leaflet was reprinted to cater for demand, and new luggage tags were produced. Several thousand of the luggage tags were distributed at Dublin airport over the Easter period.

In 2006, the ECC-Net decided to produce a report which analysed the type of complaints received by ECC relating to air passenger rights. The report was written and published by ECCs Ireland and the UK. As well as highlighting the problems associated with air travel, the ECC-Net Report made recommendations for changes to the European Regulation. The report was launched at the offices of the European Parliament in Dublin on 27th November and was chaired by ECC Dublin Director Tina Leonard, co-author of the Report. ECC UK Director and co-author of the Report, Ruth Bamford presented the findings and Jesus Orus Baguena of DG Health & Consumer Protection gave the European Commission's point of view. Irish MEP Mairead McGuinness also gave a presentation highlighting the need for greater protection for air passengers. The presentations were followed by questions from the media. ECC Dublin also issued a press release which included a statement from the Irish MEP, Mairead McGuinness.



Ruth Bamford, ECC UK speaking at the launch.



The report was distributed to both DG Health & Consumer Protection and DG Transport of the European Commission and was of particular use as the Regulation on air passenger rights was being externally evaluated at this time.

### ***The Report***

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In 2005, over 2,700 air travellers contacted the ECC-Net with queries and complaints. The number one complaint related to lost and damaged luggage with the second and third highest number of complaints relating to delay and flight cancellations. On average 1 in 3 complaints were not resolved even though the aggrieved passengers had valid claims for compensation. The main reason for this was either the airlines' failure to respond to their customers' complaints or that the airlines cited "exceptional circumstances" for not offering compensation.

To read a PDF version of the Report go to:  
[http://www.eccdublin.ie/publications/reports/ecc\\_report\\_s/ECC-Net\\_Airline\\_Complaints\\_05.pdf](http://www.eccdublin.ie/publications/reports/ecc_report_s/ECC-Net_Airline_Complaints_05.pdf)

## Online Shopping

In 2006 ECC Dublin also continued to focus on online shopping, again given the level of complaints received.

ECC Dublin's Arthur Hilliard was co-author of the third annual ECC-Net *Report on the European Online Marketplace*, together with Fredrik Nordqvist of ECC Stockholm. ECCs Denmark and Poland also assisted in producing the report. Once again the report analysed complaints relating to online shopping received by ECC-Net in the previous year and focused on growing trends in problem areas.

The report was launched in Stockholm in June with ECC Dublin's Arthur Hilliard giving a presentation on it. To coincide with the event, ECC Dublin issued a press release and its online advert with Pigsback.com focused on online shopping.

In October, Arthur Hilliard and co-author Fredrik Nordqvist were invited to present the report's findings and engage in discussion about the topic at an event of the European Committee on Internal Market and Consumer Protection in Brussels, at the invitation of Arlene McCarthy MEP.



### ***The Report***

As in the ECC-Net Reports of 2003 and 2004, 1 out of 3 goods on average did not arrive to consumers who bought online. It was also noted in 2004 and repeated in 2005 that fraud was on the increase. The type of fraudulent activities ranged from “phishing” scams to problems with internet auctions.

ECC Dublin offered safe shopping tips for online shoppers. To read the tips:

[http://www.eccdublin.ie/topics/shopping\\_online.html#tips](http://www.eccdublin.ie/topics/shopping_online.html#tips)

To read a PDF version of the Report:

[http://www.eccdublin.ie/publications/reports/ecc\\_report\\_s/eur\\_online\\_marketplace\\_20052.pdf](http://www.eccdublin.ie/publications/reports/ecc_report_s/eur_online_marketplace_20052.pdf)

## ADR Development

If the ECC Network cannot resolve a complaint by liaising amicably with the trader, the next option for the consumer (as using the courts is impractical and expensive), is to use arbitration or mediation, known collectively as Alternative Dispute Resolution (ADR).

Over the last number of years it has become apparent that there is a need to develop ADR in Ireland, as we simply do not have a system in place that can deal with cross-border consumer complaints that cannot be resolved directly with the trader. It should be noted that the Small Claims procedure in Ireland fulfills this role admirably where national complaints are concerned, but it is not possible to use this system where cross-border complaints are involved. However, without the support of the Irish Government the development of ADR is almost impossible. It is essential that the Irish Government begins to visit the problem concerning the lack of ADR in Ireland and put in place a framework for change.

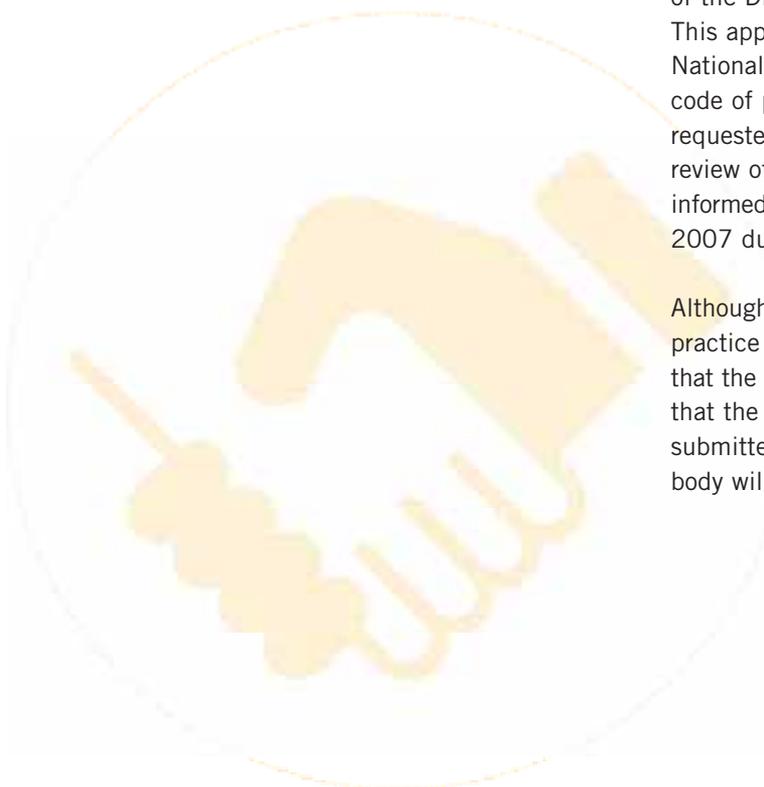
### **Notification of ADR Bodies to the European Commissions Database**

In order for ADR bodies to be officially listed with the European Commission they must fulfill a number of criteria as per two European Commission Recommendations. It is ECC Dublin's job to constantly manage and update the list of Ireland's 'notified' ADR bodies and to add new ones where appropriate. The application process must be carried out via the Dept of Enterprise, Trade and Employment.

In 2006 ECC Dublin submitted applications on behalf of 2 ADR Bodies. The first related to the Financial Services Ombudsman's Bureau website. They are a statutory body set up under the terms of the Central Bank and Financial Services Authority of Ireland Act 2004. This body replaces the previous Insurance Ombudsman and the Consumer Credit Ombudsman.

A second application was sent to the Department of Enterprise, Trade and Employment (DETE) on behalf of the Direct Selling Association (DSA) for Ireland. This application has not yet been approved as the National Consumer Agency (NCA) is reviewing the code of practice for this association. The DSA have requested a timeframe on the completion of the review of their code of practice and they were informed that this may not take place until November 2007 due to the changes within the NCA.

Although ECC Dublin understands that the code of practice must be approved by the NCA, we believe that the timeframe is very long and we can only hope that the DSA will be willing to have their application submitted again. If they do it is expected that this body will be notified early in 2008.



ECC Dublin also approached the following ADR Bodies and encouraged them to consider being listed on the European Commissions database:

- Dublin International Arbitration Centre
- Private Residential Tenancies Board
- Direct Selling Association of Ireland Ltd.
- Chartered Institute of Arbitrators Irish Branch
- Society of Irish Motor Industry  
– *Arbitration Scheme*
- Electronic Consumer Dispute Resolution – ECODIR
- Mediation Services
- Commission for Taxi Regulation

Although many of these ADR Bodies showed interest in becoming a Recommended ADR Body, many felt that there should be some kind of direct benefit, such as a recognisable mark which can clearly show their inclusion on this database.

## **ADR Development Focus Area – online dispute resolution (ODR)**

In 2006 ECC Dublin focused on the possible development of an Irish ODR Body. The reason it was decided to focus on this area is due to increase of online complaints received by ECC Dublin.

The first task undertaken by the ECC Dublin was to arrange a meeting with the Irish Internet Association (IIA) for Ireland. This meeting took place in April 2006 with the IIA's Chief Executive Officer to discuss the possibility of setting up of an ODR scheme for their members. The IIA currently has 500 member companies, over 2,000 individual subscribers and over 6,000 non-member subscribers. During this meeting the ECC Dublin gave an oversight of the type of complaints we received against web traders. We spoke about the benefits for members of the IIA to be involved in an ODR scheme (creating consumer confidence, competitive edge to the Europe Market place etc.)

ECC Dublin had suggested that the IIA work with the Electronic Consumer Dispute Resolution (ECODIR) to develop a pilot scheme. Although the IIA was very interested in a possible pilot scheme they did not have the financial resources to fund it.

The ECC Dublin was invited by the DETE to attend a National eBusiness strategy meeting in October 2006. The National eBusiness strategy was devised by the Department of Enterprise, Trade and Employment, and published in December 2004. The strategy recognises that small and micro businesses make up a sizeable element of the business community within Ireland. It is vital for these companies to remain competitive and to take advantage of opportunities presented by eCommerce. The strategy group is led by the Department and comprises of representatives of Forfás, Enterprise



Mary Barrett, Dept of Enterprise, Trade & Employment and Susan Reilly, ECC Dublin speaking at an ADR conference in Vienna in February 2006

Ireland, Shannon Development and the City and County Enterprise Boards.

The ECC Dublin provided information to the county Enterprise Boards on work of the ECC-Net and ADR/ODR. We also requested that they insert information on this subject to businesses when providing training on the benefits of the online market place. Although the ECC Dublin was unable to encourage the development of an ODR scheme to either of these organisations, we were able to bring awareness of the benefits and hopefully at some stage in the future e-businesses in the future will reconsider the concept of ODR.

## **ADR Themed Conferences Attended**

### **23RD FEBRUARY 2006 –**

ADR Conference in Vienna for Austrian presidency, Susan Reilly, ADR Adviser presented the work of the ECC Dublin in developing ADR in Ireland.

### **22ND MAY 2006 –**

Alternative Dispute Resolution in the banking and insurance sectors in Europe, organised by ECC Kehl in Strasbourg. ECC Dublin chaired a session on how ADR is organised in different European Member States.

### **10TH NOVEMBER 2006 –**

Conference on E-Commerce Trustmarks in Europe organised by ECC Denmark in Copenhagen.

# General Information Dissemination

## Publications



ECC Dublin produced the following new material in 2006. All publications were distributed via the Citizens Information Service network, other relevant organizations and online through [www.eccdublin.ie](http://www.eccdublin.ie):

- 'About Us' leaflet
- *Air Passenger Rights* (re-print)
- *ECC Dublin Annual Report 2005*
- *Shopping in Germany during the World Cup* (online only)
- *Accessing Healthcare in Europe* (this leaflet was separately funded under the Communicating Europe Initiative of the Dept of Foreign Affairs).
- *ECC-Net Report on European Online Marketplace*
- *ECC-Net Report on Air Passengers' Rights – Consumer Complaints 2005*
- ECC monthly e-bulletin on various topics
- ECC luggage tags
- ECC cotton shopping bags

## Website



ECC Website – Homepage

## Price Surveys



In 2006 ECC Dublin reviewed the design and content of its website [www.eccdublin.ie](http://www.eccdublin.ie). Following this review it was decided to make the content more user friendly and amend the visuals to incorporate the use of icons to illustrate various topics of interest.

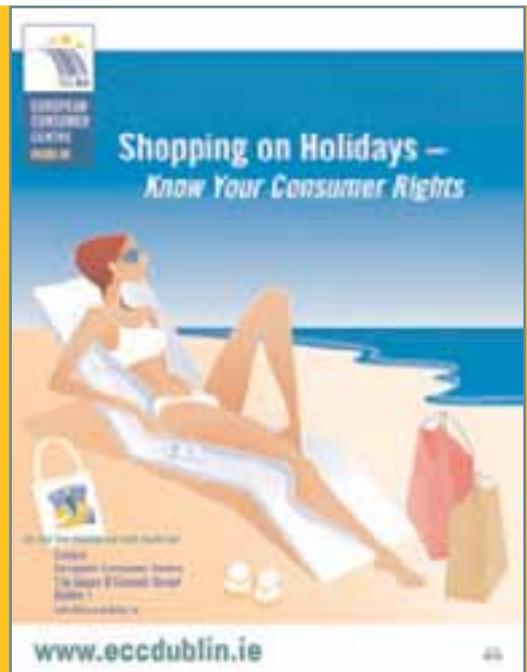
From January to December there were 157,596 visits to [www.eccdublin.ie](http://www.eccdublin.ie), a 49% increase on 105,902 visits in 2005.

In 2006, 2 price surveys were compiled and published by ECC Dublin. The first related to voting costs in the Eurovision Song Contest which was published in May.

The second related to price comparisons between 30 typical Christmas presents purchased in Ireland and the UK, and was published in December. The comparison was made of products in the Argos catalogue and the survey found that 22 out of 29 items were cheaper in the UK catalogue than in the Republic of Ireland equivalent.

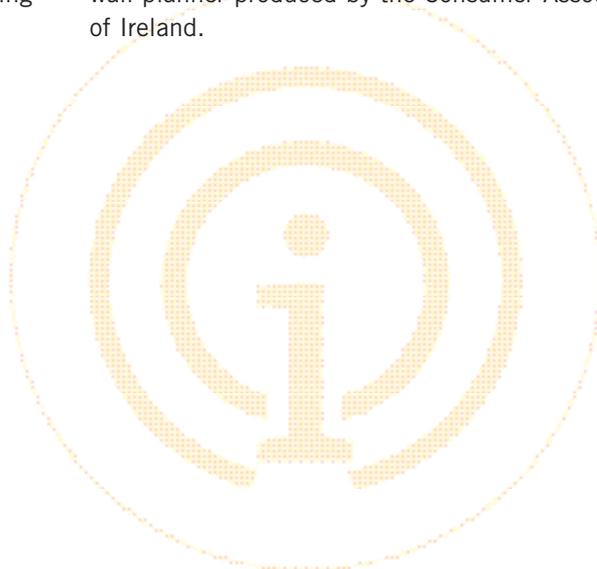
To view the complete survey, go to:  
[http://www.eccdublin.ie/news/press\\_archive/press\\_2006/Argos\\_pricing\\_survey\\_06.doc](http://www.eccdublin.ie/news/press_archive/press_2006/Argos_pricing_survey_06.doc)

## Advertisements & Media



ECC Dublin continued to advertise with [www.pigs-back.com](http://www.pigs-back.com), carrying four campaigns, one in each quarter on the topics: air passenger rights; shopping online; travelling in the EU; about ECC-Net.

ECC Dublin also carried two print ads with Irish magazine Prudence and carried an ad on the annual wall planner produced by the Consumer Association of Ireland.



In 2006, ECC Dublin issued 10 press releases and generated 193 media articles or interviews. The topics were:

**5/3:** Delays, lost luggage and blocked toilets; who said flying was glamorous?

.....

**30/3:** From lost in translation in Lithuania to liposuction in Poland, ECC Dublin hears all kinds of everything from European consumers.

.....

**4/4:** Price confusion and alleged tops drivers' complaints when renting cars

.....

**9/5:** World Cup advice for fans travelling to Germany

.....

**16/5:** European Court of Justice ruling could have impact on waiting lists in Ireland.

.....

**18/5:** Ireland odds on favourite to cost more to call Eurovision winner.

.....

**19/6:** 1 in 3 goods fail to arrive when shopping online, according to new ECC-Net Report.

.....

**28/7:** Warning; buying fake in Italy comes with a hefty fine

.....

**2/11:** New EU rules dictate liquids need see-through bags to fly

.....

**27/11:** Air passengers getting a raw deal

.....

**8/12:** "Hicos" and "Decklanders" find cheaper prices in the North this Christmas.

.....

For full details of all 2006 press releases go to: [http://www.eccdublin.ie/news/press\\_2006.html](http://www.eccdublin.ie/news/press_2006.html)

# ECC Network

## Joint Projects

As in previous years ECC Dublin co-authored and produced with ECC Sweden the *Report on the European Online Marketplace*. (See *Focus Areas* above).

In addition ECC Dublin co-authored and co-produced the first ECC-Net Report on *Air Passenger Rights: Consumer Complaints 2005*. (See *Focus Areas* above).

Other joint projects that ECC Dublin co-operated on included the preparation of the English language version of the *World Cup Guide*, produced by ECC Germany. ECC Dublin was also a member of an ECC-Net working group tasked with establishing a 'coordination board' for the Network.

## Network Meetings

In 2006 ECC Dublin attended:

- 4 x ECC-Net Directors meetings;
- 2 x ECC-Net informal Directors meetings;
- 2 x ECC-Net project meetings.

At a conference on Alternative Dispute Resolution (ADR), organised by ECC Vienna and which took place in February during the Austrian presidency, ECC Dublin gave a presentation and chaired one of the sessions. ECC Dublin also gave a presentation at an ADR conference organised by ECC Germany in May. At the launch of the ECC-Net report on the *European Online Marketplace* in June, hosted by ECC Stockholm, ECC Dublin gave a presentation outlining the Report's results. ECC Dublin attended a conference organised by ECC Denmark on ecommerce and trustmarks in November. ECC Dublin also participated in the annual ECC-Net Cooperation Day, which in 2006 was hosted by ECC Finland. At the event, ECC Dublin gave a presentation and provided two rapporteurs.



## Study Visits



Anton Aller of ECC Madrid joins ECC Dublin staff in March.



Staff from ECC Lithuania and ECC Estonia with ECC Dublin staff on a visit in May

In March, ECC Dublin welcomed the Marketing Manager of ECC Belgium on a half-day study visit to discuss marketing and promotion issues. Also in March, an ECC Madrid staff member worked at the Dublin ECC for 3 days and the reciprocal visit was made in April by an Adviser at ECC Dublin. This exchange was crucial in order to develop a clearer understanding of case handling and exchange between the two Centres. The ECC Dublin Legal Adviser also visited ECC Madrid, in order to discuss and formalise case handling arrangements.

In May, ECC Dublin welcomed ECCs Estonia and Lithuania on a 2 day study visit. Also in May the ECC Dublin Legal Adviser and Marketing Manager travelled to London to meet with the ECC UK Director and the cross-border enforcement 'crime buster' team at the Office of Fair Trading (OFT) respectively.

In July, the ECC Dublin Director joined a study visit to ECC Kehl, alongside representatives from ECCs UK, Norway, Finland, Sweden and Denmark. It was a very useful visit where much discussion took place on ECC-Net work, as well as presentations on the work of ECCs France and Germany.

In October ECC Dublin welcomed a staff member from ECC France on a 2 day study visit to Dublin.

# Co-operation with Others

## Synergies

In 2006 the ECC Dublin continued to liaise closely with the Office of the Director of Consumer Affairs on administration as well as enforcement issues. As the co-funder of ECC Dublin and the consumer enforcement agency Ireland, it is imperative that close contact be maintained, especially with regard to the highlighting of problem areas and the referral of cases for enforcement consideration. In particular, focus was given to the problems Irish consumers were facing from UK-based vehicle matching companies (see *Main Problems Encountered above*). ECC Dublin also participated in the adjudicating panel for a competition to produce an advertising campaign for the incumbent National Consumer Agency, towards the end of the year.

Meetings on policy issues and ADR development in particular were also held with the Consumer Policy section of the Enterprise, Trade and Employment.

ECC Dublin participated in a seminar organised at the European Parliament offices in Dublin on the EU Services Directive, and in a round table discussion on online shopping hosted by eBay.

Meetings to exchange information and ideas were also held with: the Irish Internet Association; eBay; COMREG; Financial Regulator and the Commission for Aviation Regulation.

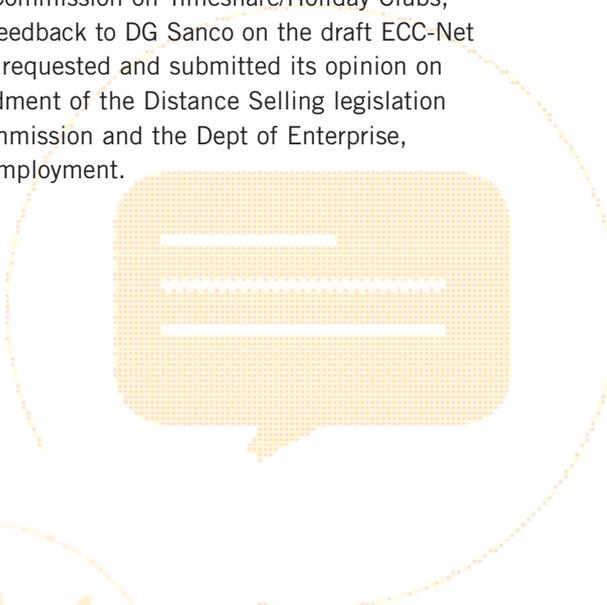
ECC Dublin welcomed an ADR Professor from Tokyo University on a study visit in January and welcomed two colleagues from the UK Department of Trade & Industry on a visit to learn about ECC Dublin operations in April.

In 2007, ECC proposes to further develop links on enforcement with the (new) National Consumer Agency and with the Commission for Aviation Regulation as well as developing synergies with relevant organisations in Northern Ireland.

## Opinion

Further to an opinion submission in 2005, in January ECC Dublin submitted further opinions on the proposed European Small Claims procedure. This was submitted to both the European Commission and the Department of Enterprise, Trade & Employment.

ECC Dublin also responded to requests for information from the Commission on Timeshare/Holiday Clubs; provided feedback to DG Sanco on the draft ECC-Net IT Tool as requested and submitted its opinion on the amendment of the Distance Selling legislation to the Commission and the Dept of Enterprise, Trade & Employment.







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