

## Supervisory governance The case of the *Dutch Consumer Authority*

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### Abstract

This article concerns the impact of the Regulation on consumer protection cooperation, especially with regard to the introduction of a public law supervisory authority, on the primarily civil law and self-regulatory Dutch concept of supervision and enforcement in consumer law. The response to this regulation has been to introduce a dual system of enforcement (separating civil law and public law enforcement) in which the new *Dutch Consumer Authority* is to act in accordance with the subsidiarity principle (intervening only when the market itself fails to respond adequately). The major question is whether this new 'hybrid' concept of dualism and subsidiarity will be sustainable or if a full 'publicisation' of Dutch consumer protection law should be expected. Important determining factors are the positioning of the *Consumer Authority* in both the European network and in several national networks with both public and private law partners. A key issue is how responsibility for consumer protection will be distributed through these networks. Finding a balance between, especially, the role of the European Commission (in the European network) and ministerial responsibility (for the *Consumer Authority*) is necessary to enable the *Consumer Authority* to create sufficient trust within these networks so as to make dualism and subsidiarity possible.

### Keywords

supervision; enforcement; consumer law; regulators; European network; ministerial responsibility

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ISSN 1871-515X