Dear Ms Smyth, Dear Mr Ortega,

Thank you for your letter of 19 June 2014 informing the Commission about a Which? and OCU initiative aimed at calling on the Spanish authorities to address the practices of several car hire companies in respect of fuel policy. We apologize for this belated reply.

The Commission is indeed well aware of the problems that consumers are facing with the fuel policies of certain car rental companies, in particular in Spain, whereby consumers are required to pay, at a tariff which is often more expensive than the market, for a full tank and are entitled to no reimbursement, when returning the car, if they haven't manage to consume all of the paid fuel.

The Spanish authorities are also familiar with these issues. Since 2012, several inspection campaigns have been carried out by competent local authorities to tackle unfair practices and terms, in the car rental sector, including those related to fuel policies.

In this context, we very much welcome your joint initiative which will complement the actions taken so far in Spain. It is very important for consumers across Europe that practices of car rental companies in this major holiday destination are fair and compliant with EU legislation.

Indeed, a full/empty tank policy whereby consumers may end up paying for fuel they have not consumed, could be in breach of both Directive 2005/29/EC on unfair commercial practices\(^1\) (UCPD) and Directive 1993/13/EEC on unfair terms in consumer contracts\(^2\) (UCTD).

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First of all, the UCPD obliges traders to display all material information concerning the price and charges of a good or service in a clear, intelligible and timely manner. Secondly the UCTD provides that contract terms should be written in a plain and intelligible language and that a contract term causing a significant imbalance between the parties to the detriment of the consumer shall be regarded as unfair and as such shall not be binding.

As you know, the Commission has engaged in several initiatives to support Member States in adequately enforcing consumer legislation.

One of those, specifically based on data stemming from the European Consumer Centres (ECCs), focuses on consumer problems in the car rental sector. On 3 April 2014, alongside members of the Consumer Protection Cooperation (CPC) and ECC Networks, the Commission met the trade association Leaseurope and other major EU wide car rental companies. The aim of this meeting was to identify the main issues affecting consumers across Europe when renting a car and to discuss how to address them. Leaseurope has drafted a code of conduct which is currently being assessed by the CPC authorities with the aim of encouraging the car rental industry to act swiftly to eliminate the practices identified as unfair or misleading.

At the same time, the Commission is working on updating the 2009 Guidance on the application of the UCPD. The revised document, planned for adoption in the next months, will contain a section on car rental.

Yours sincerely,

Paraskevi MICHOU
Director Civil Justice
DG JUSTICE

Despina SPANOU
Director Consumer Affairs
DG HEALTH AND CONSUMERS