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# Slovak Presidency of the European Union

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BEUC priorities  
2016





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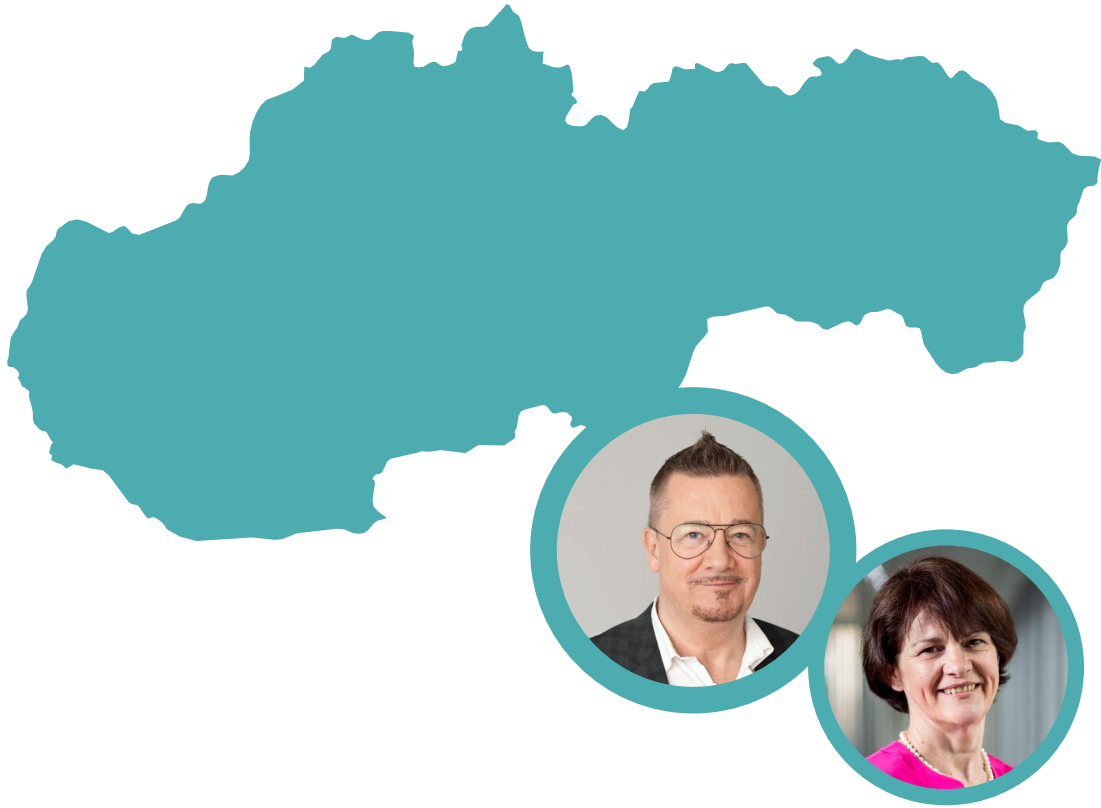
**Slovak Presidency  
of the European Union**

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BEUC priorities  
2016

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## Introduction

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The European Consumer Organisation (BEUC) is the umbrella organisation for 42 independent consumer organisations in 31 European countries. Our mission is to represent and promote consumers' interests to EU decision makers in all consumer-relevant areas that match our members' strategic priorities. Our member in the Slovak Republic is the Association of Slovak Consumers (ZSS).

In this Memorandum for the Slovak Presidency of the Council of Ministers, BEUC highlights the most pressing consumer expectations for the European Union, makes concrete proposals on how the Slovak Presidency can work towards successful consumer policies, and finally urges the Council of Ministers and the European Parliament to legislate in favour of consumers. During the Slovak Presidency, several of the European Commission's flagship initiatives, notably the Digital Single Market strategy and the Energy Union, will be materialised with concrete legislative proposals. BEUC will follow these initiatives attentively.

## In this Memorandum we draw attention in particular to the following initiatives:

### Digital Single Market

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The proposed legislative proposal for the supply of digital content and for online purchases of tangible goods, portability and geo-blocking in e-commerce should lead to real benefits for consumers in the digital age. However the proposed new rules on the purchase of tangible goods put important consumer rights at stake.

### Telecommunications

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The review of the EU's telecommunications legislation should strengthen competition and consumer rights in this market.

### Energy Union

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In 2016, the ambitions of the EU's Energy Union strategy will be actualised in concrete legislative proposals. Policy makers should focus on consumer benefits in the areas of energy efficiency, renewables, and the design of the future energy market when drafting and debating legislative proposals.

### Energy label

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A simplified A-G label should be introduced quickly in order to help inform consumers about the energy efficiency of appliances.

### Car testing

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A new testing protocol needs to be adopted as soon as possible, and the type approval process must be strengthened.

### Enforcement of consumer rights

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The review of the Consumer Protection Cooperation Regulation should ensure that cross-border infringements of consumer rights can be speedily brought to an end, and should allow consumer associations to be involved in the Cooperation mechanism.

### Product safety and market surveillance

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The deadlock of the review of this legislative package is detrimental to consumers in light of limiting their exposure to unsafe products and improving market surveillance.

### Antibiotic resistance

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The proposed legislation on veterinary medicines and medicated feed should be adopted swiftly in order to tackle the misuse of antibiotics in livestock.

### Trade

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CETA will not deliver to consumers, and the agreement risks undermining their current and future levels of protection. It is therefore not acceptable in its current form. The ongoing TTIP and TISA talks must not follow the same path. Trade agreements need to both protect and benefit consumers.

We hope that progress will be made on these and other initiatives mentioned in our Memorandum for the Slovak Presidency, with the aim of delivering clear benefits to European consumers.

We wish the Slovak Republic a most successful Presidency.

**Monique Goyens**  
Director General

**Örjan Brinkman**  
President



# Digital Rights

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## Ending geo-blocking in the Digital Single Market

### Why it matters to consumers

Despite the existence of the Single Market, citizens still face discriminatory practices by retailers that refuse to provide their services, sell their products, or apply different access conditions depending on the consumer's nationality or country of residence.

One of the fundamental principles of the Single Market, namely the freedom to provide goods and services across borders, should also be viewed from the other side: consumers should have the right to receive services and access products freely, without arbitrary discrimination due to unjustified business practices.

Territorial discrimination is also a recurrent problem for consumers who cannot watch their favourite television programme or film online, or who are blocked from the streaming of their favourite sport when abroad. It is important to highlight that geo-blocking, particularly in the audiovisual sector, is also caused by exclusive licensing practices. These practices often lead to a limitation in choice, as consumers cannot legally access online content available to consumers in other Member States but not available in their own countries (please see our chapter on copyright).

### State of play in legislative procedure

In May 2016, the **European Commission** published a legislative proposal to address geo-blocking in the e-commerce sector.

In the autumn of 2016, the European Commission will revise the Satellite and Cable Directive to address the problem of lack of cross-border access to online audiovisual content.

### Recommendations for the Presidency

We request the Slovak Presidency to advance the discussions in order to ensure the swift adoption of the geo-blocking proposal and the delivery of concrete results for all EU consumers. In a true Single Market, the focus must not only be the facilitation of cross-border services for businesses, but also the provision of fair access to these services in other Member States and an end to arbitrary discrimination against European consumers.



## What we need to succeed

- All aspects of the European Commission's suggested measures against discrimination based on the consumer's nationality or country of residence should be supported by legislators.
- In addition, we ask the European Parliament and the Council to consider extending the rules on non-discrimination to copyrighted content, such as digital content products like music and e-books.
- Furthermore, as experience with the Services Directive shows, efficient implementation and enforcement is key to ensuring that such practices finally come to an end. Member States must provide for enforcement and appropriate sanctions in the case of infringement.
- In many cases, unjustified geo-blocking should also be considered as an unfair commercial practice that national consumer authorities can stop and sanction.
- The obligation for business to provide information about potential restrictions in delivery prior to concluding a contract is crucial in order to avoid consumer disappointment. However, disclosure is not enough. Consumers must be able to benefit from the Single Market by shopping across Member States without unjustified restrictions.
- The European Commission should continue to enforce antitrust rules, in particular the Regulation on Vertical Restraints and its accompanying guidelines, to ensure that the special rules on selective distribution are not used to restrict the availability of products via online commerce channels and to prevent competition to the detriment of consumers.
- The problem of cross-border access to content should be addressed in a targeted manner in the review of the Satellite and Cable Directive. Rightholders should be allowed to keep territorial licenses, but should not prohibit online distributors from serving unsolicited requests by consumers living in other Member States (also referred to as 'passive sales' under EU competition law).

### Additional sources

European Commission:  
it is time to  
**#STOPGEOBLOCKING!**  
Video

European consumers  
ask to include  
non-audiovisual content in  
the geo-blocking proposal.  
Letter  
**BEUC-X-2016-047**

BEUC response to the  
public consultation on the  
review of the EU Satellite  
and Cable Directive  
**BEUC-X-2015-116**

**#StopGeoblocking**  
Factsheet  
**BEUC-X-2016-024**

## 2

# Telecoms Single Market

## Why it matters to consumers

Telecoms markets remain an important sector of concern for all European consumers, as general satisfaction with telecoms services remains low. In an ever more interconnected world, consumers spend increasing amounts of time and money on the internet, connecting with others at home and abroad, and leading more and more digital lives. Much remains to be done in order to establish a real Single Market that consumers can benefit from. Telecoms markets still fail to deliver on the most important issues to consumers: a high level of consumer protection; the right to access the open internet; and the elimination of geographical barriers.

## State of play

The Telecoms Single Market Regulation (Regulation 2015/2120) sets a target date of 15 June 2017 for the abolition of retail roaming charges, on the condition that the wholesale roaming market reform proposed in June 2016 by the Commission has been completed. It is therefore essential that the wholesale reform is finalised before that date so that consumers get what they were promised. This reform is also important in guaranteeing efficient competition, so that smaller players without their own networks can compete on equal grounds.



Finally, before the end of 2016, the **European Commission** is expected to publish proposals to reform the Telecommunications Framework, a set of directives and regulations that will determine whether there is true competition in fixed and mobile markets, and whether consumers are adequately protected and empowered.

## Recommendations for the Presidency



We urge the Slovak Presidency to ensure that the reform of the wholesale roaming market is ambitious enough to allow the complete abolition of retail roaming by June 2017, and that this reform guarantees competition in telecoms markets.

In addition, we call on the Slovak Presidency to prioritise the reform of telecommunications legislation in order to strengthen and foster competition across all telecoms markets, and to guarantee that consumers are strongly protected with a legal framework that is adapted to current and future digital challenges.



## What we need to succeed

- A Telecoms Single Market for consumers means that geographical barriers such as roaming charges must be completely removed for all European mobile consumers at all times, and not just during short periods each year. The implementing acts due for publication at the end of 2016 should enable all consumers to 'roam like at home' every time they cross a border inside the EU.
- The reform of the wholesale roaming market needs to be ambitious in lowering wholesale caps as much as possible. This will enable the full abolition of retail roaming and ensure that competition is not crowded out.
- The guiding objective of the EU's reformed telecoms regulatory framework should remain the promotion of competition – both in spirit and in practice. There should be no trade-offs between investment, competition and consumer protection. Although vibrant competition is essential in driving the market, it is not enough in a rapidly-evolving sector such as the digital economy. As consumer satisfaction remains low in the crucially important services market, maximising standards of consumer protection is imperative.

### ADDITIONAL SOURCES

Roaming Factsheet  
[BEUC-X-2015-105](#)

The EU's Net Neutrality Rules. Factsheet  
[BEUC-X-2015-106](#)

Key demands on the Telecom Single Market  
[BEUC-X-2015-028](#)

Telecoms Single Market: Achieving a  
Connected Continent. Position paper  
[BEUC-X-2013-081](#)

Net Neutrality in Europe: Time for Clear Rules  
of the Game. Position paper  
[BEUC-X-2016-049](#)

## 3

# Data protection

## Why it matters to consumers

Although beneficial to consumers, digital information technologies and the emergence of new services also represent a major challenge to the fundamental rights of privacy and personal data protection. It is important to provide consumers with a secure digital environment that they can trust, including effective control of their personal data.

## State of play in legislative procedure



After a long and complex legislative process, the General Data Protection Regulation (GDPR) was finally adopted in April and will be effectively applicable in May 2018. In the meantime, the review process of the e-Privacy Directive has been launched, and the **European Commission** is expected to put forward a proposal towards the end of 2016. This might however be too late for it to be taken up by the Presidency before January 2017.

Following the Court of Justice ruling on the invalidation of the 'Safe Harbour' agreement, the European Commission is seeking to adopt a new 'adequacy' decision to facilitate data transfers between the EU and the US. The proposed 'EU-US Privacy Shield' was officially presented at the beginning of February and is set to be adopted in the near future despite concerns raised by European data protection authorities, the European Parliament, and privacy advocates on both sides of the Atlantic.

## Recommendations for the Presidency



We urge the Presidency to do its utmost to promote a high level of privacy protection to ensure the welfare of European citizens and a well-functioning Digital Single Market.

In relation to the EU-US Privacy Shield and transatlantic data flows: should this dossier still be open by the time Slovakia assumes Council leadership, we urge the Presidency to ensure that any eventual adequacy decision successfully addresses all identified points of concern. Data protection essentially equivalent to the current level in the EU must be guaranteed, in line with EU data protection laws and the EU Charter of Fundamental Rights. Should the Commission adopt an 'adequacy decision' that does not meet all of the legal requirements, we urge the Presidency to take any action needed to challenge the decision.

## What we need to succeed

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- 'Privacy by design and by default' should become the guiding principle embedded at the core of the Digital Single Market.
- A new agreement for the transfer of personal data to the US must guarantee that European standards are upheld, and that European data protection authorities remain responsible for the enforcement of EU data protection law in line with the European Court of Justice ruling on the invalidity of 'Safe Harbour'.

### ADDITIONAL SOURCES

Letter to Article 29 Working party  
on the EU-US Privacy Shield  
[BEUC-X-2016-035](#)

Transatlantic Consumer Dialogue (TACD)  
Resolution on the EU-US Privacy Shield  
Proposal – 7 April 2016

## 4

# Copyright reform, portability of content and audiovisual services

## Why it matters to consumers

A dynamic, fast-evolving market – such as the one for online content – requires a flexible legal framework that allows for new and socially valuable uses. The Copyright Directive dates back to 2001, preceding mass usage of the internet, and has thus not kept pace with technological developments. As a result, everyday activities such as backing up files, copying legally bought music, films and e-books domestically to play on different devices, or posting a family video with background music on a social network could be legal in one country and illegal in another. This is due to the discretion of Member States in defining exceptions and limitations to rightholders' exclusive rights (e.g. in the case of private copying for format shifting and 'back up'). Furthermore, any notion of consumer rights is absent from the existing copyright framework.

While the EU Commission pushes for stronger enforcement mechanisms to tackle copyright infringements, it is crucial that consumers can easily benefit from legal offers, particularly in countries where local choices are restricted or even non-existent. Consumers in many Member States are frustrated that there are no legal online offers for audiovisual products (e.g. films or TV series) in their countries. Consumers should be able to choose their preferred suppliers when accessing online content without being limited by territorial boundaries.

## State of play in legislative procedure

European legislators are currently discussing the **European Commission's** December 2015 proposal for the portability of online content.

In May 2016, the Commission published its proposal for the revision of the Audiovisual Media Services Directive.

As part of its Digital Single Market strategy published in May 2015, the Commission announced a revision of the Copyright Directive to adapt it to the digital environment. A proposal by the European Commission is expected in the autumn of 2016.

## Recommendations for the Presidency

We urge the Slovak Presidency to lead the negotiations on the content portability proposal with the European Parliament with the goal of ensuring that consumers' needs and expectations when travelling abroad are placed first and foremost. In relation to the review of the Audiovisual Media Services Directive, we urge the Presidency to aim at a high level of consumer protection across all types of audiovisual media services in the EU, so that consumers are adequately protected no matter what type of service they use.

Furthermore, we ask the Presidency to ensure that the discussion around copyright reform and the future of the online distribution of contents addresses consumers' expectations in relation to the development of competitive and quality legal offers, by giving consumers the possibility to access online services available in other Member States.



## What we need to succeed

- With countless new opportunities arising from the ways in which content is now accessed and distributed, the need has arisen to rethink the substantive European legal framework. This requires achieving a fair balance between the different stakeholders, as well as promoting innovation and cultural diversity.
- The proposal on portability of content must effectively address consumer consumption behaviours in the digital environment by ensuring that subscriptions can be accessed (e.g. music streaming services) across the EU without restrictive conditions (e.g. limited number of days).
- Copyright law must balance the incentive to create with the granting of access to works. From the consumer point of view, the current copyright framework is far from balanced. A number of permitted uses of copyright-protected material are only allowed as exceptions and limitations to the copyright owners' exclusive rights.
- Copyright exceptions and limitations should be pursued in order to provide more legal clarity about what consumers are entitled to do online with copyrighted content.
- A new exception for user-generated content is needed in order to allow consumers to share derivative works for non-commercial purposes without bearing the risk of a copyright infringement. This will in turn stimulate creativity.
- Copyright exceptions should be made mandatory, and it should not be possible to overrule them with contractual terms and conditions or technical protection measures (such as for example digital rights management systems).
- The current system of copyright levies should be reformed. Fees should be visible on receipts, on price tags in the shop, and on websites and electronic commerce platforms. Consumers have the undeniable right to know what they are paying for.
- The problem of cross-border access to content should be addressed in a targeted manner in the review of the Satellite and Cable Directive. Rightholders should be allowed to keep territorial licenses, but should not be able to prohibit online distributors from serving unsolicited requests from consumers living in other Member States (this is also referred to as 'passive sales' under EU competition law).
- The revised rules on audiovisual media services must ensure that consumers enjoy a high level of protection across all types of services, be they linear or non-linear. A revision of the rules that apply to commercial communications should not create the risk that viewers are exposed to an excessive amount of advertising. In addition, particular attention is needed to protect vulnerable viewers.

### ADDITIONAL SOURCES

Proposal for a regulation on ensuring cross-border portability of content services. Position paper  
[BEUC-X-2016-022](#)

Response to the public consultation on the revision of the EU Satellite and Cable Directive [BEUC-X-2015-116](#)

Review of the Audiovisual Media Services Directive [BEUC-X-2015-096](#)

Joint letter with Digital Europe to Vice-President Ansip and Commissioner Oettinger  
[BEUC-X-2015-041](#)

Extending the SatCab Model to the Internet - Study by Professor Hugenholtz  
[BEUC-X-2016-005](#)

Consumer use of copyrighted material. Infographic [BEUC-X-2015-063](#)

For more information: [digital@beuc.eu](mailto:digital@beuc.eu)



# Food

1

## Food safety: antibiotic resistance

### Why it matters to consumers

Antibiotic resistance is a major public health threat triggered by the inappropriate use of antibiotics in both human and veterinary medicines. Without antibiotics, common infections could once again become deadly, and complex interventions such as surgery or chemotherapy could become increasingly hazardous.

We need antibiotics that work, and it is thus critical that they are used in a responsible way. The misuse and overuse of antibiotics in livestock must be addressed, especially as they are often given to healthy animals. Alarming, BEUC members have found a high prevalence of antibiotic-resistant bacteria in raw meat products. But food is only one pathway: antibiotic resistance spreads via many routes, as bacteria can travel by air, water, and soil. Authorities at the EU and national levels have recently highlighted the link between the use of antimicrobials in livestock and overall antimicrobial resistance in several publications.

### State of play in legislative procedure



In September 2014, the **European Commission** published two legislative proposals addressing antibiotic resistance: one on veterinary medicines and another covering medicated feed. The publication of the two texts is part of the European Action Plan against Antimicrobial Resistance launched in 2011. While the primary objective of this revision is to increase the availability of veterinary medicinal products and to reduce administrative burdens, it also aims to assess the possibilities for improving the EU's response to antimicrobial resistance.



The **European Parliament** committee responsible for the proposal on veterinary medicines is ENVI (Environment, Public Health and Food Safety), while the AGRI committee (Agriculture) is in charge of the proposal on medicated feed. Both reports were adopted in early 2016, and MEPs agreed to start negotiations with Member States in order to reach an agreement with the Council before the Parliament's plenary vote.



## Recommendations for the Presidency

We urge the Slovak Presidency to ensure that antibiotic resistance and the revision of the veterinary medicines and medicated feed proposals remain high on the Council's agenda in order to achieve a quick agreement among Member States. Public health and consumer safety should always prevail over economic interests and trade issues.

## What we need to succeed

- As antibiotic resistance knows no borders, we need strong EU-wide rules limiting the use of antibiotics to sick animals, and, when treating livestock, restricting the use of antibiotics that are critically important for treating people. National measures are not enough to address this global issue, as meat products are traded across the EU and bacteria can travel via living animals as well as via direct contact between animals and humans. We want all European consumers to be reassured that antibiotic use in livestock is strictly regulated.
- We urge the Council to support the European Parliament's proposal to ban the prophylactic use of antibiotics. MEPs have proposed adequate rules that permit the use of prophylaxis in certain well-defined cases. This will allow the limited use of prophylaxis while ensuring this practice is no longer routinely used. The European Commission's proposals include a requirement to restrict the use of antimicrobials that are critically important for humans in the veterinary sector. This requirement has been endorsed by the Parliament, and we urge the Council to ensure that it is also included in the final proposal.
- The European Commission's proposals also mention the setting up of a consumption database to monitor usage of antibiotics in animal production, in addition to the existing database on antibiotic sales in the veterinary sector. We find this a very positive move in facilitating the monitoring of the use of antimicrobials on the ground. The European Parliament has improved the draft proposal by requiring more complete information about why and how antibiotics are used. We urge the Council to support the Parliament's proposal, which will assist in the identification of inappropriate practices.

### ADDITIONAL SOURCES

Position paper on European Commission's proposals to tackle antibiotic resistance in veterinary medicines and medicated feed laws  
[BEUC-X-2015-052](#)

Position Paper: Antibiotic use in livestock:  
Time to act  
[BEUC-X-2014-043](#)

Can we trust our meat? Part 2: Antibiotic Resistance. BEUC campaign

## 2

## Animal cloning for food

### Why it matters to consumers

EU consumers overwhelmingly disapprove of the use of cloning for food production, as reflected by two Eurobarometer surveys (2008 and 2010). A majority of Europeans said it was unlikely that they would buy meat or milk from cloned animals (regardless of whether or not it is safe to eat), and nine out of ten want food from clone offspring to be labelled, should it become available in supermarkets. Today's situation, whereby food from the progeny of clones can find its way onto consumers' plates without their knowledge, is not acceptable. If meat and milk products derived from clone descendants are not banned in the EU, consumers should at least be allowed to make an informed choice.

### State of play in legislative procedure



In December 2013, the **European Commission** published two legislative proposals dealing with the use of cloning for food production and the sale of food from clones on the European market (in parallel to a third proposal for a regulation on Novel Foods, with cloning now explicitly excluded from its scope). While they prohibit the cloning of animals for food supply in the EU, the proposals do not address the critical issue of food from the progeny (offspring and descendants) of cloned animals, though this is what is most likely to end up on consumers' plates.



In September 2015, at first reading, the **European Parliament** voted to ban cloning for food supply in the EU as well as to prohibit imports of animal clones and their descendants, reproductive material from clones and their descendants, and food derived from these animals.

### Recommendations for the Presidency

We urge the Slovak Presidency to advance Council discussions on the cloning laws and to work towards improving the Commission's proposals, as they fall short of European consumers' expectations. The recently-struck deal on the updated Novel Foods Regulation will include transitional measures to ensure that food from clones does not end up in a legal vacuum pending agreement on the cloning proposals. However, food from clones' descendants will remain unregulated, leaving consumers in the dark as to whether or not the meat on their plates comes from a clone progeny.



## What we need to succeed



- EU consumers should be able to make informed choices when it comes to purchasing and consuming food from the offspring and descendants of cloned animals. A full, compulsory traceability system for clones and their reproductive material, offspring and descendants should be established, accompanied by labelling rules for the food derived from these sources.
- At a minimum, we call for the reintroduction of the package of measures that the Council and European Parliament agreed upon in 2011, including traceability of clone reproductive material, live offspring and food derived from this offspring, as well as labelling requirements for fresh meat from the offspring of cloned cattle.
- Ongoing trade negotiations should not form an obstacle to the adoption of EU legislation on cloning that meets consumers' demands for transparency on how their food is produced.

### ADDITIONAL SOURCES

Position paper: EU consumers have little appetite for cloning [BEUC-X-2014-076](#)

Factsheet on food from cloning animal [BEUC-X-2014-094](#)

For more information: [food@beuc.eu](mailto:food@beuc.eu)



# Consumer Rights

1

## New initiatives on online purchases of tangible and digital products

### Why it matters to consumers

Consumers across the EU increasingly shop online, but they still face obstacles and legal uncertainties that are partially related to a lack of legal harmonisation. This is the case when it comes to the purchasing of digital goods such as online music, software, eBooks, films, and so forth. As most Member States have not yet modernised their sales laws in order to tackle the particularities of these goods, consumers are not adequately protected when problems arise, for example with non-conforming products.

As a result, the European Commission has published two legislative initiatives covering the purchase of digital content and the online sale of tangible goods. These proposals replace the 2011 proposal for a Common European Sales Law (CESL), which was not adopted.

While we fully support the Commission's new initiative to harmonise the rules for digital content products, we are sceptical about the proposal to buy tangible goods (e.g. clothes, books, electronic appliances) online. This proposal would result in a set of rules applicable only to this type of product. This fragmentation between the online and offline worlds will lead to confusion for consumers and businesses. Depending on the level of protection of the new initiative compared with the national rules applicable in the physical world, this approach could discriminate between consumers depending on method of purchase. In addition, a significant deviation between rules for tangible and digital goods will confuse consumers about their rights, particularly in relation to smart devices.

### State of play in legislative procedure



The two proposals for Directives were issued by the **European Commission** in December 2015. While the initiative on digital content advanced quickly under the Dutch Presidency, the proposal on tangible goods purchased online has been put aside until the first results of the ongoing REFIT of the consumer law acquis are known.



In the **European Parliament**, the distribution of the work to the relevant Committees has taken longer than usual and the timelines are not clear for either proposal.

## Recommendations for the Presidency



We hope that the Slovak Presidency will continue the debate in the Council on the proposed Directive on digital content. For the sake of coherence and clarity in EU consumer contract law, we recommend that this Directive be aligned with the proposed Directive on the distance sales of goods in order to avoid significant differences between key consumer rights in the two initiatives.

### What we need to succeed

- We strongly support a legislative instrument to harmonise contract laws for digital products. The scope of this instrument should include digital content and services, as well as contracts that are concluded on the basis of the exchange of consumers' personal data or any other data provided by the consumer as remuneration.
- In relation to the initiative around the purchase of tangible goods, we call on the European Commission to expand its scope to cover consumer rights for all sales channels, rather than splitting the market into offline and online purchases. We would also like to stress that full legislative harmonisation should be undertaken only at the highest level of consumer protection, and that this kind of legal measure should never preclude useful, well-established consumer rights at the national level.

### ADDITIONAL SOURCES

The new initiative for online and digital purchases:  
Letter sent to Commissioner Věra Jourová  
on 20 March 2015  
[BEUC-X-2015-031](#)

The Digital Single Market Strategy:  
Consumer organisations & e-commerce businesses'  
joint call re: online purchases.  
Joint letter BEUC/Ecommerce Europe  
[BEUC-X-2015-043](#)

Proposal for a Directive on contracts for the supply of  
digital content. Position paper  
[BEUC-X-2016-036](#)

Response to the European Commissions' public  
consultation on contract rules for online purchases of  
digital content and tangible goods  
[BEUC-X-2015-077](#)

BEUC position on tangible goods  
[BEUC-X-2016-053](#)

## 2

# REFIT consumer law 2016

## Why it matters to consumers

The purpose of REFIT (the Regulatory Fitness and Performance Programme) is to evaluate the ‘fitness’ of the consumer law acquis: whether the objectives of the relevant legal acts have been achieved, and whether market integration has been fulfilled. The objectives of important Directives under this REFIT, such as the Consumer Sales Directive and the Unfair Terms Directive, are to promote consumers’ interests and safeguard a high level of consumer protection. It must accordingly be ensured that any evaluation of consumer law puts consumers’ interests foremost, avoids any weakening of consumers’ protections, and ensures a solid and enforceable legal framework for all consumers.

## State of play in legislative procedure



In 2016, the **European Commission** published a roadmap to inform stakeholders and citizens about the REFIT initiative, held a public consultation, and issued a call for participation in a stakeholder consultative group. BEUC and our members will be part of this expert group, and will contribute to the evaluations taking place within the REFIT.

## Recommendations for the Presidency



Initiatives in the context of the REFIT that affect consumers’ interests should aim to achieve a solid and modern framework for business-to-consumer transactions in the internal market, based on a high level of protection. We hope that the Presidency will ask the European Commission to report on the results of the first study and the stakeholder consultation, and that it will work to support BEUC’s call for a solid legal framework adapted to new market developments that provides for a truly high level of consumer protection and an improved enforcement of consumer rights.

## What we need to succeed

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- We believe that any assessment should be based on robust evidence, focusing on areas where consumer detriment exists or could emerge due to new developments. We request that a good balance be struck between what should be further harmonised and to what degree, and what is better left to national consumer rights frameworks.
- A truly high and enforceable level of consumer protection should be the benchmark for REFIT.
- No right without redress: We call for the development of a more ambitious strategy around the enforcement dimension. Questions on consumer redress and the availability of sanctions must be addressed. Injunctions alone are not an effective deterrent against law infringements by traders. In addition to the protection of collective consumer interests, individual consumers need to be enabled to successfully obtain redress when traders fail to fulfil their obligations.

### ADDITIONAL SOURCES

  
Roadmap for the REFIT of the  
consumer law acquis 2016:  
Comments to the European  
Commission

**BEUC-X-2016-033**

## 3

# Revision of the Air Passengers Rights Regulation

## Why it matters to consumers

The existing Air Passenger Rights Regulation (No 261/2004) significantly improved the status of passengers through the granting of basic rights. However, enforcement of these rights has been toothless and inconsistent. Problems remain widespread, and consumer complaints of poor compliance have risen steadily.

Passengers are often left with the sole alternative of taking legal action against non-compliant airlines, although few are able to do so. The volume of cases before the Court of Justice of the European Union (CJEU) in recent years clearly shows the need to clarify fundamental aspects of the Regulation in order to ensure that passengers can more easily enforce their rights. However existing rights should not be weakened, and the CJEU rulings should be codified in EU law.

## State of play in legislative procedure



European  
Commission

BEUC gave a mixed welcome to the **European Commission's** spring 2013 proposal for the updating of the Air Passenger Rights Regulation. Our reservations centred on the weakening of some of the existing rights (mainly compensation and accommodation in 'extraordinary circumstances').



European  
Parliament

The **European Parliament's** first reading opinion adopted in February 2014 significantly improved the Commission's proposal on nearly every issue. The main achievements were the prohibition of 'no-show clauses' on all return flights and the exclusion of most 'technical problems' from the scope of 'extraordinary circumstances', as well as more re-routing options (for example following a delay and a subsequent missed connection).



Council

While the proposal has been stuck with the **Council of Ministers** for almost two years, the European Commission recently announced a publication of its 'interpretative guidelines', which would codify the existing case law and help to ensure better application and enforcement of the existing legal rules.

## Recommendations for the Presidency



Slovak  
Presidency

The negotiations in the Council have been deadlocked for almost two years. We thus urge the Presidency to make every possible effort to promptly advance the negotiations, and to work to ensure the best outcome for European consumers by drawing on the progress made by the European Parliament.

## What we need to succeed

- Airlines should start compensating passengers when delayed arrivals exceed three hours, as per the Sturgeon CJEU ruling.
- The right to compensation should not depend upon a proactive request by the passenger, nor should this right be nullified when the passenger is informed of a delay or cancellation in advance.
- The new Regulation should include an outright ban on the denied boarding of a connecting or return flight when a passenger has not taken or has missed the outbound leg (i.e. 'no-show clauses'). The majority of 'technical problems' should not qualify as 'extraordinary circumstances'.
- The general right to accommodation in extraordinary circumstances needs to be maintained, or reduced only in line with the European Parliament's first reading opinion (five days of accommodation).
- The right of passengers to file complaints with airlines should not be time limited.
- Re-routing should be granted as soon as possible, and must involve alternative means of transport. The right to re-route should also be granted to passengers subjected to long delays.
- The mandatory reimbursement and repatriation of passengers should be introduced in the case of airline insolvencies, as was demanded by a European Parliament resolution in 2014.
- Passengers should have the right to transfer their tickets to another person should they not travel (e.g. for package travellers).
- Advertised air ticket prices should include the following minimum services: check-in, provision of a boarding pass, and one item of checked luggage. In addition to one item of hand luggage, passengers should have the right to carry other essential items and any airport retail purchases.
- Airlines should be obliged to adhere to Alternative Dispute Resolution (ADR) systems.

### ADDITIONAL SOURCES

Air Passengers' Rights:  
Revision of Regulation  
261/04 on the rights of  
air passengers in the  
event of denied boarding,  
cancellation and long delays.  
Position paper  
**BEUC-X-2013-056**

Position paper on protection  
of air passengers in case of  
insolvency of airlines  
**BEUC-X-2011-105**

Air Passengers Rights –  
Revision of Regulation  
261/04 – BEUC Presentation,  
European Parliament  
Transport Committee  
Hearing  
**BEUC-X-2013-038**

Air Passengers' Rights.  
Factsheet  
**BEUC-X-2013-065**

Air Passenger Rights:  
BEUC comments on  
Commission draft  
interpretative guidelines on  
Regulation 261/2004  
on air passengers rights  
**BEUC-X-2016-034**

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# Enforcement

## 1

## Consumer rights enforcement across Europe and across borders

### Why it matters to consumers

Consumers in one European Member State increasingly face problems that have also occurred to consumers in other Member States. Tackling unfair commercial practices via separate national strategies is therefore no longer an adequate option.

Giving European consumers new or improved rights is not worth much if these rights cannot be properly enforced. If the Single Market is to deliver for consumers, it must be possible to effectively tackle national, cross-border and pan-European infringements to guarantee coherent results.

### State of play in legislative procedure



The **European Commission** is rightly seeking ways to improve enforcement throughout the EU. The 2006 Regulation on Consumer Protection Cooperation (CPC) created a network of national enforcement authorities and gave them powers to investigate cross-border infringements. On 25 May, the review of this regulation entered the legislative process as part of the Digital Single Market strategy.

### Recommendations for the Presidency



We urge the Slovak Presidency to start work on this proposal as soon as possible, and to rank it as a priority in its agenda.



## What we need to succeed

- Valuable, constructive, relationship-building and information-sharing measures between consumer organisations and national enforcers should be prioritised as a prerequisite for the development of a new European enforcement culture.
- Consumer organisations should be considered as genuine partners at the national level, and should be involved in co-ordination work at the EU level. More than simply providing one-way alerts about problems, they should be consulted on the solutions, especially with regards to widespread infringements.
- The operations and visibility of the CPC network should be improved. The law infringement alert system must be made more efficient, and should be open for consumer organisations to submit alerts. A feedback mechanism on reactions to alerts should also be introduced. National enforcers must have adequate resources in order to effectively combat cross-border infringements.
- The draft provisions in the CPC Regulation review enabling national enforcers to facilitate both individual and collective redress for consumers are crucial and must remain in the proposal. This is an essential step in completing the enforcement system. Consumer harm should be taken into account in investigations. Fines paid to authorities, if not re-distributed to victims, should be made available for the work of consumer organisations or projects that benefit consumer organisations.
- Additionally, EU legislation in the area of retail banking, payments, insurance and investment should be covered by the revised CPC Regulation to ensure that the financial authorities in all Member States have a strong consumer protection mandate as well as sufficient resources and powers to fulfil this mandate.

### ADDITIONAL SOURCES

Improving enforcement cooperation: BEUC response to the consultation on the review of Consumer Protection Cooperation (CPC) Regulation  
**BEUC-X-2014-005**

Additional response to the consultation on the review of Consumer Protection Cooperation (CPC) Regulation  
**BEUC-X-2014-038**

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# Energy

## 1

## Energy efficiency

### Why it matters to consumers

EU households spend on average 6.4% of their disposable income on home-related energy use and for many consumers energy bills are one of the main sources of financial concern. Measures to improve energy efficiency in buildings and stimulate the use of more energy efficient appliances can help consumers to save money.

While many European households are becoming more interested in energy efficiency measures, there are still many barriers to increased uptake. For instance, many consumers lack independent advice and low income consumers cannot afford to pay the up-front costs of installation. While its role is often underestimated, energy efficiency provides a sustainable and cost effective solution in the face of rising energy costs and climate change.

### State of play in legislative procedure



Energy efficiency is one of the key pillars of the **European Commission's** Energy Union strategy launched in February 2015.

The 2012 Energy Efficiency Directive, which established a set of binding measures to help the EU reach its 2020 energy efficiency target, was supposed to be transposed by 5 June 2014. The European Commission is now preparing a review to further boost energy efficiency. The proposal is expected in September 2016.



The **European Parliament** has also intensified its work on energy, in particular through its own initiative report on implementation of the Energy Efficiency Directive.

### Recommendations for the Presidency



The European Commission is set to issue a proposal for the review of the Energy Efficiency Directive in September 2016. We urge the Slovak Presidency to make this a top priority and aim for ambitious energy efficiency legislation for consumers.

## What we need to succeed

- Energy efficiency can be the best energy ‘source’ investment, improving affordability of energy bills and driving down the need for additional and costly infrastructure. Therefore its role needs to be recognised.
- The “energy efficiency first” principle needs to be applied to all decisions related to energy, i.e. where energy efficiency improvements are the most cost-effective option, these should be prioritised.
- While the existing Energy Efficiency Directive has increased investments in energy efficiency improvements and national activities in this area, it must be fully implemented urgently, including those provisions aimed to ensure consumers are well-informed, can effectively exercise their rights, and can better control their energy consumption.
- Transparency and scrutiny of the impact of energy efficiency obligation schemes on costs and on energy savings is crucial. Parties such as energy providers or distributors obliged to meet energy efficiency targets must report on the costs they pass on to consumers under these schemes, and national regulators must regularly review the impact that these schemes have on consumers’ energy bills.
- National reporting under the Energy Efficiency Directive should include the consumer experience and outcomes for consumers. The absence of such reporting undermines the incentive for delivery because there is no need to demonstrate the impact on consumers.
- Tapping the full potential for energy savings must be the ultimate goal of the energy efficiency target for 2030. The multiple benefits of energy efficiency for health and employment, as well as its contribution to mitigating climate change, energy poverty and energy import dependency, mean that an ambitious and binding EU-level energy efficiency target for 2030 is needed. Binding targets have proven to be much more effective than indicative ones.
- The energy efficiency legislation review should ensure further support for energy efficiency measures, with a focus on the most cost-effective long-term solutions, while keeping energy affordable. Special attention should be paid to vulnerable consumers as energy efficiency can help reduce energy poverty.
- Adequate financial support schemes to support energy efficiency in buildings are needed to enable all European consumers to be more energy efficient.

### ADDITIONAL SOURCES

Building a consumer-centric Energy Union. BEUC position paper  
[BEUC-X-2015-068](#)

Position paper on consumer rights in the energy sector  
[BEUC-X-2013-083](#)

## 2

# Delivering the New Deal for energy consumers

## Why it matters to consumers

Energy markets are changing. The current outdated model is being replaced with a decentralised market, with more small-scale and renewable energy supplies connected to the grid. National markets are opening up and becoming more integrated, especially at the wholesale level. While BEUC supports the European Commission's vision for an Energy Union, we believe that a truly consumer-oriented Energy Union should represent a new era for consumers, and will therefore require a change of thinking. Smart, sustainable and inclusive consumer policies must be integral to the EU's approach, and consumers need guarantees that they will benefit from this energy transition.

## State of play in legislative procedure



Following the publication of its Strategy for a Resilient Energy Union in February 2015, the **European Commission** launched its 'Summer Package' in July 2015. This represents a step towards the implementation of the Energy Union strategy, including a New Deal for Energy Consumers. The package has kicked off a debate on how the new energy market should be designed.



The **European Parliament** has also stepped up its work on energy in several own-initiative reports on the New Deal for Energy Consumers, the Renewable Energy Progress Report as well as on overall energy market design.

## Recommendations for the Presidency



We hope that the Slovak Presidency will, in its political guidelines on the design of the future energy market, focus on building an Energy Union that is geared towards consumers and towards easily manageable energy markets. These markets should offer transparent prices, sustainable choices, better control over energy consumption and bills, and fair access for consumers willing to invest in domestic renewable energy generation.

In relation to the upcoming legislative proposals under the Energy Union (including the 4th package) we hope that the Presidency will work towards putting consumers at the centre of the legislative package.

## What we need to succeed

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- The internal energy market must be completed to allow consumers to reap the benefits of a truly competitive, consumer-friendly energy market place that delivers real choices. Relevant EU legislation, especially the Third Energy Package, must be completely transformed and implemented urgently to make markets work better for consumers and ensure that they can effectively exercise their rights.
- Legislative proposals on the New Deal for Energy Consumers, on new market design, and on renewables should guarantee all European consumers access to reliable, secure and sustainable energy at affordable prices. This framework must also allow sufficient supervision to ensure that energy markets are transparent, competitive and efficient.
- Consumers must be able to actively participate in the energy market. To develop trust, they need to have access to meaningful, accurate and understandable information on consumption and related costs, as well as on the types of energy sources. They need to be able to easily compare energy offers and smoothly switch to the best deal. Adequate protection must be put in place, especially for those in vulnerable situations to allow them to benefit from the market.
- Consumers need clear, comparable and credible information about 'green electricity' tariffs. Electricity tariffs with environmental claims should be transparent and deliver exactly what they claim. Consumers should get what they think they pay for, i.e. their money must lead to additional investments in renewable generation capacities. Simply selling Guarantees of Origin (GOs) does not necessarily result in increased capacity.
- European electricity markets need to deliver benefits to both consumers and to consumers producing their own electricity, individually or in groups such as cooperatives. While distributed generation should provide consumers with an opportunity to become active players in the market, further policy action is required on the most suitable technology for different kinds of households; as well as action on complicated permit procedures, the absence of reliable remuneration schemes for excess electricity fed into the grid, and access to capital. Renewable energy policies must not only target house-owners but also allow tenants living in multi-storey dwellings to generate their own energy.
- EU policy makers and regulators should further analyse the impact of market dynamics and price fluctuations on household consumers, taking into account different types of residential consumers, and identifying consumer groups that are unlikely to benefit from time differentiated tariffs. New tariffs need to be simple and clear. Consumer participation in demand response schemes must be voluntary and consumers' flexibility should be rewarded. Consumer protection needs to be carefully monitored and the impact on non-participating consumers must also be included.
- The Energy Union governance system should be transparent and based on robust monitoring processes that lead to consumer-friendly energy markets. Organisations representing consumers should be recognised as partners in policy development processes.

## ADDITIONAL SOURCES

Building a consumer-centric Energy Union. BEUC position paper  
[BEUC-X-2015-068](#)

A welcome culture for consumers' solar self-generation – BEUC policy recommendations  
[BEUC-X-2016-001](#)

Trustworthy 'green electricity' tariffs – BEUC policy recommendations  
[BEUC-X-2016-002](#)

Current practices in consumer-driven renewable electricity markets – BEUC mapping report  
[BEUC-X-2016-003](#)

BEUC recommendations on a new Renewable Energy Directive – Response to the European Commission's public consultation  
[BEUC-X-2016-013](#)

Improved comparability of energy offers – Statement by BEUC, Eurelectric and Eurogas  
[BEUC-X-2016-043](#)

BEUC response to the CEER position paper on well-functioning retail energy markets  
[BEUC-X-2016-006](#)

Position paper on consumer rights in the energy sector  
[BEUC-X-2013-083](#)

BEUC and CEER Joint Vision for Europe's Energy Customers  
[BEUC-X-2013-100](#)

Factsheet on Renewable Energy  
[BEUC-X-2015-007](#)

Factsheet – Where does the money from 'green' tariffs go?  
[BEUC-X-2016-028](#)



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# Financial Services

1

## Enforcement and supervision of consumer financial services law

### Why it matters to consumers

Consumers expect the financial products on the market to respond to their needs and to meet legal standards. Financial supervisors must therefore deal with consumer protection effectively and independently. Over the past few years, several EU legislative texts have been adopted in the area of retail financial services. The current challenge is to ensure that this legislation is properly implemented and enforced at the national level. In many Member States, supervision is poor.

### State of play in legislative procedure

We acknowledge that the oversight of businesses lies mainly within the competence of national supervisors. However, an appropriate level of enforcement requires EU-level convergence of national supervisory practices and increased cooperation between Member States. The European Supervisory Authorities (the European Banking Authority, the European Security and Markets Authority and the European Insurance and Occupational Pensions Authority) have an important role to play in achieving this supervisory convergence.

The Slovak Presidency has suggested a review of the funding and governance structures of the European Supervisory Authorities (ESAs), which provides the opportunity to grant these bodies a stronger financial consumer protection mandate.

### Recommendations for the Presidency

We urge the Slovak Presidency to push for stronger financial consumer protection mandates for the ESAs in the context of the upcoming review of their funding and governance structures.



## What we need to succeed

- A merger of the consumer protection divisions at the ESAs in order to give more prominence to the issues of conduct-of-business supervision and consumer protection.
- The provision of a clear mandate to the ESAs to lead the work on the convergence of conduct-of-business supervision practices across Member States, so that there are financial supervisors with strong consumer protection mandates, sufficient resources, and the power to fulfil their mandates in all Member States.
- Support for the ESAs in using their power to ban the unsuitable and toxic financial products granted by the regulations establishing the ESAs and reinforced by a specific mandate provided by MiFID Regulation.

### ADDITIONAL SOURCES

Financial supervision in the EU: A consumer perspective. Study for BEUC by Prof. Dr. Udo Reifner and Sebastien Clerc-Renaud.  
**BEUC-X-2011-056**

Protecting consumer interests in the retail financial services area. Position paper  
**BEUC-X-2011-111**

Green Paper on retail financial services: BEUC response to the Commission Consultation  
**BEUC-X-2016-027**



## 2

# Review of the Prospectus Directive

## Why it matters to consumers

Consumers buying shares or bonds must rely on information disclosed in the prospectus for an overview of the key features of these financial products. However, the current prospectus does not manage to fulfil its objective of providing consumers with clear and understandable information. Even the summary of the prospectus, which explicitly targets individual investors, is lengthy and written in complicated legal language, making it useless for most consumers.

As a result, many consumers have bought financial products unaware of the inherent risks, resulting in substantial consumer detriment.

In its proposal to review the Prospectus Directive, the Commission is clearly striving for the improved disclosure of key information to consumers via the summary prospectus.

## State of play in legislative procedure

The **European Commission** adopted a proposal in November 2015 to review the Prospectus Directive.

The **European Parliament** is currently discussing the draft, which will be voted in the Economic Affairs Committee in June of 2016.



## Recommendations for the Presidency

We urge the Slovak Presidency to adopt a consumer-friendly stance when reviewing and adopting a common approach to the Prospectus Directive.



## What we need to succeed

- In order for the Prospectus Directive to serve consumers' interests, the summary prospectus must be well-aligned with the key information documents for Packaged Retail and Insurance-based Investment Products (PRIIPs), for example giving the necessary powers to the supervisory authorities for detailing the content of the prospectus summary and attaching liability to it.
- Consumers must have access to the prospectus summary in their own languages. Under the current regime, the only documentation they have detailing the key features – and risks – of their bonds or shares is often in a foreign language.
- Current thresholds for exempting issuances from the requirement to publish a prospectus should not be increased. Upping the lower bandwidth from €100,000 to €500,000 means that businesses can raise large amounts of money amongst the general public without any form of (simplified) prospectus. Raising exemption thresholds could leave consumers increasingly unprotected, which is especially undesirable in light of the steady growth and potential of crowdfunding platforms.



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# Sustainability

1

## Testing of passenger cars and type approval

### Why it matters to consumers

Long before the Volkswagen emissions and fuel consumption scandal came to light, there were already major problems associated with the testing of the air pollutant emissions, fuel consumption and carbon footprint of passenger cars. Consumers are in essence being misled, and subjected to increased health risks and steeper fuel prices due to the hidden emissions.

### State of play in legislative procedure



The implementation of a new testing protocol for fuel consumption and CO<sub>2</sub>, otherwise known as the Worldwide harmonised Light vehicles Test Procedure (WLTP), has been heavily delayed. This test should ensure that consumers are provided with more reliable information about the performance of their vehicles. The proposal to introduce the new protocol is expected to be imminent.



Furthermore, in January of 2016 the **Commission** made a legislative proposal to reform the existing type approval and market surveillance of passenger cars. The proposal is now being assessed by both the **Council** and the **European Parliament**.





## Recommendations for the Presidency

Our recommendation to the Slovak Presidency is that the new testing protocol is implemented no later than September 2017, and that the existing CO<sub>2</sub>/fuel consumption targets are not weakened as a result of the new requirements. We also hope that the Presidency will handle the proposal for passenger car type approval and market surveillance regulation as a top priority. Given the widening of the car emissions scandal in Europe, this regulation needs to be strengthened in order to increase consumer confidence in vehicle testing and compliance procedures.

## What we need to succeed

- The WLTP should be swiftly adopted under EU law, and should become operational by 2017 in order for consumers to have a more realistic picture of fuel consumption.
- The Commission should explore extending the use of on-road tests beyond air pollutant emissions to include a vehicle's fuel consumption and CO<sub>2</sub> emissions.
- There should be quantifiable targets for the number of compliance tests conducted across the EU for both production and in-use vehicles.
- If the results of conformity tests differ significantly from the type approval vehicles, the manufacturers should revise their claims accordingly.
- A greater level of independence in the type approval process must be ensured, and any potential conflict of interest eliminated.
- Greater transparency of type approval and market surveillance practices must be ensured through providing access to vehicle test results and the reporting of activities and decision making surrounding recalls. Effective penalties must apply for all forms of non-compliance, including the provision of misleading fuel consumption figures to consumers and the use of defeat devices that lower emission values for test purposes.

### ADDITIONAL SOURCES

The Great Fuel Consumption Scam:  
BEUC position paper on improving fuel  
consumption testing of cars in the EU.  
[BEUC-X-2015-016](#)

Car Fuel Consumption Testing.  
Factsheet  
[BEUC-X-2015-042](#)

BEUC position paper on type approval  
[BEUC-X-2016-052](#)

## 2

## Energy label

### Why it matters to consumers

The EU Energy Label enables consumers to opt for the most energy-efficient products, thus helping them to lower their energy bills and at the same time put less strain on the environment.

Initially, the label rated the energy efficiency of appliances in an energy class scale ranging from A to G, with class A comprising the most efficient products. Research has shown that the clarity and straightforwardness of this scheme made it very popular among consumers, spurring a rapid market transformation as manufacturers rushed to provide consumers with top-rated products. The label therefore fulfilled its aim of incentivising both consumers and retailers to adopt more energy-efficient appliances.

Many products met and exceeded the original A scale over the years, and the EU consequently decided to add A+ grades to recognise energy efficiency improvement in products. Three new categories were added on top of energy class A: A+, A++ and A+++. However, research shows that the loss of the simple 'buy A' message has resulted in consumers that are less motivated to purchase more energy-efficient appliances.

### State of play in legislative procedure



In July 2015, the **European Commission**, as part of the implementation of the Energy Union strategy, proposed a revision of the EU Energy Labelling Directive that includes a return to a closed A to G scale.



The Council's General Approach was agreed in November 2015, but the **European Parliament** Committee (Industry, Research and Energy) is not expected to vote on the proposal until June 2016.

### Recommendations for the Presidency




We urge the Slovak Presidency to ensure a high level of ambition in the revision of the EU Energy Label during the co-decision process.

## What we need to succeed

- An EU Energy Label based on the simple, well-recognised, closed A to G scheme.
- The rescaling of energy labels based on technological progress. The revised legal text must establish a detailed set of rules for when and how this rescaling will be carried out.
- Existing Energy Labels need to be quickly rescaled and adapted to the A-G scheme following the adoption of the revised framework legislation. The Council's general approach is problematic, as a delayed adjustment will prolong consumer confusion and postpone the benefits of the new scheme.
- A product registration database for the purposes of consumer information, policy making, and market surveillance should be developed.
- The effect of labelling measures in 'promoting' larger appliances must be reversed. For certain product groups like washing machines, bigger appliances can easily reach the highest energy efficiency classes in the current scheme. These appliances, although efficient for their size, might consume more energy than smaller ones and may not be the best choice for consumers with smaller households. We consider the current revision of the scheme as an opportunity to address this phenomenon.
- The current rethinking of the EU Energy Label provides an opportunity to consider informing consumers about the lifetime expectancy of products through the EU Energy Label. Therefore, the revision should refer explicitly to the possibility of providing durability information on the label as supplementary information.

### ADDITIONAL SOURCES

 Simplifying the EU Energy Label: Restoring the successful and well-understood closed A to G scheme. Position paper  
**BEUC-X-2015-065**

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# Safety

1

## Revision of product safety & market surveillance legislation

### Why it matters to consumers

Unsafe consumer products that require recall, including products bearing the CE marking, are often found on the European market. They pose an avoidable risk to the health and safety of consumers. An update of the current EU product safety rules was therefore overdue in order to ensure consumers' well-being.

### State of play in legislative procedure



February 2013, the **European Commission** proposed a Consumer Product Safety Regulation (CPSR) and a Market Surveillance Regulation (MSR). This package contains important innovations to enhance product safety in the internal market, such as rules on more effective product traceability throughout the supply chain.



In April 2014, the **European Parliament** adopted its first reading opinion on the package of both proposals, which included several positive elements such as the setting up of an EU-wide incident and injury database, stronger sanctions, and penalties against liable traders and producers. Parliamentarians also strengthened the precautionary principle, which ensures the withdrawal of potentially unsafe products from the market based on a justified assumption that a product is dangerous. The European Parliament maintained the controversial obligation for mandatory country of origin labelling.

### Recommendations for the Presidency



In the Council of Ministers, negotiations have been at an unacceptable stalemate for more than three years due to Member States' divergent opinions on country of origin labelling for products, which is neither a safety-related topic nor a priority for consumers and could safely be taken out of the proposal. Despite the spring 2015 publication of a new study on the impact of country of origin labelling of products, ministers were unable to agree on a way forward. A discussion at the Competitiveness Council in May 2016 also had no clear results. The Slovak Presidency will therefore have a crucial role to play in working towards a solution.

## What we need to succeed

- BEUC calls for the use of the precautionary principle as a cornerstone for the Regulations on consumer product safety and market surveillance. Policymakers need to be able to act to prevent danger, even in the absence of absolute scientific proof. We insist that in risk management, the final call for what constitutes an 'acceptable' level of risk must remain a political responsibility. This principle should be clearly reintroduced in the Regulation.
- The focus of the revision should be on the most effective traceability instruments, such as indicating a batch, type or serial number; indicating the full address of the manufacturer and importer on the product or packaging; implementing the 'one up, one down principle' as exists with food; and empowering the Commission to adopt additional traceability requirements in certain justified cases.
- Equipment and machines on which consumers ride or travel, e.g. amusement park rides, should be included within the scope of the Consumer Product Safety Regulation (CPSR).
- Product-specific legislation that addresses environmental issues such as the EU Ecolabel Regulation, the EU Ecodesign Directive and the EU Energy Labelling Directive should be included in the scope of the Market Surveillance Regulation (MSR).
- Business secrets cannot prevail over the immediate need to inform consumers about serious risks. Market surveillance authorities need to adequately warn consumers without delay, and publish all of the relevant information needed to identify a product and the risks involved.
- Penalties need to be proportionate to the infringement, not to the size of the company.
- An EU-funded accident statistics system and a European complaint handling/reporting point should be established.
- Products with characteristics appealing to children must be safe for children to use or touch under all conditions.

### ADDITIONAL SOURCES

European Commission proposal for a Regulation on market surveillance of products. Position paper ANEC and BEUC  
[BEUC-X-2013-033](#)

European Commission Proposal for a Consumer Product Safety Regulation. BEUC/ANEC Position paper  
[BEUC-X-2013-034](#)

## 2

# Hormone disrupting chemicals

## Why it matters to consumers

Every day we come into close contact with an enormous range of human-made chemicals. We use skin creams containing parabens, computers containing brominated flame retardants, and plastic kitchen tools containing Bisphenol A.

Many of the chemicals found in consumer products are known to disrupt the hormonal system (known as 'endocrine disruptors'), in particular when exposure takes place during crucial stages of development such as pregnancy. This exposure to a multiplicity of chemicals in everyday life is of particular concern as the EU regulatory framework assesses safety on a chemical-by-chemical basis and largely neglects the 'chemical cocktail effect'. As there are currently no legislative criteria that define an 'endocrine disrupter', these chemicals are unregulated despite the urgent need to restrict their use.

## State of play in legislative procedure



The **European Commission** has resumed work on defining criteria for Endocrine Disrupting Chemicals (EDCs) – work which was put on hold for several years due to intense industry lobbying. Based on input from the World Health Organisation and the European Commission's Joint Research Centre (JRC), a screening method is being applied to several hundred chemicals, mainly pesticides and biocides, as well as to some industrial chemicals and chemicals used in cosmetic products, to test different regulatory options. A recently completed impact assessment is expected to result in a proposal for legislative reform.



The **European Parliament** adopted its own initiative report on protecting public health from endocrine disruptors in March 2013, and underlined the need for the European Commission to act. In December 2015, the European Court of Justice ruled that by failing to adopt criteria for identifying hormone disrupting chemicals (EDCs) the European Commission had breached EU law. The European Commission subsequently announced that a decision on the criteria would be taken before summer 2016.

## Recommendations for the Presidency



We call upon the Slovak Presidency to facilitate an in-depth discussion, taking into account the European Parliament report on how consumers can effectively be protected from hazardous endocrine disruptors. This topic also has huge economic relevance for all Member States, as the diseases that are linked to environmental exposure to hormone disrupting chemicals put a considerable burden on public health budgets.



## What we need to succeed

- Endocrine disrupting chemicals (EDCs) must be regulated in order to reduce exposure. Safer alternatives must be used where they exist.
- A science-based definition for ‘endocrine disruptors’ is needed that is coherent and applicable to all existing and future EU legislation. EDCs should be classified and regulated in the same way as chemicals that are Carcinogenic, Mutagenic or Toxic to Reproduction (CMRs).
- A number of EU laws, such as the Cosmetics Regulations, already incorporate specific provisions on EDCs. Once adopted, EDC criteria must therefore be implemented in the relevant laws without further delay.
- EDCs that have been identified as Substances of Very High Concern (SVHCs) should be included in Annex XIV of the REACH regulation. As a result, the use of these substances would require authorisation.
- Under REACH, the role of authorities is to evaluate registered substances and propose appropriate risk management measures. They should consider not only the information in the REACH dossier when screening chemical safety assessments, but also any other available information to assess whether the substance could be endocrine disrupting.
- The Cosmetics Regulation must be amended to ensure protection of consumers against EDCs used as ingredients in cosmetic products.
- Risk assessment and risk management methods must be updated to take into account low-dosage effects of EDCs as well as the combined effect of different chemicals.
- As part of the EU strategy on endocrine disruptors, the European Commission identified a priority list of substances that require further evaluation regarding their role in hormone disruption. However, this list was established several years ago and therefore needs to be updated in the light of REACH registration dossiers and other newly available data.
- More EU-funded research is needed in order to better understand the complexity of the endocrine system, as well as the effects of endocrine disrupting chemicals on human health and the environment.

### ADDITIONAL SOURCES

Factsheet on Endocrine Disrupting Chemicals -  
[BEUC-X-2011-039](#)

Position paper: BPA Should be Phased Out from Consumer Products  
[BEUC-X-2011-038](#)

‘Top 10 Actions MEPs can undertake to lower the exposure of consumers and of the environment to Endocrine Disrupting Chemicals’  
[BEUC-X-2011-040](#)

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# Trade

1

## Transatlantic Trade and Investment Partnership (TTIP)

### Why it matters to consumers

The aim of the TTIP, a transatlantic trade deal between the EU and the US, is to boost growth and to create new jobs by removing tariffs and non-tariff barriers, thus facilitating trade in goods and services and increasing investment flows.

Increased trade with the US market could bring several advantages for European consumers. However, differences in EU and US regulations in areas as diverse as food, chemicals and the protection of personal data have prompted concerns that a reduction of non-tariff barriers could be to the detriment of European consumers.

### State of play in legislative procedure



In June 2013, the Council of the European Union granted negotiating directives to the **European Commission** to formally start trade negotiations with the United States. Since then, 13 rounds of negotiations have taken place between the parties. The Commission also set up an Advisory Group in 2014 to facilitate a dialogue with civil society organisations.



The **European Parliament** adopted a resolution in July 2015 calling upon EU negotiators to secure a balanced deal for EU citizens that will respect their interests and values.

### Recommendations for the Presidency



Negotiations must take place in consultation with the Trade Policy Committee of the Council of the European Union (TFEU Art. 207.3). Member States have the power to give input throughout the course of the process and to shape the final output. We call on the Slovak Presidency to ensure that the transparency of the negotiations is continuously improved, and that EU consumer, health, environmental, labour and safety standards are safeguarded. Negotiators should take the time needed to present a high-quality agreement to the Council of the European Union and the Parliament. A rushed and – from a consumer perspective – low ambition agreement would not be acceptable.

## What we need to succeed

- More openness and public accountability is necessary in order to ensure trust in trade policy. We welcome the efforts of the Council and the European Commission to improve transparency. This should be supplemented by granting access to consolidated negotiating texts.
- Whereas investments deserve proper protection, the Investor-State Dispute Settlement (ISDS) mechanism has proven to be a fundamentally flawed system. In a context of widespread public mistrust resulting from secretly negotiated trade deals, it is positive that the Commission intends to address legitimate concerns through its proposal for an Investment Court System (ICS). Nevertheless, the proposal fails to address some of the core flaws of ISDS, and therefore will not convince consumers that it is the appropriate way forward. The right to regulate is not adequately protected; conflicts of interest of arbitrators have not been resolved; and the cost and impact of the establishment of the ICS has not been evaluated. In addition, the necessity of having a parallel judicial system between the two most developed legal systems in the world has not yet been proven. Existing levels of protection in the EU and the US fully suffice in guaranteeing legal security for investors.
- EU negotiators intend to establish a regulatory cooperation mechanism in TTIP. The goal of such a system would be to create a dialogue between regulators in order to avoid unnecessary duplications. We are in favour of co-operation between regulators, but not on regulations. It is of the utmost importance that the Council convinces the Commission to reject US demands to introduce elements of their 'notice and comment' system. The US consumer organisations that belong our transatlantic network can attest to the regulatory risks associated with this system. This should be an absolute red line for the EU and its Member States.
- The European Commission and the Member States should aim for an ambitious deal that ensures the protection of consumer, environmental, labour, health and safety standards, and should refuse compromises that will lead to the lowering of these standards or create future obstacles to improving them. Specific rules should be included in the agreement to substantiate assurances that standards will not be lowered. We request that Member States and the European Parliament closely monitor the progress of the negotiations in order to raise timely objections to any provision in the agreement that would lead to consumer detriment. Moreover, TTIP should deliver concrete benefits to consumers beyond reduced prices and increased choice: for example, a more competitive telecoms market, reduced geo-blocking practices, and information and solutions in case something goes wrong following a transatlantic purchase.

### ADDITIONAL SOURCES

Consumers at the heart of the Transatlantic Trade and Investment Partnership (TTIP). Position statement  
BEUC-X-2014-031

Food and the Transatlantic Trade and Investment Partnership (TTIP). Position paper  
BEUC-X-2014-030

Investor-State Dispute Settlement. Factsheet  
BEUC-X-2014-045

TTIP: Investment protection and ISDS. Factsheet  
BEUC-X-2014-050

Transparency & engagement in the TTIP  
BEUC-X-2014-080

Food and TTIP. Factsheet  
BEUC-X-2014-057

Consumers at the heart of trade policy: BEUC position on the Future Trade and Investment Strategy – BEUC-X-2015-060

Optimising regulatory coherence in TTIP: Need to focus on regulators, not regulations. Position paper – BEUC-X-2015-060

## 2

# Trade in Services Agreement (TiSA)

## Why it matters to consumers

The aim of the plurilateral Trade in Services Agreement (TiSA), currently being negotiated between the EU and 22 members of the World Trade Organisation (WTO), is to further facilitate trade in services. TiSA could benefit consumers if it is well designed, consumer oriented, and adapts international trade in services to today's public interest needs.

However, leaks of negotiation texts have raised our concern, as the proposals risk limiting the right of the EU and its Member States to regulate in the future. We are equally concerned about the lack of transparency in the negotiations: this is unacceptable in a modern age trade agreement. Moreover, we fail to see ambitions to secure concrete benefits for consumers (apart from indirect ones such as the potential of lower prices, greater choice, and a boost to innovation).

## State of play in legislative procedure



In March 2013, the Council of the European Union granted a mandate to the **European Commission** to start trade negotiations. Since then, 18 rounds of negotiations have taken place between the parties. The pace of the talks will accelerate this year, with some parties wishing to conclude by December.



The **European Parliament** adopted a resolution in February 2016 calling on EU negotiators to protect consumers while providing them with tangible benefits.

## Recommendations for the Presidency



As with TTIP, TiSA negotiations must take place in consultation with the Trade Policy Committee of the Council of the European Union (TFEU Art. 207.3). Member States have the power to give input throughout the course of the process and to shape the final output. We call on the Slovak Presidency to ensure that TiSA will be negotiated with the same level of transparency as TTIP. So far however only the TiSA mandate and a few negotiating texts have been published, which is not sufficient to ensure an informed debate.

## What we need to succeed

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- More openness and public accountability around the TiSA negotiations is required. The Commission needs to publish all negotiating texts, including consolidated texts, position papers and factsheets. This is particularly critical considering the accelerated pace of the negotiations. In addition, the Commission should encourage other TiSA parties to join the EU's transparency efforts.
- EU negotiators must seek to deliver concrete benefits to consumers, such as a consumer-friendly tel-e-coms market, a reduction in geo-blocking practices, and the promotion of EU data protection rules. Most importantly, increased trade in services between the TiSA parties will give rise to more dispute cases between consumers and service providers. Negotiators need to secure easy access to dispute resolution mechanisms and other effective solutions. EU consumer rights will not be automatically ensured in the case of cross-border trade in services if the necessary provisions are not included in the TiSA text.
- Beyond preserving consumers' rights, TiSA must guarantee the rights of its signatory parties to regulate in the future. In fact, in order for consumers to support TiSA, these future levels of protection must be guaranteed. Thus, TiSA should including solid safeguards for public interest needs, notably on data protection.

### ADDITIONAL SOURCES

How to make TiSA a good deal for consumers.  
Position paper  
[BEUC-X-2015-095](#)

Trade in Services Agreement. Factsheet  
[BEUC-X-2016-017](#)

## 3

# Comprehensive Economic and Trade Agreement (CETA)

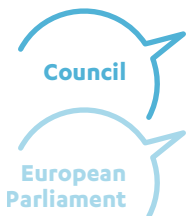
## Why it matters to consumers

The aim of CETA, the Comprehensive Economic and Trade Agreement between the EU and Canada, is to create jobs and growth. If it had been better designed, CETA could have significantly benefited consumers.

The concluded agreement does not meet the criteria for a trade agreement with a focus on consumer welfare. Despite positive components, such as voluntary co-operation on future regulatory initiatives, the agreement still contains provisions that could undermine current and future levels of consumer protection. Under CETA, foreign investors will be able to claim compensation for public policy measures that interfere with their expectations for investment, including consumer protection. Although the European Commission secured last-minute changes to the investment protection chapter, the risk remains that the right of the EU and Member States to regulate will be negatively impacted.

## State of play in legislative procedure

Negotiators concluded the talks in August 2014, and the legal scrubbing was finalised in February 2016. After being translated into all of the official EU languages, the fate of the agreement will be in the hands of the **Council** and the **European Parliament**. The provisional application of CETA is expected to take place during the course of 2017, following the vote of the Parliament.



## Recommendations for the Presidency

The ratification of CETA will set a precedent in EU trade policy. The Council has a responsibility to make sure that trade agreements benefit EU society as a whole and do not undermine the rights of the EU and Member States to regulate. As CETA does not fulfill these essential criteria, the Council should not authorise its signature and provisional entry into force.



## What we need to succeed

- The Slovak Presidency should raise the issue of the legality of the new investment protection provisions in CETA and their compatibility with EU law. It is crucial to verify this fundamental legal point before authorising the agreement's conclusion and signature. To that end, the European Court of Justice should be requested to give an opinion.

### ADDITIONAL SOURCES

CETA fails the consumer crash test: BEUC position paper on the EU-Canada Comprehensive Economic and Trade Agreement [BEUC-X-2016-045](#)

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- AT - Verein für Konsumenteninformation – VKI
- AT - Arbeiterkammer
- BE - Test-Achats/Test-Aankoop
- BG - Bulgarian National Consumers Association – BNAAC
- CH - Fédération Romande des Consommateurs – FRC
- CY - Cyprus Consumers' Association
- CZ - dTest
- DE - Verbraucherzentrale Bundesverband – vzbv
- DE - Stiftung Warentest
- DK - Forbrugerrådet Tænk
- EE - Estonian Consumers Union – ETL
- EL - Association for the Quality of Life – E.K.PI.ZO
- EL - Consumers' Protection Center – KEPKA
- ES - Confederación de Consumidores y Usuarios – CECU
- ES - Organización de Consumidores y Usuarios – OCU
- FI - Kuluttajaliitto – Konsumentförbundet ry
- FI - Finnish Competition and Consumer Authority – KKV
- FR - Consommation, Logement et Cadre de Vie – CLCV
- FR - UFC - Que Choisir
- HU - National Federation of Associations for Consumer Protection – FEOSZ
- IE - Consumers' Association of Ireland – CAI
- IS - Neytendasamtökin – NS
- IT - Altroconsumo
- IT - Consumatori Italiani per l'Europa – CIE
- LT - Alliance of Lithuanian consumers' organisations
- LU - Union Luxembourgeoise des Consommateurs – ULC
- LV - Latvia Consumer Association – PIAA
- MK - Consumers' Organisation of Macedonia – OPM
- MT - Ghaqda tal-Konsumaturi – CA Malta
- NL - Consumentenbond
- NO - Forbrukerrådet
- PL - Association of Polish Consumers – SKP
- PL - Federacja Konsumentów
- PT - Associação Portuguesa para a Defesa do Consumidor – DECO
- RO - APC Romania
- SE - The Swedish Consumers' Association
- SK - Association of Slovak Consumers – ZSS
- SL - Zveza Potrošnikov Slovenije – ZPS
- UK - Citizens Advice
- UK - Financial Services Consumer Panel
- UK - Legal Services Consumer Panel
- UK - Which?



This Memorandum is part of an activity which has received funding under an operating grant from the European Union's Consumer Programme (2014-2020).