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# **Estonian Presidency of the European Union**

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BEUC priorities  
2017





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## Introduction

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The European Consumer Organisation (BEUC) is the umbrella organisation for 43 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 Estonia is the Estonian Consumers Union (Eesti Tarbijakaitse Liit).

In this Memorandum for the Estonian Presidency of the Council of Ministers, BEUC highlights the most pressing consumer expectations for the European Union, makes concrete proposals for how the Estonian 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 Estonian Presidency, several Digital Single Market and Energy Union initiatives will move forward in the legislative process. The Presidency has a key role to play in ensuring that the Council consistently aims for high levels of consumer protection in its work.

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

### Digital Single Market

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The legislative proposal for the supply of digital content and for online purchases of tangible goods, ePrivacy 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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This comprehensive package encompassing legislative action on energy efficiency, renewables, design of the electricity market and governance rules for the Energy Union must put consumers at the centre of Europe's energy transition. Although the proposals are a step in the right direction, several improvements are needed in order to provide a consumer-friendly energy transition.

### Car testing

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The proposal to reform type approval legislation and market surveillance of passenger cars needs to be strengthened in order to restore consumer confidence in the automotive sector. This must include stronger EU oversight, more independence and greater transparency in the system.

### Enforcement of consumer rights

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The review of the Consumer Protection Cooperation Regulation should ensure a speedy end to cross-border infringements of consumer rights, 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.

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

We wish the Republic of Estonia a most successful Presidency.

**Monique Goyens**  
BEUC Director General

**Örjan Brinkman**  
President



# Digital Rights

1

## Ending geo-blocking in the Digital Single Market: E-commerce and audiovisual content

### 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 sales 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 their nationality or residence.

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 often caused by exclusive licensing practices. These practices 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, below).

### 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. The Council and the European Parliament are currently negotiating the final text.



In September 2016, the **European Commission** released its proposal for a regulation on online transmissions of broadcasting organisations to address the problem of lack of cross-border availability of audiovisual content. The proposal is under discussion in the **European Parliament** and **Council**.



### Recommendations for the Presidency



We request the Estonian Presidency to advance the discussions as much as possible in order to ensure the swift adoption of the geo-blocking proposal and the delivery of concrete results for all EU consumers, including broadened access to digital content products and services. 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.

Furthermore, we urge the Estonian Presidency to make progress on the European Commission's proposal on online broadcasting. Consumers are increasingly interested in accessing online audiovisual content such as films, TV shows, sport events and documentaries from broadcasters across the EU. Clear rules are fundamental to Europe's Digital Single Market in order to facilitate the clearance of rights for audiovisual service providers. In this way, content can easily circulate around the EU to the benefit of all consumers and citizens.

## 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.
- At the same time, legislators must avoid introducing any measure into the geo-blocking proposal that could undermine the application of consumer protection principles in private international law, in particular within the context of the Brussels I and Rome I regulations.
- We ask European legislators to extend the scope of the geo-blocking proposal to cover online services and content like eBooks, music and video games.
- 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.
- Unjustified geo-blocking should also be considered as an unfair commercial practice that national consumer authorities can stop and sanction.
- The European Commission should continue to enforce antitrust rules. This will ensure that exclusive and selective distribution is not used to restrict the availability of products via online commerce channels, and will prevent competition to the detriment of consumers.
- We urge European legislators to support the European Commission's proposal on online broadcasting to extend the country of origin principle to online services.
- Broadcasters should be able to provide access to online content to consumers across the EU. To do so, the regulation must provide clear and easy mechanisms for the management of rights by collecting societies, including extended collective licensing.
- The online broadcasting regulation should also facilitate the retransmission of content by online services providers like over-the-top services (OTTs).

### Additional sources

Geo-blocking in Europe:  
Recommendations for the Trilogue  
negotiations  
[BEUC-X-2017-072](#)

European Commission: it is time  
to #STOPGEOBLOCKING!  
Video: <http://bit.ly/1YbcQaV>

#StopGeoblocking  
Factsheet  
[BEUC-X-2016-024](#)

BEUC position paper on  
the geo-blocking proposal  
[BEUC-X-2016-090](#)

European consumers ask to include  
non-audiovisual content in the  
geo-blocking proposal  
Letter [BEUC-X-2016-047](#)

Proposal for a regulation  
on online broadcasting  
BEUC position paper  
[BEUC-X-2017-032](#)

## 2

# Reform of telecoms rules

## Why it matters to consumers

Telecoms markets remain one of the most important sectors concerning 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 to establish a real single market that consumers can benefit from. Telecoms markets still fail to deliver on several important issues for consumers: a high level of consumer protection; competitive markets; and the elimination of geographical barriers.

## State of play in legislative procedure



In September 2016, the **European Commission** published a far-reaching reform of the EU's telecommunications rules that brings together four Directives (Framework, Access, Authorisation and Universal Service) into one single European Electronic Communications Code (EECC). The proposed rules will determine whether there is true competition in fixed and mobile markets and whether consumers are adequately protected and empowered. Throughout the first semester of 2017, both the **European Parliament** and the **Council** have progressed significantly in preparing their respective positions.

## Recommendations for the Presidency



We urge the Estonian Presidency to ensure that the reform of the EU's telecoms rules strengthens and fosters competition across all telecoms markets, and guarantees that consumers are strongly protected with a legal framework that is adapted to current and future digital challenges. Importantly, we urge Member States and the Estonian Presidency to be open to including provisions that tackle the market failures impeding consumers from benefitting from a Single Market.

## What we need to succeed

- The EU's reformed telecoms rules must continue to guarantee competition as the driving force in both generating consumer welfare in the market and in pushing new infrastructure investments. Trade-offs between incentives to invest, competition and consumer protection are not permissible. An ex ante regulatory framework that allows National Regulatory Authorities to intervene in wholesale and retail markets is still necessary. In particular, it is crucial to provide authorities with adequate tools to deal with oligopolistic situations.
- The sector's consumer protection rules need an urgent update, and this includes covering new digital forms of communication. We need to make sure that consumers can reap the benefits of market competition by having clear and easily comparable information about contract conditions and tariffs; friendly rules for contract termination; and free and simple procedures for switching. The telecoms rules that are currently being negotiated will also determine what rights consumers will have regarding the connectivity of future Internet of Things products and applications.
- It is time to build a single market in communications services for consumers without any artificial geographic barriers and discriminatory prices. In principle, the cost of making a voice call or sending a message should be the same no matter where in the EU the service originates and terminates. This is also important for eliminating the current abusively high prices that consumers must pay for cross-border calls and messages sent from home to other EU countries. Competition in this market does not work, and the resulting prohibitive prices for consumers cannot be justified.

### ADDITIONAL SOURCES

Telecom Market Design  
Position paper  
[BEUC-X-2017-025](#)

Consumer protection in the  
Communications Sector  
Position paper  
[BEUC-X-2017-028](#)

International calls  
Factsheet  
[BEUC-X-2017-007](#)

Letter to  
Vice-President Ansip and Commissioner  
Oettinger on the issue of intra-EU  
telecommunications services.  
[BEUC-X-2016-074](#)

Preliminary summary response to the European  
Commission's proposal for a European Electronic  
Communications Code.  
[BEUC-X-2016-115](#)

## 3

# Data protection and ePrivacy

## 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 2016 and will be effectively applicable in May 2018.

In January 2017 the **European Commission** put forward a proposal for a regulation on ePrivacy.

## Recommendations for the Presidency



We urge the Estonian Presidency to advance quickly on the proposal for the ePrivacy Regulation. The review must guarantee the protection of confidentiality in all electronic communications services, and hardware and software used by consumers must provide the highest level of privacy protection by default. This will protect consumers against unwanted online tracking and unsolicited commercial communications.

## What we need to succeed

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- Over-the-top services (OTTs) must be duly covered by the Regulation.
- Default settings in devices and software should be configured to provide the highest level of privacy protection.
- Users' behaviour and activities should not be monitored without their consent, and they should have access to digital services without being forced to accept unnecessary invasions of their privacy. Users should be able to mandate NGOs to represent their interests, and NGOs must be able to take the initiative whenever users' rights have been breached.
- Specific provisions to protect the privacy of children must be introduced.

### ADDITIONAL SOURCES

Summary of BEUC  
response to ePrivacy  
public consultation  
[BEUC-X-2016-073](#)

Proposal for a regulation on privacy and  
electronic communications (e-Privacy)  
Position paper  
[BEUC-X-2017-059](#)

## 4

# Copyright reform

## 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 in the Information Society Directive dates back to 2001, preceding mass usage of the internet, and has thus not kept pace with technological developments. As a result, everyday domestic activities such as backing up files, copying legally bought music, films and e-books 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.

## State of play in legislative procedure



In September 2016, the **European Commission** published its second copyright package. This package includes a Directive on Copyright in the Digital Single Market; a Regulation laying down rules for the exercise of copyright and related rights in respect to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes (see the above section on geo-blocking); and a directive and regulation on the incorporation of the Marrakesh Treaty into national and EU law. Although the aim of this package is to modernise the legal framework and adapt it to the digital environment, it falls short in tackling key consumer concerns such as geo-blocking and legal uncertainty around online consumer copyright usages.



The copyright package is currently being discussed in the **Council** and the **European Parliament**. In what concerns the proposals to implement the Marrakesh Treaty, an agreement between co-legislators was reached in early May.

## Recommendations for the Presidency



We ask the Presidency to ensure that the discussions in the Council on the copyright proposal and on the future legal framework for the online distribution of content address consumers' expectations through the development of competitive and quality legal offers that allow them to access online services available in other Member States. The proposed package, in particular the Directive on Copyright in the Digital Single Market, needs major improvement in this respect.

## What we need to succeed

- With countless new opportunities emerging 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.
- 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 allowed only as exceptions and limitations to the copyright owners' exclusive rights.
- Further harmonisation of 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.
- We urge legislators to look from the consumer's viewpoint at the Commission's proposal that platforms should apply filtering technologies. Such an obligation must not become an instrument for restricting the ability of consumers to create or share content online. Furthermore, the safeguards proposed by the European Commission to protect users' interests are insufficient, and the compatibility of this new obligation with the E-Commerce Directive and the rights granted under the European Charter of Fundamental Rights must be further assessed.
- 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). A right of use under an exception or limitation should be included in the proposal in order to guarantee that the rights granted to consumers are enforceable under copyright law. This is currently not the case with the system of exceptions and limitations.
- 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.

### ADDITIONAL SOURCES

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

What does the EU  
copyright reform mean to  
you as a consumer?  
Blog post  
<http://bit.ly/2shNTE3>

Consumers ask your support for a  
balanced EU copyright regime  
Letter to IMCO Committee  
[BEUC-X-2017-064](#)

2016 Copyright package - BEUC's viewpoint on Art. 13 of the  
proposed Copyright Directive  
Presentation  
[BEUC-X-2016-130](#)

## 5

# Audiovisual media services

## Why it matters to consumers

Audiovisual services, whether traditional television or online video-on-demand platforms, are one of consumers' main sources of entertainment and information. Millions of consumers across the EU enjoy watching movies, series, documentaries, sports and TV programmes. While online media channels are increasingly replacing traditional television for the younger generations, TV still has a prominent spot in many homes.

Consumers should enjoy a high level of protection no matter what audiovisual service they choose to enjoy, be it traditional television or online video-on-demand platforms. In particular, consumers should be protected against excessive and/or inappropriate advertising and other commercial practices.

## State of play in legislative procedure



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

The **European Parliament's** lead Cultural Affairs Committee adopted the Commission's position. On the positive side, video sharing platforms will have to comply with qualitative advertising rules in the future. Unfortunately, the Parliamentary Committee missed the opportunity to take stronger measures to stop marketing of food high in fat, salt and sugar to children.

## Recommendations for the Presidency



We ask the Presidency to make good progress on the Commission's proposal on online transmissions of broadcasting organisations and retransmissions of television and radio programmes, with the aim of facilitating cross-border access to online content.

In relation to the review of the Audiovisual Media Services Directive, we urge the Presidency to aim for an agreement in the trilogue negotiations that delivers a high level of consumer protection and avoids weakening the rules on advertising in any way.

## What we need to succeed

- The problem of lack of cross-border access to content due to the acquisition of territorial rights should be tackled in the European Commission's proposal for a regulation on online transmissions of broadcasting organisations. 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.
- Rules around the marketing of unhealthy foods to children must be tightened. Today, one in three European children is obese or overweight and the marketing of foods high in fat, salt and sugar is a serious risk factor for childhood obesity. This revision should introduce the following important measures: restrictions on the marketing of unhealthy foods during children's peak viewing times and not just during children's programmes; the use of the widely-recognised WHO nutrient profile to determine which products are not healthy enough to advertise to children; and a preference for regulation or co-regulation instead of self-regulation.

### ADDITIONAL SOURCES

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

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



# Energy

## 1

## Energy efficiency

On 30 November 2016, the European Commission presented its Clean Energy For All Europeans package. These rules have three main goals: putting energy efficiency first, achieving global leadership in renewable energies and providing a fair deal for consumers. The package will likely be the largest overhaul of EU energy policy in the next ten years and beyond.

### 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 to stimulate the use of more energy efficient appliances can help consumers save money.

While many European households are becoming more interested in energy efficiency measures, there are still significant barriers to increased uptake. For instance many consumers do not have access to independent advice, and low income consumers cannot afford to pay the upfront 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



In its proposal to revise the 2012 Energy Efficiency Directive, the **European Commission** intends to reduce energy consumption by 30% by 2030, as well as to improve energy consumption information for consumers (for heating, cooling and hot water). Furthermore, the revision of the Energy Performance of Buildings Directive aims to reduce the energy consumption of buildings.



The **European Parliament** has kicked off deliberations in its Committee on Industry, Research and Energy (ITRE) and is aiming to vote in October 2017. The Council is planning its general approach under the Maltese Presidency.

### Recommendations for the Presidency



We urge the Estonian Presidency to push for ambitious energy efficiency policies that deliver real savings to consumers, and to adopt a consumer-friendly stance during the trilogue negotiations.

## What we need to succeed

- A 40% increase in EU energy efficiency by 2030 through EU and national binding energy efficiency targets.
- Short-term and long-term energy savings through the extension of obligation schemes beyond 2020.
- Closed loopholes in energy efficiency policy with regard to transport and renewables. The transport sector should be included in the calculation of energy saving obligations. Member States should not be able to include the renewable energy generated in buildings when meeting their energy savings requirements.
- Energy efficiency measures that are cost-effective, monitored and steered towards households affected by energy poverty.
- An analysis of the costs and benefits of heating, cooling and hot water meters. These meters should be implemented only with consumer consent, and consumers' privacy should be protected.
- Easy access for consumers to accurate information on their building's performance through improved energy performance certificates. Information about the smart features of a building should be designed in a user-friendly format.
- Interoperable charging points that avoid a lock-in effect in order to make it easy for consumers to charge their electric cars. The roll out of the necessary infrastructure should be faster, and SMEs should not be exempted.

### ADDITIONAL SOURCES

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

BEUC recommendations on a new renewable energy directive: response to the European Commission's public consultation  
[BEUC-X-2016-013](#)

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

Lower energy consumption, lower energy bills: BEUC recommendations to make energy efficiency policy work better for consumers  
[BEUC-X-2017-029](#)

## 2

# Time to deliver clean energy for all Europeans, and energy markets that work for consumers

## Why it matters to consumers

Energy markets are changing. The current model is being replaced with a decentralised market, with more small-scale and renewable energy suppliers connected to the grid. National markets are opening up and becoming more integrated, especially at the wholesale level. New players are expected to enter the energy market with innovative technologies and services.

A truly consumer-oriented Energy Union should represent a new era for consumers and requires a change of thinking. Smart, sustainable and inclusive consumer policies must be integral to the EU's approach. Consumers need guarantees that they will benefit from this energy transition and the opportunities offered by digital technology in the energy sector.

## State of play in legislative procedure



In November 2016, the **European Commission** launched its Clean Energy for All Europeans package with three main goals: putting energy efficiency first, achieving global leadership in renewable energies and providing a fair deal for consumers.



The **European Parliament** kicked off its work on the electricity market design and renewables. The vote in the leading Committee on Industry, Research and Energy (ITRE) is planned for November 2017. The **Council** is expected to adopt its general approach under the Estonian Presidency.



## Recommendations for the Presidency



While leading the Council on the design of the future energy market, we encourage the Estonian Presidency to focus on empowering consumers through tools that allow them to easily navigate the energy market, engage with the market and benefit via lower prices and better services.

At the same time, we call on the Estonian Presidency to swiftly advance on legislative proposals under the Clean Energy for All Europeans package in order to ensure that future energy markets are more secure, cleaner and affordable for all consumers.

## What we need to succeed

- Existing consumer protections should be extended to all third party intermediaries (including new generation energy service providers such as aggregators), and these parties should also be required to comply with relevant requirements on for example contracts and billing.
- Consumers should be able to compare offers at a glance, and comparison tools should include bundled offers and dynamic price offers.

- Consumers should receive clear contracts and a user-friendly summary of key contractual information. Important clauses in energy contracts on for example the product, discounts and factors unrelated to the energy supply should be highlighted.
- Bills should be simple, concise and include all essential information, and should be a tool for consumers to discover more advantageous tariffs. The process of switching energy suppliers should be smooth: taking less than three weeks and not incurring disproportionate costs.
- Consumers should be well informed about the risks of dynamic contracts. They should be protected from unreasonable bill volatility, and should not be encouraged to invest in inappropriate, risky products and services that are unsuitable for household consumers.
- Existing and prospective self generators must enjoy security of investment, together with a dedicated long-term strategy to facilitate small-scale renewable self-generation projects by consumers and tenants. Undue financial burdens such as taxes or fees imposed on self-generated electricity should be removed.
- Consumers must have ultimate control over their data, and should be able to seek better offers without compromising their privacy. Their consent should be valid as long as there is a contractual relationship between the consumer and the service provider. As markets converge, cross-sector cooperation between National Regulatory Authorities and enforcement authorities is essential. Member States should ensure that independent Alternative Dispute Resolution schemes are available to address consumer complaints in the energy market, including the settlement of disputes involving suppliers from different sectors.
- Vulnerable consumers should be subject to special protections. Market intervention – such as price capping of specific tariffs (e.g. default tariffs) – should be permitted at levels that allow suppliers a reasonable rate of return when there is evidence that markets are failing.

## ADDITIONAL SOURCES

Energy markets of the future: How the EU's energy transition should work for consumers  
Position paper  
[BEUC-X-2017-062](#)

Making electricity use smart & flexible: How consumers could cut down on electricity use during peak hours and benefit  
Brochure  
[BEUC-X-2017-036](#)

Do's and don'ts for smart, flexible electricity offers  
BEUC position paper  
[BEUC-X-2017-018](#)

Tenants' access to solar self-consumption  
Joint BEUC/IUT policy paper  
[BEUC-X-2017-020](#)

A 'green electricity' market that works for consumers  
Policy recommendations  
[BEUC-X-2016-114](#)

Improved comparability of energy offers  
Joint statement  
[BEUC-X-2016-043](#)

Self-generation of renewable electricity  
Factsheet  
[BEUC-X-2016-127](#)

Fixing daily energy headaches  
Factsheet  
[BEUC-X-2016-126](#)

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

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

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

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

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



# Consumer Rights

1

## Online purchases of tangible goods

### Why it matters to consumers

Building on the high level of protection under the EU consumer law acquis, the proposal concerning the distance sales of goods offers opportunities for reform and innovation in the area of sales law and legal guarantees. The Commission's proposal will impact existing consumer rights, and it is important that these rights are strengthened rather than weakened. There is a need for clear rules on the conformity of goods, and it is crucial that consumers have remedies available in the case of faulty goods. Modern and effective rules concerning online and offline transactions are essential for consumers purchasing across the EU Single Market.

Although the proposed legislation would bring some improvements, it will not result in a high level of consumer protection. In fact, its full harmonisation approach will lead to a reduction of essential rights in several Member States. Furthermore, its scope is restricted to distance sales. If adopted as law, it would lead to a fragmentation between the online and offline worlds and confusion for consumers and businesses. The Commission's approach could furthermore discriminate between consumers depending on their method of purchase.

### State of play in legislative procedure

The proposal for a Directive on Online and Other Distance Sales of Goods was issued in December 2015.

The co-rapporteurs of the relevant committees in the **European Parliament** (Internal Market and Consumer Protection and Legal Affairs) have drafted their report that suggests extending the scope of the directive to all types of sales. A European Parliament study addressing the extension of the scope and other questions will be published before the summer. Another study on a lifespan guarantee model will be published by October. The vote in the lead committee will take place during the Estonian Presidency.

In the Council, contrary to the proposed initiative on digital content (see the following section) the proposal on the online purchase of tangible goods has so far been sidelined.



## Recommendations for the Presidency



The Estonian Presidency will finally kick off the debate in Council on the proposed directive on tangible goods. We recommend that the Presidency strives to ensure that consumers do not lose existing protection standards in their countries. The Council should take into account that together with a product's price, the existence of effective legal guarantee rights is the most important factor for consumers when deciding whether or not to buy a product. Any negative impact of new EU legislation should therefore be avoided. This relates particularly to the duration of the legal guarantee period and the systems of remedies.

## What we need to succeed

- The scope of the directive should be expanded so that it covers consumer rights for all sales channels, rather than splitting the market into offline and online purchases.
- Full legislative harmonisation should be undertaken only at the highest level of consumer protection; this kind of legal measure should never preclude useful, well-established consumer rights at the national level.
- It must be up to the consumer to decide which remedy she or he prefers, as it is the trader who is in breach of contract. A free choice of remedy, established and well-received in a number of Member States, is the fair legislative response to misconduct by the trader.
- A blanket two year maximum legal guarantee period is not sufficient. The legal guarantee period should reflect the longer lifespan of many products and not frustrate legitimate consumer expectations. A reduction in consumer protection in the Member States should be avoided.
- We strongly support the extension of the reversal of the burden of proof period as envisaged by the Commission's proposal.
- We advocate for the joint liability of sellers and producers, based on existing concepts in many Member States. Consumers should be able to choose whether to direct their claim to the seller or the producer; such a choice must furthermore be free and not constrained by unlawful attempts by the seller to reject personal responsibility for the defective good.

### ADDITIONAL SOURCES

The new initiative for online and digital purchases  
Letter

**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 certain aspects concerning  
contracts for distance sales of goods  
Position paper

**BEUC-X-2016-053**

Response to the European Commissions' public  
consultation on contract rules for online purchases of  
digital content and tangible goods

**BEUC-X-2015-077**

## 2

## Contracts for the supply of digital content

### Why it matters to consumers

The fast evolution of communication technologies has allowed business models based on the supply of digital content and services to be developed. These online products have widened consumer choice while at the same time providing new challenges for consumer policy. Consumers are not sufficiently protected when they buy digital content products online such as eBooks, films and music or when they subscribe to digital services. The Commission's proposal for a Directive on Contracts for the Supply of Digital Content offers a unique opportunity to develop a solid consumer protection framework for the digital world and to close the existing legislative gap with the rules that currently apply to the physical world.

### State of play in legislative procedure

The proposal for a Directive on Contracts for the Supply of Digital Content was adopted in December 2015. Overall, the level of consumer protection in the proposal is good.



In the **European Parliament**, the Legal Affairs Committee and the Internal Market and Consumer Protection Committee are jointly responsible for this proposal. In November 2016 the co-rapporteurs presented their draft report. The vote is expected in the second half of 2017.



Last year, the Justice **Council** adopted political guidelines, which to a large degree reflect BEUC's demands. A General Approach was agreed under the Maltese Presidency. It maintained and even improved a number of important elements in the proposal, but unfortunately agreed on a burden of proof for the supplier of only one year.

### Recommendations for the Presidency



We ask the Presidency to work with the European Parliament in achieving a solid deal for consumers that guarantees a high level of consumer protection for digital content products and services, irrespective of whether they are accessed in exchange for payment or as a result of data collection and processing.

## 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.
- The essence of sales law and legal guarantees is to restore contractual equivalence. It should therefore not matter whether the consumer fulfils her or his side of the bargain by giving money in exchange for the product or whether personal or other data is provided as counter-performance. The scope of the Directive should cover all of these situations.
- The Directive should include over-the-top services (OTTs) such as WhatsApp and Google Hangouts. This is the appropriate instrument for protecting consumers with adequate contractual measures for this type of services.
- It should be up to the consumer to freely choose the remedy for any lack of conformity. Options should include conformed digital content or service, receiving a discount or terminating the contract.
- There is no specific need to include a legal guarantee period in this Directive because – unlike tangible goods – digital content is not subject to wear and tear. Member States should refrain from maintaining or introducing such a period.
- The reversal of the burden of proof should always be on the service provider. It would be extremely difficult for a consumer to prove that a defect existed prior to the supply of the digital content. Therefore, if the law introduced a time limit for the reversal of the burden of proof shorter than the limitation period, it would mean that in practice consumers would be protected only for the duration of the burden of proof period.

### ADDITIONAL SOURCES

Proposal for a Directive on contracts for the supply of digital content  
Position paper  
**BEUC-X-2016-036**

Proposal for a Directive on certain aspects concerning contracts for the supply of digital content: BEUC's recommendations for Council's general approach - JHA Council meeting on 8th June 2017  
Letter to Permanent Representations to the EU  
**BEUC-X-2017-063**

Big step towards new rights for European consumers when shopping for digital products online  
Press release  
**BEUC-PR-2017-010**

## 3

## REFIT consumer law 2016-2017

### Why it matters to consumers

The purpose of the European Commission's ongoing REFIT initiative (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. At the same time, the functioning of the 2011 Consumer Rights Directive is being evaluated by the European Commission, and the results of this evaluation will be combined with the REFIT exercise. The objectives of all of the directives falling within this evaluation process, including 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 assessment of consumer law puts consumers' interests foremost, avoids any weakening of 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 about the REFIT initiative, held a public consultation, and formed a stakeholder consultative group. BEUC and several of our members form part of this expert group, and are contributing to the important work taking place within the REFIT initiative. The European Commission has also consulted stakeholders about the functioning of the Consumer Rights Directive, which was implemented by Member States in 2014.



The results of the REFIT initiative were presented at the Competitiveness **Council** meeting on 29 May. The Commission has published comprehensive reports and studies with a strong focus on the better enforcement of consumer rights. For example, they suggest introducing individual remedies in the Unfair Commercial Practice Directive, and putting a stronger focus on digital content purchases and related consumer problems, such as the 'payment' with data for digital services.

Legislative and non-legislative proposals are envisaged by the end of the year.

### Recommendations for the Presidency



Initiatives in the context of the reform of EU consumer law 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 Member States will support BEUC's call for a solid legal framework, adapted to new market developments and providing a truly high level of consumer protection and the improved enforcement of consumer rights.

### What we need to succeed

- A truly high and enforceable level of consumer protection should be the benchmark for any reform proposals of EU consumer law.

- The review of the Consumer Rights Directive should ensure that consumers have remedies at hand in case the trader does not comply with information requirements. The trader should also face penalties in this case. Payment with data and transparency of online platforms are key issues to be addressed.
- We call for the development of ambitious enforcement tools. Generally, consumers should be given the right to claim compensation after having suffered damages from unfair commercial practices. They should also have access to contract law remedies, such as the right to withhold performance or to terminate a contract that has been concluded as a consequence of an unfair commercial practice.
- Traders that do not comply with EU consumer law should face truly dissuasive sanctions, amounting to a significant percentage of their yearly turnover.
- Consumers should always be protected when they buy goods, services or digital content products, regardless of whether they pay with money or provide data as counter-performance. When consumers provide data as counter-performance, they should benefit from information duties and the right to withdraw from the contract under the Consumer Rights Directive. Consumers should also be better protected against unfair clauses in such cases.
- Consumers increasingly rely on online platforms in their decision-making processes. However, the application of EU consumer law is either unclear or not protective enough, particularly when the online platform facilitates communication and contractual transactions between other market players. There should be a higher transparency standard for online platform operators, and they should be liable for incorrect or misleading information. A joint liability with the seller for the performance of a contract should be envisaged in cases where the platform has a predominant influence over the suppliers.
- The Injunctions Directive has shown its importance in stopping illegal practices by traders, but there are practical barriers to using the Directive in some Member States. It is important that injunction proceedings are made more effective and useful for consumers. A link to redress possibilities is needed. For example, the trader should remove the consequences of the breach and consumers should be able to rely on the injunction judgment in their individual or collective redress proceedings.
- There should be a better mandatory standard for the presentation of terms and conditions. The current state of terms and conditions for digital services is bordering on the absurd; consumers have no real possibility to acquaint themselves with the terms and conditions before concluding the contract. Traders should be obliged to keep the length of terms and conditions to a minimum; to highlight essential terms and conditions; and to provide a summary. They should also highlight the relevant data protection requirements.
- There should be a better mandatory standard for the presentation of pre-contractual information. Under current EU consumer rules, the requirements for formulation and design are open to interpretation. We suggest the introduction of descriptive indicative criteria, including general rules about how 'a trader shall present the information' [button, summary boxes, etc.] and, where appropriate, supplemented by specific form requirements [describing the design] which may for example help to mark separate transaction steps.

## ADDITIONAL SOURCES

Roadmap for the REFIT of the consumer law acquis 2016: Comments to the European Commission  
**BEUC-X-2016-033**

Fitness Check of EU Consumer Law 2016  
BEUC Position  
**BEUC-X-2016-081**

Fitness Check of EU Consumer Law 2016 – Additional BEUC Policy Demands  
BEUC Position  
**BEUC-X-2017-040**

Review of the Consumer Rights Directive  
BEUC Comments  
**BEUC-X-2016-093**

# 4

## Product Liability

### Why it matters to consumers

Defective products may cause harm to the consumer, such as personal injuries or property damage. In order to protect consumers from such damage, product liability law has been created to mitigate the risks that arise from defective products and to compensate injured persons from any damage they might suffer. Rules on product liability protect not only the individual consumer but also society as a whole, as they ensure that citizens live in a safe environment. It is therefore essential that injured persons have effective rights at hand to seek compensation and receive help from consumer organisations when they need it.

### State of play in legislative procedure



The **European Commission** has published a Roadmap for an evaluation of the outdated Product Liability Directive, as it is unclear whether the legislation is able to cover potential damages caused by digital technologies. These might include software, 3D printing, robots, drones, self-driving cars, and smart household appliances. The Commission has launched a consultation process on the functioning of the Directive, the results of which will contribute to the assessment of whether and to what extent the Directive meets its objectives.

### Recommendations for the Presidency



The Evaluation of the Product Liability Directive is due to be completed in July 2017. A legislative proposal may follow suit. We are requesting that the Estonian Presidency trigger a debate about the need for a modern and effective product liability system. This will enable consumer trust in products linked to digital technology, such as connected products.

## What we need to succeed

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- EU product liability law must be updated so that it extends to digital content products and services. The update should also cover compensation and safety provisions. As a principle, consumers should always be protected if products, digital content or services cause harm or property damage, including in the digital environment.
- At the same time, other shortcomings of the current Product Liability Directive – such as the problematic threshold for compensation or the burden of proof for the victim – should be remedied or adapted.
- In order to ensure coherence with related areas of law and to prevent harm or damage, there should also be an update of general product safety legislation and sector specific safety legislation where necessary.

### ADDITIONAL SOURCES



Review of Product Liability Rules  
Position Paper

**BEUC-X-2017-039**

## 5

# Revision of the Air Passenger 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 in the position 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



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 regarding questions on how to establish the delay that triggers compensation and questions of assistance and compensation in 'extraordinary circumstances').



The **European Parliament's** first reading opinion adopted in February 2014 significantly improved the Commission's proposal on many issues. 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).

The European Commission recently published its 'interpretative guidelines' on the Air Passenger Rights Regulation, which summarise the existing case law and should improve application and enforcement of the existing legal rules.

## Recommendations for the Presidency



Negotiations in the Council have been deadlocked for more than four years. We thus urge the EU institutions and in particular the Estonian Presidency to assess the situation in light of the current stalemate in order to find strategies how to enhance passenger protection and enforcement.

## 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**

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

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

## 6

# Revision of the Rail Passenger Rights Regulation

## Why it matters to consumers

Passengers travelling by rail are entitled to a high level of consumer protection throughout the EU. This is currently not always the case. Protections differ significantly, as Member States have implemented the national exemptions provided by the current EU Regulation differently. In order to fully enjoy travelling by rail, passengers need more legal certainty and equal treatment no matter where they travel in the EU.

## State of play in legislative procedure



In February 2016, the **European Commission** organised a public stakeholder consultation on Regulation (EC) 1371/2007 on rail passengers' rights and obligations. The next step will be for the Commission to publish a legislative proposal in this field; this is currently expected in the second half of 2017.

## Recommendations for the Presidency



The new proposal for the revision of the Rail Passenger Rights Regulation is expected to be published during the Estonian Presidency. We hope that work in Council will be kicked off as quickly as possible, with the interests of consumers and passengers in mind.

## What we need to succeed

- The possibility to use national exceptions should be removed, or at least significantly reduced, both in time and in scope.
- The new proposal should not introduce an exception linked to extraordinary circumstances; if it does, however, then its scope should be strictly limited (e.g. it should not include technical defects, bad weather conditions, or strikes).
- The implementation of a comprehensive system for dealing with consumer claims.
- Increased powers for the National Enforcement Bodies (NEBs) so that they can efficiently monitor compliance with rail passenger rights legislation.
- The obligation for all operators to adhere to an Alternative Dispute Resolution (ADR) scheme, without prejudice to the right of the parties to seek legal action in court.
- The implementation of complaint handling procedures by all rail operators, including deadlines to be respected when dealing with complaints.

### ADDITIONAL SOURCES

  
The Rights and obligations of rail passengers:  
Commission draft interpretative guidelines on  
Regulation 1371/2007  
**BEUC-X-2015-029**

  
For more information: [consumer-rights@beuc.eu](mailto:consumer-rights@beuc.eu)



# Sustainability

1

## Testing of passenger cars, type approval and market surveillance

### 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



In January 2016 the **Commission** made a legislative proposal to reform the existing type approval and market surveillance of passenger cars. A general approach was adopted in May 2017, and it is expected that the **Council**, the **Parliament** and the Commission will commence with trilogue negotiations in order to achieve a final agreement during the Estonian Presidency. The Council's general approach is weaker than the Parliament and Commission's position. Disappointing proposals include a number of barriers to the issuing of penalties by the Commission for non-compliance; a lack of attention to financial conflicts of interest in vehicle testing; and the absence of independent auditors to check on the implementation of EU rules.

### Recommendations for the Presidency



We recommend that the Estonian Presidency makes the proposal for passenger car type approval and market surveillance regulation a top priority. Given the impacts of the car emissions scandal throughout Europe, new and strengthened regulations are needed to increase consumer confidence in vehicle testing and compliance procedures.

## What we need to succeed

- The EU must play a stronger oversight role with passenger cars, for example through conducting market surveillance activities and by evaluating the harmonisation of rules implemented across Europe.
- There should be significant 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. Furthermore, they should be fined if wrongdoing is discovered and ultimately be liable for any consumer damage.
- A greater level of independence in the type approval process must be ensured, and any potential conflict of interest between car makers, national authorities and private test labs eliminated.
- Greater transparency of type approval and market surveillance practices must be ensured by providing access to vehicle test results and by reporting 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](#)

A consumer view on the Commission proposal on type approval and market surveillance  
 Position paper  
[BEUC-X-2016-052](#)

The great vehicle testing maze  
[www.cartestingmaze.eu](http://www.cartestingmaze.eu)

## 2

## Low emissions cars – legislative package

### Why it matters to consumers

Enabling consumer access to clean, low carbon, fuel efficient cars will allow motorists to save money and better protect both the environment and their health. Between now and 2030, numerous vehicle technologies that would bring about such positive changes and provide substantial financial savings for consumers will be ready to be brought on the market. However, these innovations will not happen by themselves in Europe, and an integrated EU approach is thus needed to reduce vehicle emissions.

### State of play in legislative procedure



It is expected that the **Commission** will publish a package of legislative proposals in late 2017, including proposals for new post-2020 CO<sub>2</sub> targets for cars, with the intention of driving down emissions from passenger cars.

### Recommendations for the Presidency



We recommend that the Estonian Presidency takes an ambitious approach in ensuring that the Council's response to the Commission proposals to reduce car emissions are supported and that they incorporate a consumer-friendly approach.

## What we need to succeed

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- The EU must adopt fuel saving, CO<sub>2</sub> reducing targets for new cars of 75g CO<sub>2</sub>/km or lower for 2025, and 50g CO<sub>2</sub>/km or lower for 2030.
- Targets must be rigorously assessed using laboratory (WLTP) and real world driving tests.
- Targets must be cost efficient and use size rather than mass to determine emission levels.
- Production incentives should focus on those cars that can achieve the largest reductions in air pollutants.
- The EU must collectively ensure the deployment of charging points for alternatively powered cars between 2020 and 2030.
- EU car labelling rules must be reformed in order to better inform consumers.

### ADDITIONAL SOURCES

Making clean cars work for all consumers  
BEUC position on a European approach to  
reducing car emissions between 2020 and 2030  
[BEUC-X-2017-041](#)

Low carbon cars in the 2020s: Consumer  
impacts and EU policy implications  
Summary report  
[beuc-X-2016-122](#)

## 3

## EU Ecolabel

### Why it matters to consumers

The EU Ecolabel promotes Europe's transition to a circular economy, supporting both sustainable production and consumption. Europeans increasingly demand greener products. However, as a result of the proliferation of non-certified green claims, consumers often feel lost when having to choose between several 'green' options.

The EU Ecolabel supports consumers who want to make sustainable choices, and it raises awareness on the need to adopt greener lifestyles. Although one third of Europeans already know the label, increased promotional activities and more 'ecolabelled' goods on the shelves would boost consumer knowledge and access.

### State of play in legislative procedure



In 2014 the **Commission** initiated an evaluation report on the implementation of the Ecolabel Regulation. This report should have been presented to the **European Parliament** and the **Council** in February 2015. However, the Commission decided to delay its publication while undertaking the Fitness Check assessment (REFIT) of the EU Ecolabel Regulation at the end of 2014. In the Circular Economy Action Plan, the Commission committed to increasing the effectiveness of the Ecolabel based on the results of the Fitness Check.



The Environment Council debated the EU Ecolabel in December 2016, with Member States backing it as one of the EU's most successful initiatives both in commercial and environmental terms. The announced publication of the REFIT report within the first trimester of 2017 is delayed, but expected soon. We urge the Commission to rapidly conclude this process in order to end the political uncertainties on the future of the scheme.

### Recommendations for the Presidency



In case the Ecolabel Fitness Check is published only in the second half of 2017, we hope that the Estonian Presidency will discuss the results and support the development of strong conclusions about the benefits of the scheme linked with ambitious recommendations for its reinforcement.

## What we need to succeed

- The implementation of the current Ecolabel Regulation must be made more efficient by optimising all of the procedures offered by the legislation for criteria development.
- The environmental excellence of the scheme must be preserved by ensuring ambitious criteria in all areas relevant to environment and health. There must be clear improvements throughout the entire product life cycle, including the use phase by consumers. The Ecolabel Regulation must always replace hazardous substances with safer alternatives whenever technically feasible. More than four out of ten Europeans are worried about the impact of chemicals in everyday products on their health.
- The scheme should be reinforced by including more goods and services relevant to consumers, and green public procurement.
- Public awareness must be increased, and retailers and frontrunner companies attracted through enhanced and sufficient marketing. Assessments of any potential barriers leading to a low uptake of specific product groups must be undertaken. It should also be considered that it takes time for companies to become engaged.
- Continuous co-operation between the EU Ecolabelling Board and the Commission for criteria development is key. The Commission should always consult stakeholders before taking any regulatory decision affecting the scheme.
- The Commission and Member States should allocate sufficient human and financial resources in order to ensure that the scheme works properly. Within a coherent product policy framework, the EU Ecolabel must have a clear role as the instrument identifying the best environmentally performing products and as a benchmark for sustainable production.

### ADDITIONAL SOURCES

Keep the EU Flower a label of environmental excellence: Consumer organisations and environmental NGOs response to the European Commission's consultation to support the evaluation of the Implementation of the EU Ecolabel Regulation  
**BEUC-X-2014-062**

EEB and BEUC feedback on options for the improvement of the implementation of the Ecolabel Regulation, based on the questions raised by DG Environment and the JRC at the June 2016 EUEB Letter  
**BEUC-X-2017-060**

The EU Ecolabel Factsheet  
**BEUC-X-2017-056**

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# Safety

1

## Revision of product safety and 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 is therefore overdue in order to ensure consumers' wellbeing.

### State of play in legislative procedure



In 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. As part of its 2015 strategy for 'Upgrading the Single Market', the Commission sought public feedback between June and October 2016 on possible options to enhance enforcement and compliance in the Single Market. A new legislative initiative on enforcement and compliance may be proposed in 2017.



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 four 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 Estonian 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 Regulations.
- 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.
- Resources for market surveillance activities at Member State and EU level must be significantly upgraded as a precondition for improved consumer safety and compliance.

### ADDITIONAL SOURCES

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

European Commission Proposal for a Consumer Product Safety Regulation  
ANEC and BEUC 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 phthalates.

Many of the chemicals found in consumer products are known to disrupt the hormonal system ('endocrine disrupting chemicals' or EDCs), in particular when exposure takes place during crucial stages of development such as pregnancy or infancy. 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 largely unregulated despite the urgent need to restrict their use.

## State of play in legislative procedure



In June 2016, following a delay of almost three years, the **European Commission** proposed a set of criteria to identify EDCs. Against the advice of international scientists, the Commission insisted on the requirement of an unprecedented burden of proof for a chemical to be defined as an endocrine disruptor. This narrow definition sets the bar so high that substances suspected of being EDCs will neither be identified or regulated, even when there is compelling scientific evidence of harm. BEUC is concerned that this overly restrictive definition will fail to adequately protect consumers.

Following extensive criticism from several Member States and MEPs as well as independent scientists and NGOs, the Commission has since presented multiple revisions to its initial proposal. While this had led to some improvements, the revisions ultimately amount only to minor changes that fail to address the fundamental issues in the Commission's flawed approach.

## Recommendations for the Presidency



We call upon the Estonian Presidency to facilitate an agreement on an EU definition of endocrine disruptors as soon as possible, taking the European Parliament report on how consumers can effectively be protected from these harmful substances into account. This topic also has huge economic relevance for all Member States, as the diseases linked to environmental exposure to endocrine disrupting chemicals put a considerable strain on public health budgets.

## What we need to succeed

- Endocrine disrupting chemicals 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 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.
- The Cosmetics Regulation must be amended to ensure that consumers are protected against EDCs used as ingredients in cosmetic products. The burden of proof must be placed on the economic operator, and not on public authorities.
- Companies should be made responsible for demonstrating the safety of their products. The evidence they provide should be assessed by scientific committees. The presence of EDCs in consumer products must be made more visible. Better information about the use of known and suspected EDCs in products would allow consumers to make informed choices about how to protect their health.
- 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

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

BPA Should be Phased Out  
from Consumer Products  
Position paper  
[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](#)

Hormone-Disrupting Chemicals: When Will the EU Act against  
These Everyday Toxicants?  
Position paper  
[BEUC-X-2016-077](#)

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# Health

1

## eHealth

### Why it matters to consumers

eHealth has the potential to deliver substantial benefits to patients, to increase the quality, safety and continuity of care, and to contribute to the sustainability of healthcare systems.

The Electronic Health Record (EHR) for instance, a process whereby a patient's health record is collected in digital format, would improve the quality of care even when the patient's doctor is not available. It would also contribute to a reduction in medical errors, make healthcare systems more efficient and responsive to patients' needs, and facilitate consumers' access to their health records.

Despite these benefits, eHealth also exposes consumers to the risk that their health information might accidentally end up in the hands of unauthorised parties.

### State of play in legislative procedure



In the context of the implementation of the Digital Single Market Strategy and as announced in the Strategy's midterm review, the **European Commission** will adopt a communication about eHealth by the end of 2017. It will deal with issues such as citizens' secure access to electronic health records, the possibility to share these records across borders, and the facilitation of feedback and interaction between patients and healthcare providers.

### Recommendations for the Presidency



We hope that the Estonian Presidency will launch a process to provide political guidelines on the implementation of eHealth solutions, and that consumers' privacy, safety and security will be central.

## What we need to succeed

- Privacy, personal data protection and truly informed consent must be guaranteed. Consumers should be in charge of their own medical files, and have the ability to 'log in' and inspect them. Consumers should also give truly informed consent for the storage and sharing of their medical data, and the technology should also ensure reliable identification of the patient and the healthcare professional(s). Different levels of confidentiality and 'access restrictions' on certain information will be required.
- The highest levels of quality and safety must be ensured. Manufacturers should develop eHealth solutions with and for the patient. The quality and safety of the technology should be carefully assessed by the competent authorities by way of a proper certification system. The system should be secured against breaches and crashes.
- Consumers and healthcare professionals must be informed about the implications of eHealth. Member States should organise information campaigns for consumers and training for healthcare professionals. Consumers unable or unwilling to use eHealth technologies should be provided with suitable alternatives and support.
- Interoperability between information shared among different healthcare professionals and between different healthcare settings and systems must be improved.
- Cost/benefit and risk/benefit analyses of eHealth solutions must be conducted. Research should be dedicated not only to finding innovative solutions, but also to assessing the safety, effectiveness and real benefits of existing eHealth applications.

### ADDITIONAL SOURCES

Health in the time of smart phones  
Position paper  
[BEUC-X-2016-112](#)

E-Health action plan 2012-2020  
BEUC response to the public consultation  
[BEUC-X-2011-398](#)

Electronic Health Record  
Position paper  
[BEUC-X-2011-399](#)

## 2

## Access to medicines

### Why it matters to consumers

In the past, access to medicines was a challenge mainly for developing countries. However, European consumers have also struggled to access the medicines they need over the past five to ten years, for example in the case of Hepatitis C drugs and new cancer treatments. Confronted with skyrocketing prices for medicines and limited budgets, governments have to make very hard choices about which treatments to reimburse. Consumers increasingly have to make 'out-of-pocket' payments, which deepens inequalities between wealthier and poorer people.

### State of play in legislative procedure



In June 2016, the **Council** agreed on "conclusions for strengthening the balance in the pharmaceutical systems in the EU and its Member States". Member States acknowledged the problem of high prices for medicines, and called for actions to be taken at EU level.



Following the Council conclusions, the **Commission** announced that it would undertake a report on competition in the pharmaceutical sector, and commissioned a study on supplementary protection certificates, data exclusivity and market exclusivity. Both studies are expected to be delivered by the end of 2017.

In May 2016, the Dutch Government initiated a series of roundtable discussions between health ministries and pharmaceutical companies to address the high price of medicines. So far, three meetings have been organised in Amsterdam, Lisbon and Malta.

Several intergovernmental initiatives are ongoing at EU level. Belgium, the Netherlands and Luxembourg began to cooperate across a range of health areas in 2015, with Austria joining the group in 2016 (BeNeLuxA). Romania and Bulgaria also launched a collaboration in 2016. In May 2017, Italy, Spain, Portugal, Malta, Cyprus and Greece signed the Valletta Declaration for better access to medicines.

The **Commission** is expected to present a legislative proposal on Health Technology Assessment (HTA) by the end of 2017. This proposal deals with the cost effectiveness and value for money of medicines and medical devices.

### Recommendations for the Presidency



We urge the Estonian Presidency to promote intergovernmental agreements on pharmaceuticals, and to include civil society organisations in the continuation of the series of roundtable discussions. We also call on the Presidency to follow up the Council conclusion on strengthening the balance in the pharmaceutical systems in the EU and its Member States.

## What we need to succeed

- Innovation should be fostered by rewarding only medicines that offer added therapeutic value. Member States should increase the uptake of HTAs at national level and exploit synergies at EU level in order to identify products that offer real benefits to patients. Pricing and reimbursement decisions should reward truly innovative products with added therapeutic value in comparison with existing alternatives.
- New tools for price negotiations must be explored. Member States should investigate the possibility of joint price negotiations and improve the exchange of data for better informed pricing and reimbursement decisions. New methods of financing new medicines such as the so-called “managed entry agreements” or risk sharing schemes are being explored, but more evidence is needed in order to understand whether these schemes actually do improve access to medicines, and at what cost.
- Healthier competition in the pharmaceutical sector should be promoted. Member States should better monitor the market, and should implement dissuasive fines for illegal practices. Patent incentives such as supplementary protection certificates, data exclusivity and market exclusivity should be reconsidered in order to avoid abuses at the expense of affordable medicine.
- More effective and transparent R&D is required. Greater transparency is needed around public and private funding for research in order to avoid taxpayers paying twice for the same product: first with R&D incentives for the industry, and then with high prices for medicines. Public and private research priorities should be better defined according to public health needs.
- The problem of medicine shortages must be addressed at EU level. A comprehensive EU response is needed, as Member States may compete with one another for medicine supplies and ultimately risk the continuity of patient care.

### ADDITIONAL SOURCES

Sustainable access to innovative therapies  
BEUC response to the OECD public  
consultation  
**BEUC-X-2017-044**

Access to medicines  
Position paper  
**BEUC X-2015-104**

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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. However in many Member States the quality of 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 co-operation between Member States. The European Supervisory Authorities (ESAs, the European Banking Authority, the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority) have an important role to play in achieving this supervisory convergence.

The **European Commission** is currently reviewing the functioning of the European Supervisory Authorities, and launched a public consultation to that purpose in March. This review, which is expected to conclude during the second half of the 2017, is an opportunity to upgrade and align the quality of conduct-of-business supervision and enforcement everywhere in the EU.



### Recommendations for the Presidency

We urge the Estonian Presidency to push for stronger consumer financial protection mandates for the ESAs in the context of the ongoing review.



## What we need to succeed

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- The creation of a post for a dedicated EU supervisor, who would focus on defending consumer interests in financial services, i.e. separating conduct-of-business from prudential supervision. The provision of a mandate for this EU consumer protection supervisor to ensure the development, implementation and monitoring of common standards of conduct-of-business supervision at Member State level. This would entail having financial supervisors with strong consumer protection mandates, sufficient resources, and the power to fulfil these mandates in all Member States.
- Direct supervisory and effective product intervention powers for the EU consumer protection supervisor with regard to cross-border issues such as risky products and practices that are widespread in several Member States.
- The reform of the governance structures of the ESAs (Management Board and Board of Supervisors) with the goal of improving their operational efficiency and independence, and ensuring the supranational orientation of their work. In addition, the functioning of the ESAs' stakeholder groups should be enhanced.
- The ESAs must be provided with sufficient resources to adequately fulfil their tasks.

### ADDITIONAL SOURCES



Review of the European Financial Supervisors:  
BEUC response to the Commission consultation  
Position paper  
**BEUC-X-2017-051**

## 2

## Security requirements for electronic payments

### Why it matters to consumers

The revised Payment Services Directive (PSD2) imposes new security requirements for electronic payments, the so-called Strong Customer Authentication, as well as for secure communication between banks and Third Party Payment Service Providers (TPPs). The European Banking Authority (EBA) proposed the technical details for these new security standards (the Regulatory Technical Standards, or RTS) in February 2017. Once implemented, these standards are expected to improve the security of payment services as well as the way consumers make payments, in particular via internet and mobile phones.

### State of play in legislative procedure



The EBA's draft technical standards were submitted to the **European Commission** in February 2017. The Commission should send its comments to the EBA in June of this year. Following the EBA's reaction, the Commission will consult the Parliament and the Council before approving the final RTS.

### Recommendations for the Presidency



We urge the Estonian Presidency to ensure that high levels of security and convenience for consumers are taken into account when the Council delivers its opinion on the draft technical standards.

## What we need to succeed

- The new Payment Services Directive (PSD2) contains important provisions on consumer protection. It is crucial that none of these measures are weakened through a delegated act.
- Exemptions to strong customer authentication should not go too far. The threshold for contactless card transactions without PIN verification should be lowered to €30 for individual transactions in combination with a cumulative amount of €100, and strong authentication for the first transaction with a new beneficiary must be binding.
- The protection of confidentiality and integrity in relation to payment instruments should be coherently applied, without differentiation between the various instruments. ‘Screen scraping’ should be forbidden. For example, Third Party Payment Service Providers (TPPs) should not be able to use a consumer’s personal security credentials in order to access their online banking details. A single EU-wide platform that allows banks and TPPs to securely exchange customers’ account data – a so-called Application Programming Interface or API – should be set up.

### ADDITIONAL SOURCES

Draft delegated regulation on strong customer authentication and secure communication  
Response to EBA consultation  
**BEUC-X-2016-098**

BEUC response to European Banking Authority discussion paper  
**BEUC-X-2016-012**

Strong customer authentication for payments  
BEUC suggested changes to the draft RTS  
**BEUC-X-2017-047**

PSD2: Secure communication between banks and third party PSPs  
BEUC letter to Commissioner Dombrovskis  
**BEUC-X-2017-054**

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# Enforcement

## 1

## Consumer rights enforcement across Europe and across borders

### Why it matters to consumers

Increasingly, consumers in one European Member State 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. In May 2016, the review of this regulation entered the legislative process as part of the Digital Single Market strategy.

The Maltese Presidency achieved significant progress in the negotiations around the regulation, and a political agreement was reached at the beginning of 2017. Unfortunately, the Council weakened the Commission proposal on several important points, such as the greater involvement of consumer associations and the powers of enforcement authorities to achieve redress.



The **European Parliament** adopted its report in the Committee on the Internal Market and Consumer Protection in March 2017. The interinstitutional negotiations are not expected to conclude until the end of June.

### Recommendations for the Presidency



Trilogue negotiations are expected to conclude under the Maltese Presidency. If no conclusion will be reached, we urge the Estonian Presidency to continue working on this proposal with the goal of adopting the final text for review.

## 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 must remain in the proposal. Making it possible for consumers to achieve redress is an essential step in completing the enforcement system.
- Additionally, EU legislation in the areas 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**

Strengthening enforcement: BEUC position paper on Consumer Protection Cooperation (CPC) Regulation review  
**BEUC-X-2016-087**

## 2

## Collective redress

### Why it matters to consumers

Consumer rights at the EU level have come a long way in the past 20 years. However, the lack of possibility for consumers to band together to claim their rights when they have suffered detriment is one of the missing pieces of the jigsaw for EU consumers seeking justice. It is crucial that consumers who have been victims of fraud and/or who have suffered from unfair or illegal trader's practices are compensated.

Judicial collective redress for consumers currently operates at the national level in only a limited number of Member States. And even when it is available, the models and effectiveness of the mechanisms vary significantly. They also do not provide for cross-border solutions. This leads to significant discrimination in access to justice, to the detriment of consumers.

### State of play in legislative procedure



The **European Commission** is currently assessing the implementation by Member States of the Commission Recommendation on common principles for judicial collective redress. Based on this assessment it will decide whether further legislative measures are necessary.

On 22 May, the European Commission published a public consultation to collect information on the operation of collective redress arrangements in the Member States. The consultation runs until August 15th, and will gather examples of collective redress cases and/or missed opportunities where such systems are not available.



In its vote in April of this year on the inquiry into emission measurements in the automotive sector,<sup>1</sup> the **European Parliament** garnered cross-party support in calling for the establishment of an EU-wide system for collective redress.

### Recommendations for the Presidency



We urge the Estonian Presidency to push the Commission for a quick presentation of the consultation results, and for a proposal on a legislative initiative to address this crucial missing piece of access to justice for European consumers.

1. European Parliament recommendation of 4 April 2017 to the Council and the Commission following the inquiry into emission measurements in the automotive sector (2016/2908(RSP)), p. 59.

## What we need to succeed

- A binding EU law should be proposed to ensure that collective redress procedures for compensation are available in all Member States and can be used for cross-border cases.
- Consumer organisations should be given legal standing to initiate these procedures.
- A European collective redress system must be at the same time effective and contain safeguards against abuse. Such a safeguard would be for example to give the courts an active role in deciding whether a case can be admitted as a collective action.

### ADDITIONAL SOURCES

Collective redress: Where and how it works  
Brochure  
[BEUC-X-2012-308](#)

EU collective redress:  
Old myths & recent realities  
Brochure  
[BEUC-X-2013-008](#)

Collective redress  
Factsheet  
[BEUC-X-2016-137](#)

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# 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 in several publications the link between the use of antimicrobials in livestock and overall antimicrobial resistance.

### 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 Estonian Presidency to steer Council discussions with a view to reaching a political agreement among Member States on the revision of the veterinary medicines and medicated feed proposals, and to promptly engage into trilogue negotiations with the European Parliament. 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

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

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

Can we trust our meat? Part 2:  
Antibiotic Resistance  
[www.beuc.eu/can-we-trust-our-meat](http://www.beuc.eu/can-we-trust-our-meat)

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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, 15 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 negotiations are on hold, although there are signals that they could be relaunched this year.



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



The new US administration could invite the EU to resume the negotiations during the Estonian Presidency. We therefore call on the Estonian Presidency to use this momentum to ensure a drastic change in the direction of the negotiations. We also count on the Estonian Presidency to ensure improved transparency in the negotiations and the safeguarding of EU consumer, health, environmental, labour and safety standards and fundamental rights.

## 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 proposed Investment Court System (ICS) is flawed and not 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 co-operation 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 Member States convince the Commission to keep the system voluntary and to reject US demands to introduce elements of their 'notice and comment' system, notably through the good regulatory practices chapter. US consumer organisations that belong to our transatlantic network can attest to the regulatory chill risks associated with this system.
- 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 Member States and the European Parliament to 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. For instance, we urge the Estonian Presidency to make sure that the data protection safeguards in TTIP are improved in order to effectively protect EU citizens' privacy. Moreover, TTIP should deliver concrete benefits to consumers beyond reduced prices and increased choice: for example, a friendlier telecoms market, decreased 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](#)

Transparency & engagement in the TTIP  
[BEUC-X-2014-080](#)

Optimising regulatory coherence in TTIP: Need to focus on regulators, not regulations  
Position paper  
[BEUC-X-2015-107](#)

BEUC's key concerns about the Investment Court System proposal  
[BEUC-X-2015-103](#)

The incompatible chemistry between the EU and the US: BEUC Position on Chemicals in TTIP  
[BEUC-X-2016-007](#)

## 2

## Trade in Services Agreement (TiSA)

### Why it matters to consumers

The aim of the Trade in Services Agreement (TiSA), which is 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, 21 rounds of negotiations have taken place between the parties. The talks have been suspended since the US elections, although recent US declarations indicate that the talks could resume during the second half of 2017.



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



Through the Trade Policy Committee of the Council of the European Union, Member States have the power to give input throughout the course of the negotiations and to shape the final outcome. We call on the Estonian Presidency to ensure that TiSA will be negotiated with the same level of trans-

parency and engagement with stakeholders 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

- More openness and public accountability around the TiSA negotiations is required. The Commission needs to publish all negotiating texts, including consolidated texts and concept papers. In addition, the Commission should encourage other TiSA parties to join the EU's transparency efforts and to organise systematic stakeholder events during the rounds as soon as the talks resume.
- EU negotiators must seek to deliver concrete benefits to consumers, such as a consumer-friendly telecoms 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. Thus, TiSA should include solid safeguards for public interest needs. One key demand is to improve the current data protection safeguard in TiSA, both in the core text and in the relevant annexes. We call on the Estonian Presidency to make sure that the fundamental right to privacy and data protection prevails. In this context, special attention should be paid to overlaps with the EU's proposal in the EU-Japan trade negotiations.

### 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](#)

Trade and privacy: complicated bedfellows?  
Factsheet  
[BEUC-X-2016-071](#)

## 3

# Multilateral Investment Court for investment dispute resolution

## Why it matters to consumers

In 2016, the Commission started a reflection process and opened a public consultation on the establishment of a Multilateral Investment Court for investment dispute resolution. BEUC has consistently denounced the flaws in the old Investor-to-State Dispute Settlement mechanism (ISDS), and therefore welcomes the fact that the Commission proposes to step away from private arbitration. In a context of widespread public mistrust over secretly negotiated trade deals, it is positive that the Commission intends to address citizens' legitimate concerns by proposing to establish a multilateral Investment Court System (ICS).

However, such a court must be carefully established. The current ICS models proposed in CETA and TTIP do not address the core flaw of the ISDS, and create the risk that consumer, health, labour and environmental regulations could be challenged as violations of 'investor rights'.

## State of play in legislative procedure



The **European Commission** is exploring the possibility of establishing a permanent Multilateral Investment Court to adjudicate international disputes between investors and foreign governments. This initiative follows the EU proposal for an Investment Court System in TTIP in 2015 and the modification of the investment protection chapter in CETA in early 2016.



The **European Parliament** adopted a TTIP resolution in July 2015 calling on the EU to replace ISDS with a new system that would be "subject to democratic principles and scrutiny (...) and where private interests cannot undermine public policy objectives".

## Recommendations for the Presidency



We call on the Estonian Presidency to ensure that any Council decision authorising the Commission to negotiate a convention establishing a multilateral ICS on behalf of the EU takes into account the concerns raised by the European Parliament in relation to existing ISDS systems. The Presidency should also take into account the results of the public consultation.

## What we need to succeed

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- A legal safeguard for the right to regulate: it is essential that the article on the right to regulate in each free trade agreement that will be subject to ICS be modified in such a way that claims against measures designed to meet public policy objectives will not be admissible by the Court. It is crucial that the current merely interpretative provisions are expanded to include legally enforceable tools to protect the right to regulate.
- To ensure that judges are truly independent and to prevent conflict of interests from arising, the code of conduct and the ethics provisions must be reinforced. For example, it is not acceptable for a judge to be linked directly or indirectly to one of the parties in a dispute for a certain period of time prior to or following the dispute.
- The costs and the impact of establishing a multilateral court must be evaluated. The Commission alarmingly proposed a brand new bilateral court system in TTIP and CETA without carrying out a proper impact assessment. It is therefore positive to see that an evaluation is envisaged for the establishment of the multilateral court. The same must be done for the bilateral investment courts that will be established in the meantime.
- The compatibility of the multilateral court with EU law must be verified. We urge the Estonian Presidency to facilitate a request for the opinion of the European Court of Justice prior to the establishment of the Court. This is key in order to ensure legal certainty and predictability in trade policy.

### ADDITIONAL SOURCES

BEUC's key concerns about the Investment Court System proposal  
[BEUC-X-2015-103](#)

International Investment Arbitration Factsheet  
[BEUC-X-2016-096](#)

## 4

# EU-Japan Trade Agreement

## Why it matters to consumers

The aim of the EU-Japan trade agreement is to further facilitate trade between both sides. The agreement could benefit consumers if it is well designed, consumer oriented, and adapted to today's public interest needs. However, we are concerned about the inclusion of an investment court system and about Japanese demands concerning data flows. We are equally apprehensive about the lack of real transparency in the negotiations.

## State of play in legislative procedure



In November 2012, the **Council of the European Union** granted negotiating directives to the European Commission to formally start trade negotiations with Japan. Since then, 18 rounds of negotiations have taken place between the parties. The **European Parliament** adopted a resolution in October 2012.

## Recommendations for the Presidency



We call on the Estonian Presidency to ensure that the EU-Japan agreement will be negotiated with the same level of transparency and engagement with stakeholders as TTIP. The Council should authorise the Commission to publish the negotiating mandate. Furthermore, it should make sure that transparency will continue during the technical conclusion phase of the negotiations. This is crucial as very sensitive issues such as investment dispute settlement and the inclusion of rules on data flows are likely to be dealt with after the political conclusion of the agreement.

## What we need to succeed

- More openness and public accountability around the negotiations is required. The Council should authorise the Commission to publish the mandate. The Commission must publish all negotiating texts, including consolidated texts and concept papers.
- The EU-Japan trade agreement must guarantee the rights of its signatory parties to regulate in the future. For a start, the parties should refrain from including an investor-to-state dispute settlement mechanism (ISDS).
- It is of the utmost importance that the EU does not jeopardise the fundamental rights of its citizens to privacy and the protection of their personal data. We call on the Estonian Presidency to encourage the inclusion of a rock solid data protection safeguard in the agreement, and for the Commission to provide a legal test of this solidity.

### ADDITIONAL SOURCES

Consumers and modern trade / Factsheet | [BEUC-X-2016- 078](#)

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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 - Għaqda tal-Konsumaturi – Consumers' Association 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
- SK - Spoločnosť ochrany spotrebiteľov (S.O.S.) Poprad
- SL - Zveza Potrošnikov Slovenije – ZPS
- UK - Citizens Advice
- UK - Financial Services Consumer Panel
- UK - Legal Services Consumer Panel
- UK - Which?



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