

Mr Didier Reynders
European Commissioner for Justice
European Commission
Rue de la Loi 200
1049 Brussels

The Consumer Voice in Europe

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10 December 2019

Subject: The consumer mission letter for justice and consumer affairs

Dear Commissioner Reynders,

On behalf of The European Consumer Organisation (BEUC), the organisation representing 45 national consumer groups from 32 European countries, we would like to congratulate you on your appointment as Commissioner for Justice.

To support you in this important task, we would like to present our ideas on how best to advance consumers' interests in your capacity as Commissioner for Justice.

A new consumer agenda

We strongly hope that the European Commission will soon issue a new strategic 'Consumer Agenda'. The last one dates from 2012 and is now obsolete. EU consumer policy needs to be adapted and brought up to speed to effectively address the major challenges of the digital transition, climate change and societal developments. We urge you to steer a process that ensures that consumer interests are effectively protected and more systematically integrated into all other relevant EU policies, as set out in Article 12 of the Treaty on the Functioning of the EU.

Consumer empowerment, information and access to justice

When it comes to consumer empowerment and information, your mission letter asks you to find new ways for consumers to make informed choices and to play an active role in the green and digital transitions. While we acknowledge that consumer information is an important regulatory tool, we would also like to draw your attention to the fact that, in an ever more digitised and technology-driven world, the promise of market transparency is insufficient to fix the problems that consumers face. Effective consumer policy needs to focus on new concepts of protection 'by design', which must be considered by business from the start, as in data protection and cybersecurity policies. Because of its limits – due to gaps in broadband access and smartphone coverage among others – recourse to e-labelling must not replace labelling on the product.

We strongly support further measures with regards to ensuring that claims to be environmentally friendly ('green claims') are meaningful and trustworthy. We would recommend creating a substantive legal base prohibiting green claims by updating the EU Unfair Commercial Practices Directive. This would also help enforcement by public authorities and consumer organisations.

Consumer information about the environmental and resource impact of products and services as well as measures to avoid early obsolescence of products is currently lacking but, could help consumers to adopt sustainable lifestyles.

Strong enforcement

Although consumers in theory enjoy a series of rights established at EU level, consumers often cannot exercise these rights in practice. This is due to not only weak or non-existent enforcement and lack of redress at national level, but also the absence of enforcement coordination at EU level. These problems are becoming more acute as cross-border trade within the Single Market grows and online trade becomes more widespread.

Another serious problem is that some infringements fall within the jurisdiction of more than one authority and no authority takes responsibility for enforcement action.

Although consumer organisations are often well-placed to be aware of acute breaches of consumer rights, in many countries public authorities do not sufficiently co-operate or share information with them.

We call on you to step up consumer protection enforcement at EU level, notably for cross-border and online transactions, and ensure consumers are kept safe and have access to effective redress in practice when their rights are infringed. The Commission should:

- do its best to ensure that the proposed Directive on Representative Actions (including collective redress) will be finalised quickly in the trilogue negotiations and that the result will ensure that an effective procedure is available to consumers in all European countries
- promote effective cooperation mechanisms between public authorities responsible for different sectors and in different Member States, using existing networks
- promote effective cooperation between public authorities and consumer organisations
- focus on tighter enforcement of EU rules, using *inter alia* faster and more comprehensive use of infringement procedures against Member States for late or incomplete implementation of EU rules
- revise the Alternative Dispute Resolution (ADR) Directive to make ADR compulsory for traders in sectors where consumers are most vulnerable and to encourage more traders to engage in ADR
- include enforcement mechanisms and possibilities for redress as part of the criteria to be met under the Commission's Better Regulation requirements for EU legislation.

A strong regulatory framework to keep consumers safe

Consumers' complaints and product testing by BEUC member organisations regularly highlight serious safety concerns with products that consumers use on a daily basis such as toys, electric appliances, childcare products, cosmetics, hygiene products and food packaging. New challenges arise from the emergence of new actors and sales channels (increased e-commerce from 3rd countries) and new technologies (AI, Internet of Things, 3D printing, etc).

To keep consumers safe, the EU Commission should carry out a legal reform of the General Product Safety Directive that will: 1) improve the traceability of products throughout the supply chain; 2) provide for the collection of accident and injury data; 3) ensure the same level of safety for products sold online and in brick-and-mortar shops; 4) keep the precautionary principle and the safety net function as central elements; 5) enlarge the safety concept to also cover security threats from the Internet of Things and artificial intelligence and 6) ensure stronger collaboration of national market surveillance authorities among each other and at the European level.

The Commission should also require all internet platforms selling to consumers or allowing traders to sell consumers to quickly remove non-compliant and dangerous products. A mere voluntary agreement such as the previous European Commission's 'safety pledge' is clearly not enough to keep consumers safe.

A strong and sustainable consumer movement in the EU

Consumer organisations have an important role to play in ensuring that consumers are aware of and able to exercise the rights foreseen by EU legislation. They inform and raise awareness among consumers, and effectively represent and defend them in case of problems. However, the continuing financial difficulties faced by consumer organisations in many countries have major implications. Consumers in all EU countries need to be able to count on the independent information and assistance activities of consumer organisations.

In an era of digital disruptions, markets develop in a way that becomes less and less transparent to consumers. More fundamentally, basic concepts of the free market economy, such as free consumer choice and self-determination, are threatened. Policymakers have not given enough attention to the implications of these developments on consumer well-being.

As stated in its proposal for a 2021-2027 Multiannual Financial Framework, the European Commission should live up to its intention to work closely with Member States to support national consumer organisations. We urge you to ensure that the Commission continues to acknowledge the legitimacy and added value of consumer organisations in society, to provide strategic financial support for the development of independent consumer organisations, and to continue to support these organisations at EU level.

A consumer-centric approach to artificial intelligence

You will have the task to contribute to the shaping of the EU approach to artificial intelligence (AI). Your role will be of utmost importance, given the challenges created by AI technology from the fundamental rights and consumer protection standpoints.

AI is changing the way in which consumer markets and our societies function. It evokes big promises to make our lives easier and our societies better, powering a whole range of new types of products and services from digital assistants to autonomous cars and all sorts of 'smart' devices. All this can bring benefits for consumers, but the widespread use of AI also raises many concerns. Consumers are at risk of being manipulated and becoming subject to discriminatory treatment and arbitrary, non-transparent decisions. It is essential to make sure that consumers have strong and tangible rights to defend themselves when necessary and which empower them to reap the benefits of the digital transformation of our societies.

The EU approach to AI must be built on the principles of fairness, transparency, accountability and other principles that ensure a fair, safe, and just society. We have identified the rights that consumers need when being exposed to algorithmic decision-making processes. These rights go beyond what the GDPR provides and must be enshrined in law. The existing EU legal framework gives rise to major legal uncertainty and has important gaps, which jeopardise effective protection of consumers and citizens.

Ethical guidance – such as the principles published in June 2018 by the High-Level Expert Group on artificial intelligence – can be helpful as a starting point but is not enough to ensure consumers have effective rights. We need a horizontal legal framework that includes all the necessary rules to ensure a fair and safe use of AI and algorithm-based decision-making, as well as a revision of all relevant sector specific legislation. The higher the potential adverse impacts of the use of this technology, the stronger the appropriate regulatory response must be.

Strengthening the EU's global leadership on data protection and privacy

Online tracking and cashing in on people's most intimate moments have become the main business model of the internet. Consumers are still continuously forced to give up their privacy in exchange for accessing online services. This not only violates their fundamental rights, it creates incentives to promote disinformation, manipulation and illegal content.

The GDPR is a game changer for the protection of consumer's personal data but work remains to be done to ensure it is fully implemented and companies abide by the rules. The adoption of a strong ePrivacy Regulation that complements the GDPR is also necessary to strengthen individuals' rights and tackle the problems created by online commercial surveillance. We therefore urge you to push for a robust implementation and enforcement of the GDPR and the swift adoption of the ePrivacy Regulation.

We also urge you to officially reconfirm Europe's current position on the issue of international data flows and trade, which ensures that trade agreements cannot undermine our data protection framework. Europe's leadership on data protection and privacy is crucial for the creation of a healthy digital environment.

Preventing and providing solutions for over-indebtedness

Credit helps consumers to finance home purchases, their children's education, a new car and other consumer goods. However, when indebtedness reaches high levels and becomes unsustainable, there can be serious negative consequences for the economy, society and over-indebted people. As the social costs of over-indebtedness are high, public policy measures such as responsible lending must be designed to prevent it from happening. The EU's responsible lending standards should be reinforced in the context of the upcoming revision of the Consumer Credit Directive. Furthermore, over-indebted consumers must be helped and given a second chance through private insolvency.

Future cooperation

We are well aware that you will have a busy agenda, but hope that you will find the time to meet with us. My colleagues will also reach out to your member of cabinet in charge of consumer policy. We would be very interested to hear your reaction to our proposals and tell you more about European consumers' experiences.

Yours faithfully,

Monique Goyens
Director General

Ursula Pachtl
Deputy Director General

Encl.: An EU that keeps working for consumers – [BEUC proposals for the 2019-2024 European Commission](#)