

Dutch Presidency of the European Union

BEUC priorities 2016







BEUC priorities 2016

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The European Consumer Organisation (BEUC) is the umbrella organisation for 41 independent consumer organisations in 31 European countries. Our mission is to represent and promote consumers' interests to EU decision makers in all consumer-relevant areas that match our members' strategic priorities. Our member in The Netherlands is Consumentenbond, which is also represented in BEUC's executive board.

In this Memorandum for the Dutch Presidency of the Council of Ministers, BEUC highlights the most pressing consumer expectations for the European Union, makes concrete proposals on how the Dutch 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 Dutch Presidency, several of the European Commission's flagship initiatives, notably the Digital Single Market strategy, the Energy Union and the Capital Markets Union, will materialise with concrete legislative proposals. BEUC will follow these initiatives attentively.

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

Digital Single Market

The recently proposed legislative proposal for online purchases and portability of audiovisual content should lead to real benefit for consumers in the digital age. However the proposed new rules on the purchase of tangible goods puts important consumer rights at stake.

Energy Label

A simplified A-G label will help to inform consumers about the energy efficiency of appliances.

Car testing

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

Enforcement of consumer rights

The imminent review of the Consumer Protection Co-operation Regulation should be brought speedily to the Council's agenda.

Food

Food reformulation is rightly high on the Presidency's agenda and we express our hope that this will contribute to improve the nutritional value of food and the overall diet of European consumers.

Product Safety and Market Surveillance

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

Medical Devices

Safety standards and consumer confidence in connection with medical devices need improvement and strengthening.

Trade

The ongoing EU/US trade talks and negotiations for a Trade in Services Agreement must guarantee EU consumer safeguards as a precondition for potential benefits of these trade deals for consumers.

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

We wish The Netherlands a most successful Presidency.

Monique Govens Director General

Örjan Brinkman **President**





Why it matters to consumers

A well-functioning Digital Single Market (DSM) can provide consumers with a wider choice of goods, services and digital content.

Despite the fact that the huge majority of consumers are online, they still face barriers that prevent them from fully profiting from the digital market. Bottlenecks are caused for example by uncompetitive business practices that segment the market; by geo-blocking techniques; by the lack of a clear legal framework for the distribution and consumption of online content; and by the poor enforcement of consumer rights. These stumbling blocks prevent consumers from benefitting from the internal market and, as a consequence, from contributing to the growth of Europe's digital economy.

State of play in legislative procedure



Creating a Digital Single Market for consumers and businesses was declared the number one priority by European Commission President Juncker. In May 2015, the **European Commission** unveiled its strategy for the Digital Single Market, announcing a number of legislative and non-legislative proposals to unleash the potential of Europe's digital economy. In total, the strategy includes 16 initiatives grouped under three pillars. For European consumers, the most important initiatives are the following: the reform of the copyright regime; the review of the Audiovisual Media Services Directive and the Satellite and Cable Directive; a comprehensive analysis of the role of platforms in the market including illegal content on the internet; the review of the ePrivacy Directive; legislative proposals to reform the current telecoms rules; proposals to tackle unjustified geo-blocking; a review of the Regulation on Consumer Protection Cooperation; and legislative proposals for simple and effective cross-border contract rules for consumers and businesses.

Recommendations for the Presidency



Several initiatives falling under the Digital Single Market Strategy will be released by the European Commission just before or during the Dutch presidency. We ask the presidency to adopt a consumer-centric approach in its discussions by providing a consumer policy perspective for each relevant measure.

- The creation of a competitive Digital Single Market in which EU antitrust rules are consistently applied. This will prevent business practices that segment the market and reduce consumer choice whilst increasing prices.
- The boosting of consumer confidence in the online environment through the addressing of consumer e-commerce concerns, including high cross-border delivery costs, fear of fraud, and lack of redress.
- As a matter of priority, geo-blocking and other discriminatory practices that prevent consumers from accessing products across the EU must be addressed by ensuring effective enforcement of the principle of non-discrimination within the Services Directive.
- A guarantee that the revision of European rules applicable to the audiovisual sector takes consumers' interests into account by enabling cross-border access of content across the EU (for further details, please refer to the specific section dedicated to copyright reform and portability on page 12).
- Assurance that the reform of the copyright framework will recognise modern uses of copyrighted works: for example, via user-generated content or format shifting (for further details, please refer to the specific section dedicated to the copyright reform and portability on page 12).
- Assurance that there is a modern and effective regulatory framework in place to address consumers' concerns in emerging forms of consumption, such as the sharing economy and cloud-based services.
- The creation of a legislative framework for telecommunication services that encourages competition and market access whilst guaranteeing a solid set of contractual rights for consumers (for further details, please refer to the specific section dedicated to the telecom reform on page 8).
- Assurance that consumers are effectively protected in the digital environment through a consistent enforcement policy that takes into account the challenges of a globalised economy in which companies operate simultaneously in different Member States (for further details, please refer to page 10).
- The adoption of new legislation for digital content products that provide consumers with specific rights in case the product is sub-standard or defective (for further details, please refer to page 16).



Telecoms Single Market

Why it matters to consumers

Telecom markets remain an important sector of concern for all European consumers, as general satisfaction with telecom 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 digital lives. Much remains to be done in order to establish a real Single Market that consumers can benefit from. Telecom markets still fail to deliver on the most important issues to consumers: a high level of consumer protection; the right to access the open internet; and the elimination of geographical barriers.

State of play in legislative procedure





In October 2015, the **European Parliament**'s adoption of the Telecom Single Market package marked the end of prolonged negotiations between the European Commission and the Council. Unfortunately, the adopted law lacks ambition on both of the issues it regulates: net neutrality and roaming.

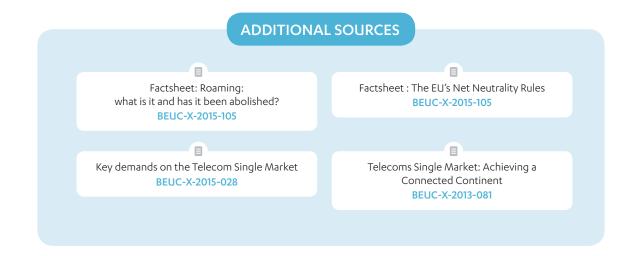
The Body of European Regulators for Electronic Communications (BEREC) has a mid-2016 deadline to issue implementation guidelines for the new European net neutrality rules. These rules contain ambiguities that will inhibit their efficient roll-out, and they furthermore fail to address the problematic issue of zero-rated content. By the end of 2016, the **European Commission** will also publish two implementing acts detailing how exceptions to the 'roam like at home' principle should be regulated.

Recommendations for the Presidency



We urge the Dutch Presidency to work with BEREC and the European Commission to ensure that these secondary policy instruments incorporate consumers' interests: securing strong net neutrality protection across Europe, and abolishing roaming fees.

- A Telecoms Single Market for consumers means that geographical barriers such as roaming charges must be removed for all European mobile consumers as a matter of priority, and by mid-2017 at the latest as promised. Any limitations on the general 'roam like at home' principle must be carefully analysed and considered. The implementing acts due for publication at the end of 2016 should enable all consumers to 'roam like at home' every time they travel.
- The agreed rules on guaranteeing access to an open and neutral internet are not sufficient to uphold the principle of net neutrality across Europe. Further work is necessary to prevent the misuse of certain legal loopholes. In addition, it is imperative that the implementing guidelines outlaw the practice of zero rating, or at least open the possibility for Member States to do so if they so wish. The zero rating of content is a clear violation of the principles of openness and net neutrality, which ensure that consumers can exercise their right to freely choose their preferred content and service providers. The anti-competitive effects of zero rating are detrimental to online innovation, and over time will reduce consumer choice.





Data protection

Why it matters to consumers

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

State of play in legislative procedure



In January 2012, the **European Commission** proposed a Regulation to replace the current 1995 Directive, aiming to ensure a uniform set of rules across Europe, while strengthening the rights of individuals and facilitating the flow of personal data across borders. BEUC welcomed the numerous positive elements of this proposed Regulation.



In March 2014, the **European Parliament** adopted its first reading position with near unanimity. The outcome of the Parliament's vote was positive, as MEPs strengthened key provisions of the proposal (the definition of personal data, the scope of the regulation, the data protection principles and the legal grounds for processing personal data, user rights, consumer redress, and transfer of data to third countries).



Following long and complex negotiations, the **Council** adopted its general approach in June 2015. This approach contained several worrying elements, most notably a weakening of the provisions on two key data protection principles (purpose limitation and data minimisation). Trilogue negotiations started at the end of June, and aim to reach an agreement by the end of the year.

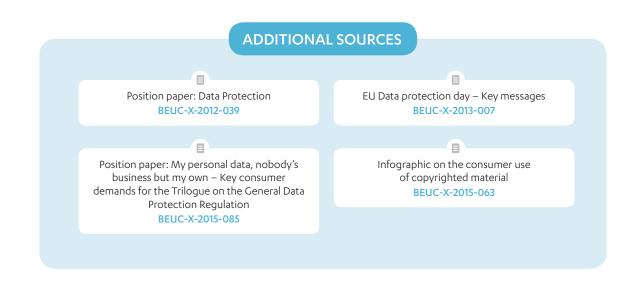
Recommendations for the Presidency



In the event that an agreement is not reached in 2015 and negotiations continue into 2016, we urge the Dutch Presidency to do its utmost to ensure a high level of protection for the welfare of European citizens and for a well-functioning Digital Single Market. Among other things, it is essential that the Regulation contains strong purpose limitation and data minimisation requirements, clear limitations for the processing of personal data based on 'legitimate interests', a comprehensive set of user rights, and effective mechanisms for enforcement and redress.

In addition to the General Data Protection Regulation, other important data protection issues likely to be addressed during the Dutch Presidency include the establishment of the new framework governing data transfers between the EU and the US and possibly the revision of the ePrivacy Directive. We also call on the Dutch Presidency to approach these issues with the aim of ensuring the highest level of protection for European citizens and the fundamental rights of consumers.

- This Regulation must provide the building block for a much-needed new paradigm for data protection, one built around transparency and user control, with by privacy by design and by default as driving principles, and effective enforcement as a guiding light.
- The European Parliament has adopted a definition of personal data that is sufficiently broad and flexible in light of the rapidity of ICT developments. 'Pseudonymised' data should not be exempt from the scope of the Regulation, as it relates to identifiable individuals and therefore falls within the scope of the draft Regulation. Also, the Council should not transform 'legitimate interests' into a catch-all category. This should only be a last resort, for example when no other legal grounds are available, and the data controller should be required to prove that its interests override those of the data subject.
- Regarding the principle of purpose limitation, processing for incompatible purposes should not be allowed. The European Data Protection Board should be entrusted with the task of defining criteria to assess the compatibility of further processing with the original purpose for which the data was collected. With regard to profiling measures, the Council should ensure that consumers are informed about the possible consequences and effects for them personally. Consumers should at all times be able to object to the processing of their personal data for profiling purposes. Furthermore, the legitimate interests of the controller cannot be accepted as legal grounds for profiling.
- Companies should be required to implement 'privacy by design and by default' as a principle in the development of products and services.
- The dual system of notification of data breaches must be maintained. According to this system, the data protection authorities need to be notified of all breaches, whereas individuals need to be notified only of those breaches that adversely affect the protection of personal data and privacy.
- The Council should support the possibility of administrative and judicial injunction actions by consumer associations as compensation for harm or loss suffered in the wake of data protection infringements.
- A new agreement for the transfer of personal data to the US must guarantee that European standards are upheld and that European data protection authorities remain responsible for the enforcement of EU data protection law in line with the European Court of Justice ruling on the validity of "Safe Harbour".





Copyright reform and portability of content

Why it matters to consumers

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

While the EU Commission is pushing for stronger enforcement mechanisms to tackle copyright infringements, it is crucial consumers can easily enjoy legal offers, particularly in those countries where local choices are restricted or even inexistent. Consumers in many member states are frustrated because there are no legal on-line offers for audiovisual products (e.g. film or a TV series) in their countries. Consumers should be able to choose his preferred supplier to accesses content online without being limited to territorial boundaries.

Additionally, the European Commission's proposal on portability of content which will be issued in December 2015 should allow consumers to access legally acquired contents when traveling or living temporally abroad.

State of play in legislative procedure



As part of its Digital Single Market strategy published in May 2015, the **European Commission** announced a revision of the Copyright Directive to adapt it to the digital environment. In December 2015, just before the start of the Dutch presidency, the European Commission published its proposal on portability of content together with a communication outlining the copyright review scheduled for 2016.

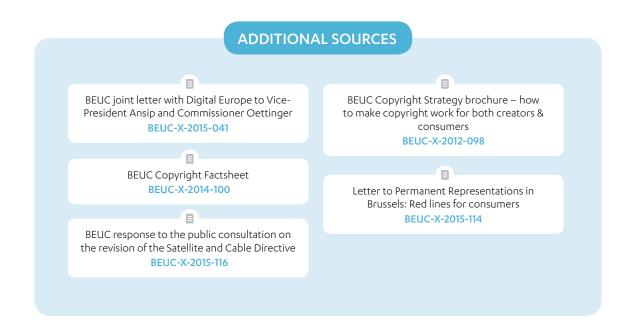
Recommendations for the Presidency



We urge the Dutch Presidency to ensure that the Council takes consumer concerns into account when considering the European Commission's communication on the copyright review, particularly on the issues of exceptions, limitations, and copyright levies.

Furthermore, we ask the Presidency to ensure that the discussion around the future of online distribution of contents addresses consumers' expectations in relation to the development of competitive and quality legal offers and by giving consumers the possibility to legally carry legally acquired content when traveling abroad (portability) and, in a second phase, to access on-line services available in other member states.

- With countless new opportunities arising from the ways in which content is now accessed and distributed, the need has arisen to rethink the substantive European legal framework. This requires achieving a fair balance between the different stakeholders, as well as promoting innovation and cultural diversity.
- The proposal on portability of content must effectively address consumer consumption behaviours in the digital environment by ensuring that they can access their subscriptions (e.g. music streaming services) across the EU without restrictive conditions e.g. limited number of days.
- Copyright law must balance the incentive to create with the granting of access to works. From the consumer point of view, the current copyright framework is far from balanced. A number of permitted uses of copyright-protected material are only allowed as exceptions and limitations to the copyright owners' exclusive rights.
- Copyright exceptions and limitations should be pursued in order to provide more legal clarity about what consumers are entitled to do online with copyrighted content.
- A new exception for user-generated content is needed in order to allow consumers to share derivative works for non-commercial purposes without bearing the risk of a copyright infringement. This in turn will stimulate creativity.
- Copyright exceptions should be made mandatory, and it should not be possible to overrule them with contractual terms and conditions or technical protection measures (such as for example digital rights management systems).
- The current system of copyright levies should be reformed. No levy should apply to works freely distributed by authors, or in cases where there is no or minimal harm to the right holder. Fees should be visible on receipts, on price tags in the shop, and on websites and electronic commerce platforms. Consumers have the undeniable right to know what they are paying for.
- The problem of cross-border access to contents should be addressed in a targeted manner in the review of the Satellite and Cable Directive. Right holders should still be allowed to keep territorial licenses but not prohibit online distributors to serve unsolicited requests from consumers living in other member states (also referred as "passive sales" under EU competition law).





Geo-blocking

Why it matters to consumers

Despite the Single Market, citizens still face discriminatory practices by traders who refuse to provide their services or apply different access conditions depending on the consumer's country of residence. Some companies also refuse to deliver goods into a certain country, or apply dissimilar conditions or different pricing policies in order to prevent consumers residing in other countries from benefiting from better deals.

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

Although in some cases the restriction of cross-border sales might be justified, this should be the exception and not the rule in the Digital Single Market. It is therefore necessary to clarify the situations in which discrimination could be allowed following a pro-single market and consumer welfare approach.

The Services Directive (and its Article 20 paragraph 2), which forbids discrimination in the provision of services on the basis of nationality and/or place of residence has unfortunately not delivered any tangible results and is not enforced. We welcome that in its Single Market Strategy of October 2015, the European Commission announced a new legislative instrument to tackle geo-blocking for off-line and on-line circumstances.

State of Play



The **European Commission** will take measures (both legislative and in terms of enforcement) to tackle unjustifiable different treatment of customers on the basis of their residence or nationality. Additionally, the Commission will revise the Satellite and Cable Directive to address the problem of lack of cross-border access of audiovisual contents provided online.

Recommendations for the Presidency



We ask the Presidency to ensure that the discussion around the Single Market in the off-line and on-line environment acknowledges the importance of the fight against geo-blocking. In a true Single Market, the focus must not only be on how to facilitate business' service provision across borders. We also need to look at the other side of the coin, namely how European consumers can receive fair access to services in other Member States and not be arbitrarily discriminated.

- The European Commission's intention to put an end to geo-blocking practices by introducing a new legislative instrument should materialise in a black list of prohibited practices which companies cannot easily
- Therefore, it is essential to ensure that the new legislative instrument also clarifies the objective reasons that could justify such discrimination on an exceptional basis.
- Furthermore, as experience with the Services Directive shows, efficient implementation and enforcement is key to ensure that such practices finally come to an end. Member States must provide for enforcement and appropriate sanctions in case of infringement.
- In many cases, unjustified geo-blocking should also be considered as an unfair commercial practice which national consumer authorities can stop and sanction.
- The obligation of business to provide information about potential restrictions of delivery already before the conclusion of the contract is key to avoid consumer disappointment. However, disclosure is not enough. Consumer must be able to benefit from the Single Market and shop across member states without unjustified restrictions.
- The European Commission should continue to enforce antitrust rules, particularly the Regulation on Vertical Restraints and the accompanying guidelines, to ensure that the special rules on selective distribution are not used to restrict the availability of products via online commerce channels and to prevent competition to the detriment of consumers.
- The problem of cross-border access to contents should be addressed in a targeted manner in the review of the Satellite and Cable Directive. Right holders should still be allowed to keep territorial licenses but not prohibit online distributors to serve unsolicited requests from consumers living in other member states (also referred as "passive sales" under EU competition law).







New initiatives on online purchases by consumers

Why it matters to consumers

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

As a result, the European Commission has announced a legislative initiative covering the online purchase of digital content and the online sale of tangible goods as one of the key initiatives of the Digital Single Market strategy. This initiative is based on the 2011 proposal for a Common European Sales Law (CESL), which has been now significantly modified after having failed to pass the Council of Ministers.

While we fully support a new initiative to harmonise the rules for digital content products, we are sceptical about the regulation of consumer remedies that would apply only in the case of the online purchase of tangible goods. This fragmentation between the online and offline worlds will lead to confusion for consumers and businesses. Depending on the level of protection of the new initiative compared to the national rules which remain applicable to the physical world, this approach would discriminate between consumers depending on the method of purchase. We therefore consider that consumer remedies for tangible goods should be dealt with in the framework of the upcoming REFIT evaluation of the consumer law acquis, scheduled to take place in 2016. This evaluation will include the 1999 consumer sales directive, which harmonises the issues at stake.

State of play in legislative procedure



In March 2015, the **European Commission** set up a stakeholder group to provide input into the new initiative(s) that will be taken to replace the CESL. The Commission has also launched a public consultation to receive input on both initiatives. Two proposals for directives have been issued in December 2015: one on digital content and another on tangible goods bought online.

State of play in legislative procedure



We hope that the Dutch Presidency will start the debate in the Council without delay, and that the priority will be placed on the proposed directive on digital content.

What we need to succeed

- We strongly support a legislative instrument to harmonise contract laws for digital products. The scope of this instrument should include digital content and services, as well as contracts that are concluded 'for free' on the basis of the exchange of consumers' personal data. The recently-adopted UK Consumer Rights Bill provides many good provisions in this field, and could be used for inspiration at the EU level.
- In relation to the purchase of tangible goods, we call on the European Commission to continue modernising consumer laws by conventional methods using a holistic approach, rather than splitting the market and consumer rights into offline and online purchases. We would also like to stress that full legislative harmonisation should be undertaken only at the highest level of consumer protection, and that this kind of legal measure should never preclude useful, well-established consumer rights at the national level.
- We request that the further harmonisation of unfair contract terms be postponed until next year's deliberations in the framework of the REFIT programme. In the meantime, an interpretative guide that illustrates and compiles the groundbreaking case law approved in the past few years by the European Court of Justice on The Unfair Commercial Practices directive would be very useful.

ADDITIONAL SOURCES

BEUC's response to the public consultation on contract rules for online purchases of digital content and tangible goods, September 2015 BEUC-X-2015-077

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The new initiative for online and digital purchases, letter sent to Commissioner Vera Jourová on 20 March 2015. BFUC-X-2015-031

The Digital Single Market Strategy: Consumer organisations & e-commerce businesses' joint call on: online purchases, joint letter BEUC/Ecommerce Europe BEUC-X-2015-043

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Consumer rights enforcement across Europe and across borders

Why it matters to consumers

Enforcement is a major consumer policy priority for the EU, as attested by the EU Consumer Programme 2014-2020 and the European Commission's Consumer Agenda. European consumers increasingly face infringements of a pan-European nature, and tackling such unfair commercial practices via separate national strategies is 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 and 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. The review of this regulation has been announced as part of the Digital Single Market strategy.

The CPC Network is composed of national enforcement authorities that coordinate enforcement activities. They have more recently started issuing 'joint enforcement positions' on problematic sectors (for example 'app games' and car rental services). BEUC calls on national enforcers to involve consumer organisations in this important work.

Recommendations for the Presidency



The European Commission will hopefully issue a proposal for the review of the CPC Regulation in the spring of 2016. We urge the Dutch presidency to start work on this proposal as soon as possible, and to rank it as a top priority in its agenda.

The previous European Commission announced an 'enforcement dialogue' with stakeholders, among them consumer organisations. We hope that under the Dutch Presidency the establishment of this enforcement dialogue will be further taken up by ministers and enforcement authorities, and that consumer organisations will be properly involved in this important process.

- 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 coordination work at the EU level. In order to fight European infringements, a discussion on the European Commission's enforcement powers when it comes to consumer rights should be launched.
- The operations and visibility of the CPC network should be improved. The law infringement alert system should 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 and more investigative powers in order to effectively combat crossborder infringements.
- Even more important, national enforcers must be enabled to facilitate both individual and collective redress for consumers. This is an essential step in completing the enforcement system. Consumer harm should be taken into account in investigations, and authorities should have the power to demand that victims are compensated by the infringing party. Alternatively, CPC authorities should facilitate victims' access to justice by making their files accessible. This would provide the victims or their representatives with evidence of the infringement and the harm caused. Fines paid to authorities, if not re-distributed to victims, should be made available for the work of consumer organisations or projects that benefit consumer organisations.

ADDITIONAL SOURCES

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

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

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Revision of the Air Passengers Rights Regulation

Why it matters to consumers

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

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

State of play in legislative procedure



European Parliament BEUC gave a mixed welcome to the **European Commission**'s spring 2013 proposal for the updating of Regulation 261/04 on Air Passenger Rights. Our reservations centred on the weakening of some of the existing rights (mainly compensation and accommodation in 'extraordinary circumstances').

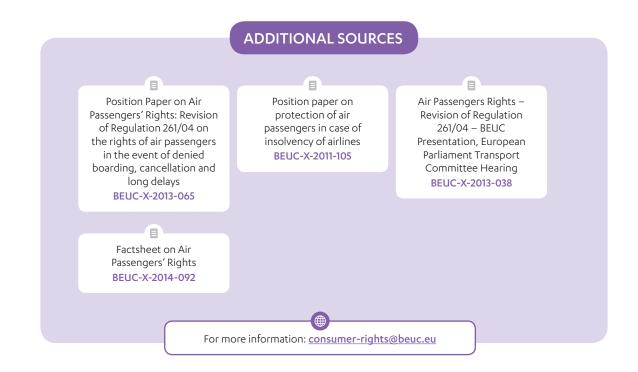
The European Parliament's first reading opinion adopted in February 2014 significantly improved the Commission's proposal on nearly every issue. The main achievements were the prohibition of 'no-show clauses' on all return flights and the exclusion of most 'technical problems' from the scope of 'extraordinary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

Recommendations for the Presidency



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

- 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 who are subject 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.
- 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.





1 Capital Markets Union

Why it matters to consumers

With its plan for a Capital Markets Union (CMU), the European Commission intends to increase the flow of money across borders. Boosting investment opportunities for small savers is part of the deal. Indeed, financial markets can be an option for consumers wishing to invest. Lower official pensions, combined with an increase in life expectancy, mean that consumers need to think about building nest eggs. However, facilitating consumer access to European capital markets should go hand in hand with guaranteeing that they are not sold a bad deal when investing their savings.

State of play in legislative procedure



The **European Commission** published its CMU Action Plan on 30 September 2015. Regrettably, while acknowledging that low investor trust is a major barrier for small savers to be more active on financial markets, the Commission has shown little ambition to tackle this obstacle in the short term.

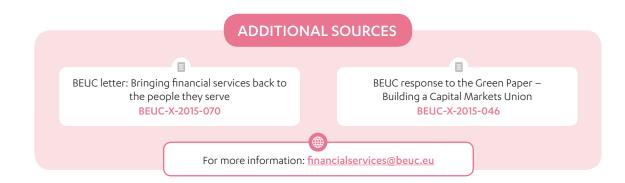
The Commission's Green Paper on retail financial services and insurance, which has been presented by the end of 2015, seeks input on how to increase choice, competition and the cross-border supply of retail financial products, and also covers the issue of retail investment.

Recommendations for the Presidency



We urge the Dutch Presidency to ensure that the discussions taking place in the European Council specifically focus on how retail investor trust can be improved prior to the push for citizens to invest in financial

- Investor protection rules for all saving and investment products, including pension products and individual shares and bonds, must be improved and harmonised. Consumers deserve the same level of investor protection no matter what type of financial product they are buying.
- Effective supervision and enforcement by national and EU authorities in the retail financial market must be enhanced. The development and distribution of simple and standardised investment products should be promoted.
- Consumers need access to commission-free independent financial advice.







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. Alarmingly, 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.

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 are expected to be voted through at committee level in February 2016. Back in 2012, the European Parliament had already adopted an own-initiative report on antimicrobial resistance, urging EU institutions to come up with ambitious proposals and calling for a phase out of the preventive use of antibiotics in farm animals.

Recommendations for the Presidency



We urge the Dutch Presidency to put antibiotic resistance and the revision of the veterinary medicines and medicated feed proposals high on the Council's agenda in order to achieve a quick agreement. 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 restricting the use for livestock of antibiotics that are critically important for treating people. National measures are not enough to address this global issue, as bacteria can travel via living animals and meat products traded across the EU 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.
- The European Commission proposals are unsatisfactory because they do not prohibit prophylaxis: the practice of administering antibiotics to healthy animals. The European Parliament rapporteur and MEPs from all political groups tabled amendments to amend the Commission's text by prohibiting the prophylactic use of antibiotics, with specific exemptions such as in conjunction to surgery. BEUC firmly supports this move.
- 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 is a step in the right direction, and we encourage the Dutch Presidency to work with the European Parliament and the Council to endorse this requirement.
- 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 sales of antibiotics in the veterinary sector. Collecting this type of data is critical to help Member States identify cases in which there is an unjustifiable reliance on antibiotics at farm level. The reporting of consumption data should be mandatory, and should include information about the type of treatments and the administrative routes used. At the same time, it is critical that the new EU provisions do not deter Member States from setting tougher rules to restrict the use of certain antibiotics in livestock, and that they do not result in the challenging of protective national rules.

ADDITIONAL SOURCES

Position paper on European Commission's proposals to tackle antibiotic resistance in veterinary medicines and medicated feed laws

BEUC-X-2015-052

Position Paper: Antibiotic use in livestock: Time to act BEUC-X-2014-043



Official controls on the application of food and feed law

Why it matters to consumers

Official controls guarantee that the food consumers buy and eat is safe and wholesome. Only independent controls based on sufficient funding can ensure that the highest possible standards are met. As food fraud is on the rise, it is also critical to ensure that adulterated food is covered by the new provisions. Tough penalties should ultimately be put in place to prevent, dissuade and punish those who take risks, harming consumers' health and weakening their confidence in the food chain in the process.

State of play in legislative procedure



In May 2013, the **European Commission** published its proposal for a Regulation on official controls for food and feed, which laid out rules for how Member States should carry out controls. The Commission proposed a more sustainable financing of controls through mandatory fees for all businesses – with an exemption for micro-enterprises. To date, only certain parts of the chain are subjected to fees. The Commission also proposed minimum penalties for fraudsters.



The first reading of the **European Parliament** in April 2014 suggested more unannounced controls and tougher penalties for fraudsters, and had multiple references to food fraud and consumer expectations regarding the nature, quality and composition of foods. However, MEPs did not support the European Commission's proposal to set mandatory fees. Instead they introduced flexibility, allowing Member States to choose to finance controls by way of either fees or taxes. Another disappointing addition was the extension of the exemption from financing controls to small and medium-sized enterprises (instead of only to micro-enterprises), as SMEs account for 90% of food businesses in the EU.



The **Council** adopted its general approach in October 2015, and gave the Presidency the mandate to engage in 'trilogue' talks with the Commission and the European Parliament. Negotiations started under the Luxembourg Presidency, and are expected to continue under the Dutch Presidency.

Recommendations for the Presidency



We request that the Dutch Presidency do its utmost to ensure that the informal trilogue negotiations result in an agreement that takes consumers' concerns fully into account. In particular, the financing of controls, the independence of inspections, the transparency of control results, and the fight against fraud are areas in which consumers expect benefits from a modernised official controls system.

What we need to succeed

- It is vital to ensure the impartiality, quality and consistency of controls and the independence of the authorities in charge of them. The European Parliament stressed the importance of independent and adequately funded controls, and we urge the Council to take this into account. Concerning the Council's proposal to allow red meat slaughterhouse staff to carry out sampling and testing tasks, strong guarantees must be in place to ensure that staff only implements direct instructions from official vets or inspectors, and is restricted from choosing the carcasses to be sampled. It is also critical that an agreement on financing controls is reached that ensures that Member States have adequate resources to perform these controls.
- Tough penalties must be agreed upon for fraudsters. The Council's language that financial penalties should take into account the economic gain sought by the operator is too vaque to serve as a fraud deterrent. At the very least, the European Parliament's proposal for penalties that double the profits sought from fraudulent activities should be considered. Greater transparency is also needed, and Member States should be encouraged to publish the results of controls and to display the compliance rates of individual operators.
- We need to keep official controls and food fraud high on the EU agenda. These two issues should not be considered separately, and the Regulation on official controls should address the risk of fraudulent practices and make preventing food fraud a key priority. We call for the adoption of a joined-up and coherent approach to food fraud. We encourage the Dutch Presidency to urge the European Commission to swiftly publish the study it commissioned on whether or not current EU laws are adequate to tackle fraud.

ADDITIONAL SOURCES



Position paper: FU consumers have little appetite for cloning BEUC-X-2014-076

3 Animal cloning for food

Why it matters to consumers

EU consumers overwhelmingly disapprove of the use of cloning for food production, as reflected by two Eurobarometer surveys (2008 and 2010). A majority of Europeans said it was unlikely that they would buy meat or milk from cloned animals (regardless of whether or not it is safe to eat), and 83% said they want food from the offspring of cloned animals to be labelled if it becomes available in the EU.

State of play in legislative procedure





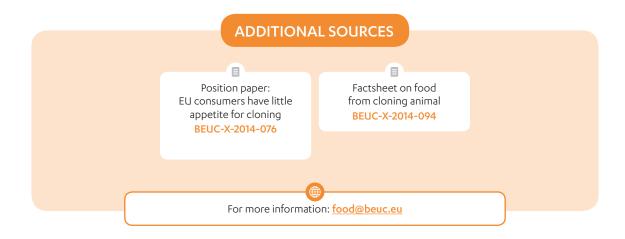
In December 2013, the **European Commission** published two legislative proposals dealing with the use of cloning for food production and the sale of food from clones on the European market (in parallel to a third proposal for a regulation on Novel Foods, with cloning now explicitly excluded from its scope). While they prohibit the cloning of animals for food supply in the EU, the proposals do not address the critical issue of food from the progeny (offspring and descendants) of cloned animals, though this is what is most likely to end up on consumers' plates. In September 2015, at first reading, the **European Parliament** voted to ban cloning for food supply in the EU as well as to prohibit imports of animal clones and their descendants, reproductive material from clones and their descendants, and food derived from these animals.

Recommendations for the Presidency



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

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







Why it matters to consumers

A 1992 EU Directive requires retailers to provide information about the energy efficiency of household appliances. This EU Energy Label enables consumers to opt for the most energy-efficient products, thus helping them to lower both their energy bills and CO_2 emissions.

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

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

State of play in legislative procedure





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

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

Recommendations for the Presidency



We urge the Dutch Presidency to ensure a high level of ambition in the revision of the EU Energy Label during the co-decision process. We hope that negotiations with the European Parliament will start as soon as possible.

What we need to succeed

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

ADDITIONAL SOURCES



BEUC position: Simplifying the EU Energy Label – Restoring the successful and wellunderstood closed A to G scheme BEUC-X-2015-065

Testing of passenger cars

Why it matters to consumers

Long before the Volkswagen emissions and fuel consumption scandal came to light, there have been major problems associated with the testing of the air pollutant emissions 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



Early 2016, the **Commission** will make proposals for a new testing protocol (Worldwide harmonized Light vehicles Test Protocol, WLTP) for vehicles tested under laboratory conditions and the related changes required to the individual car manufacturer's $\rm CO_2$ /fuel consumption targets. The Council and the Parliament will ultimately need to either accept or veto these delegated acts related to the WLTP. The Commission is also expected to put forth a legislative proposal to reform the existing vehicle type approval framework. This should include measures to strengthen the oversight of the type approval process across EU Member States.

Recommendations for the Presidency



A new testing protocol for passenger car fuel consumption and CO_2 emissions has been heavily delayed, but is urgently needed. We would recommend that the Dutch Presidency ensures that the protocol is implemented no later than September 2017, and that new car CO_2 /fuel consumption targets are modified and strengthened. Furthermore, the proposal for a new type approval directive needs to ensure the further independent EU oversight of passenger car testing.

- The WLTP should be swiftly adopted under EU law, and should become operational by 2017 in order for consumers to have a more realistic picture of fuel consumption.
- The Commission should explore extending the use of on-road tests beyond air pollutant emissions to include a vehicle's fuel consumption and CO₂ emissions.
- The creation of an EU-wide type approval authority is needed to ensure that more coherent testing standards and procedures are applied across the EU.
- Conformity checks must be carried out by national authorities on production vehicles both pre-sale and once in use. If the results of tests differ significantly from the type approval vehicles, the manufacturers should revise their claims accordingly.
- The 2021 CO₂ targets for passenger cars should be modified to represent WLTP test results. This process should not water down the 95 g/km target, or delay the implementation date of the WLTP.
- For those countries that already correlate the car tax base to emissions, the tax levels need to be adapted as soon as the WLTP is applied.







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 gave the **European Commission** the mandate to formally start trade negotiations with the United States. Since then, eleven rounds of negotiations have taken place between the parties. The Commission also set up an Advisory Group in 2014 to facilitate a dialogue with civil society organisations.

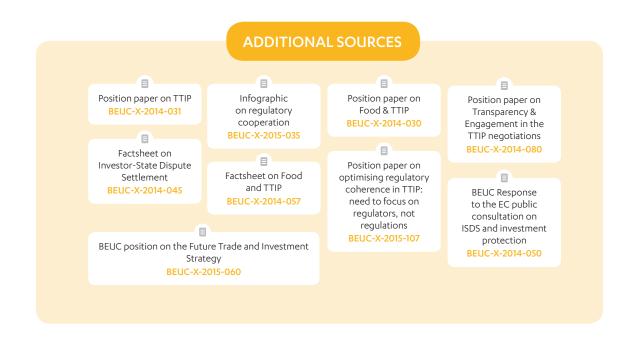
The **European Parliament** adopted a resolution in July 2015 calling upon EU negotiators to secure a balanced deal for EU citizens that will respect their interests and values.

Recommendations for the Presidency



Negotiations must take place in consultation with the Trade Policy Committee of the Council of the European Union (TFEU Art. 207.3). Member States have the power to give input throughout the course of the process and to shape the final output. We call on the Dutch Presidency to ensure that the transparency of the negotiations is continuously improved, and that EU consumer, health, environmental, labour and safety standards are safeguarded.

- More openness and public accountability is necessary. We welcome the efforts of the Council and the European Commission to improve transparency; this should be supplemented by granting access to consolidated negotiation texts.
- Whereas investments deserve proper protection, the Investor-State Dispute Settlement (ISDS) mechanism has proven to be a fundamentally flawed system. In a context of widespread public mistrust resulting from secretly negotiated trade deals, it is positive that the Commission intends to address legitimate concerns through its proposal for an Investment Court System (ICS). Nevertheless, the proposal fails to address some of the core flaws of ISDS, and therefore will not convince consumers that it is the appropriate way forward. The right to regulate is not adequately protected; conflict of interest has not been resolved; and the cost and impact of the establishment of the ICS has not been evaluated. In addition, the necessity of having a parallel judicial system between the two most developed legal systems in the world has not yet been proven. Existing levels of protection in the EU and the US fully suffice in guaranteeing legal security for investors.
- EU negotiators intend to establish a regulatory cooperation mechanism in TTIP. The goal of such a system would be to create a dialogue between regulators in order to avoid unnecessary duplications (for example with factory inspections). Although this could benefit consumers, we are concerned that this is not the focus of the EU negotiation proposal. We are in favour of cooperation between regulators, but not on regulations. A dialogue between regulators should be on a voluntary basis, with no obligation to exchange draft legislative proposals.
- The European Commission and the Member States should aim for an ambitious deal that ensures the protection of consumer, environmental, labour, health and safety standards, and should refuse compromises that will lead to the lowering of these standards or create future obstacles to improving them. Specific rules should be included in the agreement to substantiate assurances that standards will not be lowered. We request that EU Member States and the European Parliament closely monitor the progress of the negotiations in order to raise a timely objection to any provision in the agreement that would lead to consumer detriment.





Trade in Services Agreement (TiSA)

Why it matters to consumers

The aim of the plurilateral Trade in Services Agreement (TiSA), currently being negotiated between the EU and 23 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 improves upon the GATS (General Agreement on Trade in Services) by adapting it to today's public interest trade needs.

However, leaks of certain provisions in the negotiations texts have raised our concern, as they 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, which is unacceptable for a modern age trade agreement. Moreover, we fail to see ambitions to secure concrete benefits for consumers (apart from indirect ones: lower prices, more choice, and boosted innovation).

State of play in legislative procedure





In March 2013, the Council of the European Union gave the **European Commission** the mandate to start trade negotiations with the United States. Since then, 14 rounds of negotiations have taken place between the parties.

The **European Parliament** will adopt a resolution in early 2016 to provide recommendations to EU negotiators. This resolution will update the first resolution of 2013.

Recommendations for the Presidency



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

- More openness and public accountability around the TiSA negotiations is required. The Commission needs to publish all negotiating texts, including consolidated texts, position papers and factsheets. This is particularly critical considering the accelerated pace of the negotiations.
- EU negotiators must seek to deliver concrete benefits to consumers, such as a consumer-friendly telecom 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 cross border trade in services if the necessary provisions are not included in the TiSA text.
- Beyond preserving consumer rights, TiSA must guarantee the rights of its signatory parties to regulate in the future. In fact, in order for consumers to support TiSA, these future levels of protection must be guaranteed. Thus, TiSA needs to improve the GATS by adapting it to modern public interest trade needs, and by including solid safeguards, notably on data protection.







Towards a resilient, consumer-centric Energy Union

Why it matters to consumers

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

State of play in legislative procedure



Following the publication of its Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy in February 2015, the **European Commission** recently launched a so-called 'Summer Package'. A step towards the implementation of the Energy Union strategy, it contains a New Deal for Energy Consumers and a revised energy labelling system. Among other repercussions, the package has kicked off the debate on a new energy market design. BEUC welcomes this approach, and encourages the European Commission to ensure a secure energy supply, more energy-efficient products and better market functioning.



Moreover, following its 'Towards a European Energy Union' report, the **European Parliament** has intensified its work on a new energy market design as well as on a New Deal for consumers.

Recommendations for the Presidency



We hope that the Dutch Presidency will, in its political guidelines on the design of the future energy market, focus on building an Energy Union that is geared towards consumers and easily manageable energy markets. These markets should offer transparent prices, sustainable choices, better control over energy consumption and bills, and fair access for consumers willing to invest in the self-generation of renewables. The upcoming legislative proposals under the Energy Union should bring about greater consumer welfare, expand the rights and protection of consumers, increase transparency, and help people to become more energy efficient.

- The internal energy market must be completed in order to allow consumers to reap the benefits of truly competitive, consumer-friendly energy markets that deliver real choices. A complete and urgent transformation and implementation of all relevant EU legislation, especially the Third Energy Package and the Energy Efficiency Directive, is therefore needed in order to make markets work better for consumers and ensure that they can effectively exercise their rights.
- Legislative proposals implementing the new market design should quarantee all European consumers that they can access reliable, secure and sustainable energy at affordable prices. At the same time, this framework needs to provide for sufficient supervision in order to ensure that energy markets are transparent, competitive and efficient.
- In order to develop trust, consumers must be able to actively participate in the energy market. They need to have access to meaningful, accurate and understandable information on consumption and related costs as well as the types of energy sources. They need to be able to easily compare energy offers and smoothly switch to the best deal. Necessary protections need to be in place, especially for those in vulnerable situations so that they can engage in the market.
- European electricity markets need to deliver benefits to both consumers and self-generators (consumers producing their own electricity on the premises). While distributed generation provides consumers with an opportunity to become active players on the market, further policy action is required due to the lack of knowledge in several key areas: the most suitable technology for different kinds of households; the absence of reliable remuneration schemes for excess electricity fed into the grid; and financial barriers.
- More attention must be paid to the energy behaviour of households, and their willingness and ability to be flexible. EU policy makers and regulators should further analyse the impact of market dynamics and price fluctuations on household consumers, taking into account different types of residential consumers, and identifying consumer groups that are unlikely to benefit from time differentiated tariffs.
- The Energy Union governance system should be transparent and based on robust monitoring processes that lead to consumer-friendly energy markets. Organisations representing consumers should be recognised as partners in policy development processes.

- The role of existing product policy tools (Ecodesign, the EU Energy Label and Ecolabel) must be taken
 into account when moving forward with the creation of a circular economy. Consumers must understand and be empowered to choose from more efficient products via a revised, simplified Energy Label
 based on a closed A-G scheme.
- An ambitious European transport policy is needed to improve the energy efficiency of cars and to strengthen the integration and use of different modes of transport. It is crucial that the EU swiftly adopts a new testing protocol for measuring automobile fuel consumption and CO₂ emissions, and this protocol must become operational by 2017 in order to provide transparent information to consumers about 'real life' fuel consumption rates.







Why it matters to consumers

Medical devices - from contact lenses to pacemakers and pregnancy test kits - are features of many consumers' daily lives, and this broad range of products contributes significantly to health and wellbeing. Recent scandals like the PIP breast implants and the metal-on-metal hip implants clearly exposed loopholes in the current regulatory framework, and pointed to the urgent need to increase safety standards and restore consumers' confidence in medical devices.

State of play in legislative procedure



In September 2012, the European Commission presented its proposals for revising the EU's legislation on medical devices with the aim of simplifying and strengthening the existing rules for the benefit of consumers and healthcare professionals. The package includes regulations on medical devices and in vitro diagnostic devices, as well as a communication on safe, effective and innovative medical devices.

The Commission proposals introduce several improvements to the current regulatory framework, in particular with regard to post-market surveillance, but they fall short in ensuring that medical devices are thoroughly assessed before they make it onto the market.



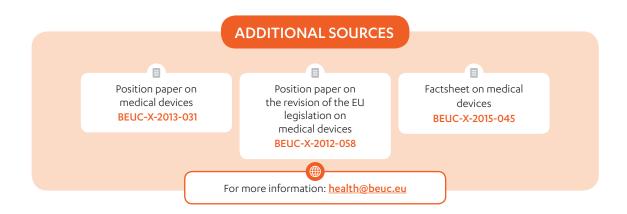
The amendments voted upon by the European Parliament in its plenary session in April 2014 introduced significant improvements to the Commission proposals, especially regarding consumer information, market surveillance, ethics and transparency.

Recommendations for the Presidency



Following the partial agreement reached by the Council in June 2015, we urge the Dutch Presidency to do its utmost to strengthen the requirements for pre-market assessment, further improve the post-marketing surveillance and ensure the legislation is adopted as soon as possible in order to address the loopholes of the current regulatory system and restore consumer trust.

- All medical devices on the market must have a positive risk/benefit ratio and provide therapeutic benefit to patients.
- The definition of 'performance' should be adapted to include an assessment of clinical effectiveness.
- Manufacturers should be required to produce more and better clinical data, and to conduct randomised, controlled trials whenever possible to demonstrate a medical device's safety and effectiveness before it is placed on the market. A centralised pre-market assessment for a limited number of high-risk devices should be carried out by a new Medical Devices Committee within the European Medicines Agency (EMA). The functioning of the Notified Bodies promoting specialisation and excellence should be improved, as recommended by the European Parliament.
- A consistent, risk-based approach should be applied for the classification of all devices. A multidisciplinary expert group with binding power should be set up for the consistent classification of borderline products (e.g. food supplements, medicines, herbal preparations) across the EU. Consumers should be provided with high quality, comprehensive, understandable and user-tested information for all devices. The meaningful involvement of consumers in market surveillance should be guaranteed. The competent authorities should be provided with adequate resources to ensure proper enforcement.







Revision of the General Product Safety Directive

Why it matters to consumers

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



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 a mandatory country of origin labelling.

Recommendations for the Presidency



In the Council of Ministers, negotiations have since more than two years been at an unacceptable stalemate 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 publication this spring of a new study on the impact of country of origin labelling of products, ministers were unable to agree on a way forward. The Dutch Presidency will thus have a crucial role to play in working towards a solution for the adoption of an overall package. We urge the Presidency to aim for the highest level of protection for European consumers.

- 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 dangers, even in the absence of absolute scientific proof. We insist that in managing risk, the final call for what constitutes an 'acceptable' level of risk must remain a political responsibility. This principle should be clearly reintroduced in the Regulation.
- The focus of the revision should be on the most effective traceability instruments, such as indicating a batch, type or serial number; indicating the full address of the manufacturer and importer on the product or packaging; implementing the 'one up, one down principle' as exists with food; and empowering the Commission to adopt additional traceability requirements in certain justified cases.
- Equipment and machines on which consumers ride or travel, e.g. amusement park rides, should be included within the scope of the Consumer Product Safety Regulation (CPSR).
- Product-specific legislation which 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 need to immediately 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 child-appealing characteristics must be safe for children to use or touch under all conditions of use.





Hormone disrupting chemicals

Why it matters to consumers

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

Many of the chemicals found in consumer products are known to disrupt the hormonal system, in particular when exposure takes place during crucial stages of development such as pregnancy. 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', a chemical that disturbs the hormonal system, these chemicals are unregulated despite the urgent need to restrict their use.

State of play in legislative procedure



The new European Commission has resumed work on defining criteria for Endocrine Disrupting Chemicals (EDCs) - work which was on hold for approximately two years due to intense industry lobbying. Based on input from the World Health Organisation and the Joint Research Centre of the European Commission (JRC), a screening method will be applied to several hundred chemicals, mainly pesticides and biocides, as well as to some industrial chemicals and chemicals used in cosmetic products, to test how they relate to different regulatory options. Subsequently, an impact assessment that will potentially lead to a revision of existing legislation and/or a new legislative proposal will be carried out.



The European Parliament adopted its own initiative report on protecting public health from endocrine disrupters in March 2013, and underlined the need for the European Commission to act. In November 2015, the European Court of Justice started to hear Sweden's case against the Commission for failing to fulfil its legal obligations regarding hormone disrupting chemicals (EDCs). The European Parliament and Council joined Sweden in its court case.

Recommendations for the Presidency



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

- Endocrine disrupting chemicals must be restricted and phased out in order to reduce exposure. Safe alternatives must be used where they exist.
- A science-based definition for 'endocrine disruptor' that is coherent and applicable to all existing and future EU legislation is needed. Similar to chemicals that are Carcinogenic, Mutagenic and Toxic to Reproduction (CMRs), EDCs should be classified and regulated.
- EDCs that have been identified as Substances of Very High Concern (SVHCs) should be included in Annex XIV of the REACH regulation. As a result, the use of these substances would require authorisation.
- Under REACH, the role of authorities is to evaluate registered substances and propose appropriate risk management measures. When screening the registrants' chemical safety assessments, authorities should consider not only the information in the REACH dossier, but also any other available information in assessing whether the substance is (potentially) endocrine disrupting.
- 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 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.



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The European Consumer Organisation Bureau Européen des Unions de Consommateurs Europäischer Verbraucherverband

Rue d'Arlon, 80 Bte 1, B - 1040 Bruxelles

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- BE Test-Achats/Test-Aankoop
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- CH Fédération Romande des Consommateurs FRC
- CY Cyprus Consumers' Association
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- DE Verbraucherzentrale Bundesverband vzbv
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- RO Association for Consumers' Protection APC Romania
- SE The Swedish Consumers' Association
- SI Slovene Consumers' Association ZPS
- SK Association of Slovak Consumers ZSS
- UK Which?
- UK Citizens Advice



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