



Bulgarian Presidency of the European Union

BEUC priorities
2018



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Introduction

The European Consumer Organisation (BEUC) is the umbrella organisation for 43 independent consumer organisations in 31 European countries. Our mission is to represent and promote consumers' interests to EU decision makers in all consumer-relevant areas that match our members' strategic priorities. Our member in Bulgaria is Асоциация Активни потребители (Association Active Consumers).

In this Memorandum for the Bulgarian Presidency of the Council of Ministers, BEUC highlights the most pressing consumer expectations for the European Union, makes concrete proposals for how the Bulgarian 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 Bulgarian Presidency, the European Commission will release its New Deal for Consumers. It will be a milestone to reform EU consumer rights legislation. In this context we call on the Council to adopt a resolution underlining the importance of EU consumer policy as a European success story which has significantly improved the daily lives of EU citizens.

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

Consumer rights

The New Deal for Consumers should ensure that consumers can benefit from better enforcement through better access to compensation, more harmonised remedies, and stronger sanctions available to enforcers in case of infringement. The new legislation should also ensure that consumer laws are updated so that consumers can trust – and be active players in – the digital market.

Digital Single Market

The legislative proposal for the supply of digital content and for online purchases of tangible goods, ePrivacy and cross-border access of audiovisual content should lead to real benefits for consumers in the digital age. However the proposed new rules on the purchase of tangible goods put important consumer rights at stake.

Telecommunications

The result of the review of the EU's telecommunications legal framework should be enhanced connectivity through the continued strengthening of competition in all markets. The review should also modernise consumer rights in this sector, and establish a single market for international intra-EU calls and messages.

Clean Energy for All Europeans

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

Car CO₂ emissions

The availability of electric vehicles is a key factor in the reduction of CO₂ emissions from passenger vehicles, as well as for reducing fuel usage and noise and air pollution. We call on the Council to make this topic a focus point of its deliberations.

Product safety and market surveillance

The deadlock in the review of this legislative package is detrimental to consumers in light of limiting their exposure to unsafe products and improving market surveillance. We therefore hope that the Council will prioritise the upcoming new proposal for market surveillance.

Antibiotic resistance

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

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

We wish the Republic of Bulgaria a most successful Presidency.

Monique Goyens
BEUC Director General

Örjan Brinkman
President



Digital Rights

1

Reform of the telecoms legal framework

Why it matters to consumers

Telecommunications markets remain one of the most important sectors concerning all European consumers but general satisfaction with telecoms services remains low. In an ever more interconnected world, consumers spend increasing amounts of time and money on the internet, connecting with others at home and abroad, and leading more and more digital lives. Much remains to be done to establish a real single market that consumers can benefit from. Telecoms markets still fail to deliver on several important issues for consumers: a high level of consumer protection, competitive markets, and the elimination of geographical barriers.

State of play in legislative procedure



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

Recommendations for the Presidency



We welcome the announcement by the Bulgarian Presidency of its intention to work towards removing, or at least decreasing, roaming charges in the Western Balkans (Serbia, Macedonia, Bosnia, Montenegro and Albania)¹.

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

¹ Roaming prices for European consumers travelling in Western Balkan countries are prohibitive (e.g. EUR 3.50 per minute for a call from Serbia to Bulgaria), and are completely disassociated from the actual costs for the operators involved.

What we need to succeed

- The EU's reformed telecoms rules must continue to guarantee competition as the driving force both in generating consumer welfare in the market and in pushing new infrastructure investments. Trade-offs between incentives to invest, competition and consumer protection are not permissible. An ex ante regulatory framework that allows National Regulatory Authorities (NRAs) to intervene in wholesale and retail markets is still necessary. In particular, it is crucial that authorities are provided with adequate tools to deal with oligopolies. Any deregulation in the market – for example linked to planned co-investments – should happen only under very strict scrutiny from NRAs, and without any detriment to competition in the market.
- The sector's consumer protection rules are in need of an urgent update, and this includes covering new digital forms of communication. We need to make sure that consumers can reap the benefits of market competition by having clear and easily comparable information about contract conditions and tariffs; friendly rules for contract termination; and free and simple procedures for switching. It is imperative that consumers do not lose any rights with regard to specific telecoms services, and in particular with digital TV. All relevant key consumer protection provisions (transparency, information requirements, contract duration and termination, and switching) must apply to all telecoms services (telephone, messaging, internet access, and digital TV).
- It is time to build a single market in communications services for consumers without any artificial geographic barriers and discriminatory prices. In principle, the cost of making a voice call or sending a message should be the same no matter where in the EU the service originates and terminates. This is also important for eliminating the current abusively high prices that consumers must pay for cross-border calls and messages sent from home to other EU countries. Competition in this market does not work, and the resulting prohibitive prices for consumers cannot be justified.

Additional sources

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

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

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

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

European Electronic
Communications Code:
BEUC key demands for
trilogue negotiations
[BEUC-X-2017-135](#)

2

Data protection and ePrivacy

Why it matters to consumers

Although beneficial to consumers, digital information technologies and the emergence of new services also represent a major challenge to the fundamental rights of privacy and personal data protection. It is important to ensure that consumers can benefit from innovative online services without having to give up their privacy rights.

State of play in legislative procedure

After a long and complex legislative process, the General Data Protection Regulation (GDPR) was finally adopted in April 2016 and will be effectively applicable in May 2018.

In January 2017 the **European Commission** put forward a proposal for a regulation on ePrivacy. In October 2017, the **European Parliament** adopted a very strong and consumer-friendly position as its mandate for trilogue negotiations, and the Estonian Presidency adopted a progress report outlining the work done so far in the **Council**.

Recommendations for the Presidency

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



What we need to succeed

- As a principle, electronic communications must be confidential. Over-the-top services (OTTs) must be duly covered by the Regulation. It should not be possible to process electronic communications data under broad legal grounds such as for 'legitimate interests' or 'compatible purposes'. Default settings in devices and software should be configured to provide the highest level of privacy protection.
- Users' behaviour and activities should not be monitored without their consent, and they should have access to digital services without being forced to accept unnecessary invasions of their privacy. Users should be able to mandate NGOs to represent their interests, and NGOs must be able to take initiative whenever users' rights have been breached.
- Specific provisions to protect the privacy of children must be introduced.

ADDITIONAL SOURCES

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

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

Factsheet on ePrivacy
[BEUC-X-2017-090](#)

Infographic:
Consumers caught in a tracking web
[BEUC-X-2017-102](#)

3

Copyright reform

Why it matters to consumers

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

State of play in legislative procedure

In September 2016, the **European Commission** published a Directive on Copyright in the Digital Single Market that aims to modernise the legal framework and adapt it to the digital environment. The proposal is currently being discussed in the **Council** and the **European Parliament**.



Recommendations for the Presidency

We ask the Presidency to ensure that the discussions in the Council on the copyright proposal take the consumer perspective into account. It is high time that the copyright framework recognises that users have enforceable rights under exceptions and limitations.



What we need to succeed

- With countless new opportunities emerging due to the ways in which content is currently accessed and distributed, the need has arisen to rethink the substantive European legal framework. This requires achieving a fair balance between the different stakeholders, as well as promoting innovation and cultural diversity.
- Copyright law must balance the incentive to create with the granting of access to works. From the consumer point of view, the current copyright framework is far from balanced. A number of permitted uses of copyright-protected material are allowed only as exceptions and limitations to the copyright owners' exclusive rights.
- Further harmonisation of copyright exceptions and limitations should be pursued in order to provide more legal clarity about what consumers are entitled to do online with copyrighted content.
- We urge legislators to look from the consumer's viewpoint at the Commission's proposal that platforms should apply filtering technologies. Such an obligation must not become an instrument for restricting the ability of consumers to create or share content online. Furthermore, the safeguards proposed by the European Commission to protect users' interests are insufficient, and the compatibility of this new obligation with the e-Commerce Directive and the rights granted under the European Charter of Fundamental Rights must be further assessed.
- A new exception for user-generated content is needed in order to allow consumers to share derivative works for non-commercial purposes without bearing the risk of a copyright infringement. This will in turn stimulate creativity.
- Copyright exceptions should be made mandatory, and it should not be possible to overrule them with contractual terms and conditions or technical protection measures (such as for example digital rights management systems). A right of use under an exception or limitation should be included in the proposal in order to guarantee that the rights granted to consumers are enforceable under copyright law. This is currently not the case with the system of exceptions and limitations.

ADDITIONAL SOURCES

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

What does the EU copyright reform
mean to you as a consumer?
Blog post
beuc.eu/blog

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

EU copyright reform: proposal for a directive
on copyright in the Digital Single Market
Position Paper
[BEUC-X-2017-081](#)

4

Facilitating cross-border access to audiovisual content

Why it matters to consumers

European consumers often cannot watch their favourite television programmes, films or sports events online if they are broadcast from other countries. This geo-blocking is often caused by exclusive licensing practices. The result is limited choice, as consumers cannot legally access online content that is available in other Member States but not in their own countries.

State of play in legislative procedure

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



Recommendations for the Presidency

We urge the Bulgarian Presidency to make progress on the European Commission's proposal for online broadcasting. More and more consumers are interested in accessing films, TV shows, sports events and documentaries from broadcasters based in other countries. When this content is not available in their countries, consumers look online. The clearance of rights for audiovisual service providers must be facilitated so that content can easily circulate throughout the EU to the benefit of all consumers.



What we need to succeed

- We urge European legislators to support the European Commission's proposal to extend the country of origin principle to online services. This would simplify licensing rules, and allow broadcasters to show their movies and TV shows in other Member States via their online services. In particular, we request that the Council support a broad scope to ensure that consumers have wide cross-border access to audiovisual content.
- Broadcasters should be able to provide access to online content to consumers across the EU. To do so, the regulation must provide clear and easy mechanisms for the management of rights by collecting societies, including extended collective licensing.
- The online broadcasting regulation should also facilitate the retransmission of content by online services providers: the so-called over-the-top services (OTTs) such as online platform Netflix.
- Finally, the European Commission should continue to enforce antitrust rules. This will ensure that exclusive and selective distribution is not used to restrict the availability of products via online commerce channels, and will prevent competition to the detriment of consumers.

ADDITIONAL SOURCES

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

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

Audiovisual content without borders
Factsheet
[BEUC-X-2017-121](#)

5

Audiovisual media services

Why it matters to consumers

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

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

State of play in legislative procedure

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

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



Recommendations for the Presidency

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



What we need to succeed

- The revised rules on audiovisual media services must ensure that consumers enjoy a high level of protection across all types of services, be they linear or non-linear. A revision of the rules that apply to commercial communications should not create the risk that viewers are exposed to an excessive amount of advertising. In addition, particular attention is needed to protect vulnerable viewers.
- Rules around the marketing of unhealthy foods to children must be tightened. Today, one in three European children is obese or overweight and the marketing of foods high in fat, salt and sugar is a serious risk factor for childhood obesity. This revision should introduce the following important measures: restrictions on the marketing of unhealthy foods during children's peak viewing times and not just during children's programmes; the use of the widely-recognised WHO nutrient profile to determine which products are not healthy enough to advertise to children; and a preference for regulation or co-regulation instead of self-regulation.

ADDITIONAL SOURCES


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

6

Cybersecurity

Why it matters to consumers

Consumers increasingly use connected devices in their daily lives. Today, people can remotely switch on the lights in their house, turn on the washing machine, or lock the door using a smartphone. However, we need to ensure that consumers' devices are protected against cyber attacks. While the number of connected products is rising, many of these products do not include even the minimum security features in their operating systems. This ultimately increases the chance that consumers and the personal data they generate will fall victim to malicious cyber attacks. A recent campaign of BEUC Norwegian member Forbrukerrådet (#WatchOut) discovered that GPS watches for children had serious security flaws that exposed the wearers to significant threat.

State of play in legislative procedure



In September 2017, the **European Commission** released its cybersecurity package. It included a legislative proposal for a regulation on ENISA (the so-called EU Cybersecurity Agency), and for a regulation on information and communication technology cybersecurity certification (the so-called Cybersecurity Act). This proposal reinforces the role of ENISA and creates a framework for the establishment of specific certification schemes for certain Internet of Things (IoT) products.

The proposal will now be discussed in the **European Parliament** and **Council**.

Recommendations for the Presidency

We encourage the Bulgarian Presidency to ensure that these legislative measures help to improve the security features of the products that consumers find on the market.



What we need to succeed

- As a principle, security features should be included in connected products by design. The European Commission's proposal is a good step in this direction. Only a robust EU cybersecurity certification scheme can help consumers to understand the level of security of all of their purchased products.
- Safety (product safety) and security (consumers' information security) requirements go hand in hand, and should be assessed when a connected product is sold on the EU market. However, under current legislation, only safety measures are explicitly mentioned. The current EU legislative framework should therefore clarify whether the concept of product safety also includes product security. If this is not the case, the current regulatory framework should be revised in order to include the concept of security when referring to the safety (in the broadest sense) of the product.



For more information: digital@beuc.eu



Consumer Rights

1

Online purchases of tangible goods

Why it matters to consumers

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

Although the proposed legislation would bring some improvements, it lacks innovation and will not result in a high level of consumer protection. In fact, its full harmonisation approach will lead to a reduction of essential rights in several Member States.

State of play in legislative procedure



The proposal for a Directive on Online and Other Distance Sales of Goods was issued in December 2015. The rapporteurs of the relevant committees in the **European Parliament** (Internal Market and Consumer Protection and Legal Affairs) have drafted reports that suggest extending the scope of the Directive to all types of sales. A study on a lifespan guarantee model suggests taking the durability of products into account. The vote in the lead committee will take place during the Bulgarian Presidency.



In the **Council**, contrary to the proposed initiative on digital content (see the following section), the proposal on the online purchase of tangible goods has so far been sidelined. There are currently discussions on whether or not to kick off the debate on this proposal. As both the European Parliament and the Council have stressed the need for coherent rules for distance and face-to-face sales, the **Commission** has recently published an amended proposal, extending the scope of the directive to all sales channels.



Recommendations for the Presidency



We recommend that the Bulgarian Presidency strives to ensure that consumers do not lose existing protection standards in their countries. The Council should take into account that together with a product's price, the existence of effective legal guarantee rights is the most important factor for consumers when deciding whether or not to buy a product. Any negative impact of new EU legislation should therefore be avoided. New rules based on full harmonisation should only be supported if they increase existing levels of protection in Member States. This relates particularly to the duration of the legal guarantee period and the systems of remedies.

What we need to succeed

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

ADDITIONAL SOURCES

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

Proposal for a Directive on certain aspects concerning contracts for distance sales of goods
Position paper
BEUC-X-2016-053

The new initiative for online and digital purchases
Letter to Commissioner Věra Jourová
BEUC-X-2015-031

Roadmap for the REFIT of the consumer aw acquis
Position paper
BEUC-X-2016-33

2

Contracts for the supply of digital content

Why it matters to consumers

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

State of play in legislative procedure

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



In the **European Parliament**, the Legal Affairs Committee and the Internal Market and Consumer Protection Committee are jointly responsible for this proposal. The vote in Committee took place in November 2017.



In the **Council**, a general approach was agreed under the Maltese Presidency. It maintained and even improved a number of important elements in the proposal, but unfortunately agreed on a reversal of the burden of proof in favour of the consumer of only one year.

Recommendations for the Presidency



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

What we need to succeed

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

ADDITIONAL SOURCES

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

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

3

REFIT consumer law 2016-2017 and the New Deal for Consumers

Why it matters to consumers

The purpose of the European Commission's REFIT initiative (the Regulatory Fitness and Performance Programme) is to evaluate the 'fitness' of the consumer law acquis: whether the objectives of the relevant legal acts have been achieved, and whether market integration has been fulfilled. At the same time, the functioning of the 2011 Consumer Rights Directive is being evaluated by the European Commission, and the results of this evaluation are being combined with the REFIT exercise. The objectives of all of the directives falling within this evaluation process, including the Consumer Sales Directive and the Unfair Terms Directive, are to promote consumers' interests and to safeguard a high level of consumer protection. It must accordingly be ensured that any result of the assessment of consumer law puts consumers' interests foremost, avoids any weakening of protections, and ensures a solid and enforceable legal framework for all consumers.

State of play in legislative procedure



In 2016, the **European Commission** published a roadmap to inform stakeholders about the REFIT initiative, held a public consultation, and formed a stakeholder consultative group. BEUC and several of our members form part of this expert group, and are contributing to the important work taking place within the REFIT initiative. The European Commission has also consulted stakeholders about the functioning of the Consumer Rights Directive, which was implemented by Member States in 2014.

In May 2017, the Commission published comprehensive reports and studies with a strong focus on the better enforcement of consumer rights. For example, they suggest introducing individual remedies in the Unfair Commercial Practice Directive, and putting a stronger focus on digital content purchases and related consumer problems, such as the 'payment' with data for digital services.

Legislative (and non-legislative) proposals are envisaged for March 2018 as part of the so-called New Deal for Consumers.

Recommendations for the Presidency



We urge the Bulgarian Presidency to prioritise work on the New Deal for Consumers. Initiatives in this context should aim to achieve a solid and modern framework for business-to-consumer transactions in the internal market based on a high level of protection. We hope that Member States will work to build a solid legal framework, adapted to new market developments and providing a truly high level of consumer protection and the improved enforcement of consumer rights.

What we need to succeed

- A truly high and enforceable level of consumer protection should be the benchmark for any reform proposals of EU consumer law.
- The review of the Consumer Rights Directive should strengthen consumers' rights to withdraw from contracts, and should ensure that they have remedies at hand in case traders do not comply with

information requirements. Traders should also face penalties in this case. Payment with data and the transparency of online platforms are other key issues to be addressed.

- We call for the development of ambitious enforcement tools. Generally, consumers should be given the right to claim compensation after having suffered damages from unfair commercial practices. They should also have access to contract law remedies, such as the right to withhold performance or to terminate a contract that has been concluded as a consequence of an unfair commercial practice.
- Traders that do not comply with EU consumer law should face truly dissuasive sanctions, amounting to a significant percentage of their yearly turnover.
- Consumers should always be protected when they buy goods, services or digital content products, regardless of whether they pay with money or provide data as counter-performance. When consumers provide data as counter-performance, they should benefit from information duties and the right to withdraw from the contract under the Consumer Rights Directive. Consumers should also be better protected against unfair clauses in such cases.
- Consumers increasingly rely on online platforms in their decision-making processes. However, the application of EU consumer law is either unclear or not protective enough, particularly when the online platform facilitates communication and contractual transactions between other market players. There should be a higher transparency standard for online platform operators, and they should be liable for incorrect or misleading information. A joint liability with the seller for the performance of a contract should be envisaged in cases where the platform has a predominant influence on the suppliers.
- The Injunctions Directive has shown its importance in stopping illegal practices by traders, but there are practical barriers to using this Directive in some Member States. It is important that injunction proceedings are made more effective and useful for consumers. A link to possibilities for redress is needed. For example, the trader should remove the consequences of the breach and consumers should be able to rely on the injunction judgment in their individual or collective redress proceedings (please also refer to the chapter on Redress and Enforcement).
- There should be a better mandatory standard for the presentation of terms and conditions and pre-contractual information. The current state of terms and conditions for digital services is bordering on the absurd; consumers have no real possibility to acquaint themselves with the terms and conditions before concluding a contract. Traders should be obliged to keep the length of terms and conditions to a minimum, and also to highlight essential terms and conditions. There should be a better mandatory standard for the presentation of pre-contractual information, for example indicative criteria or design suggestions (buttons, summary boxes, etc.).

ADDITIONAL SOURCES

Injunctions – Making them fit
Position paper
BEUC-X-2017-035

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

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

European collective redress: what is the EU waiting for?
Position paper
BEUC-X-2017-086

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

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

4

Product Liability

Why it matters to consumers

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

State of play in legislative procedure



The **European Commission** has published a Roadmap for an evaluation of the outdated Product Liability Directive, as it is unclear whether the legislation is able to cover potential damages caused by digital technologies. These might include software, 3D printing, robots, drones, self-driving cars, and smart household appliances. The Commission has recently completed a consultation process on the functioning of the Directive. The Commission announced that the preliminary results indicate that the Directive is largely fit for purpose. However, particularly when it comes to digital technologies and practical enforcement of consumer rights, the Directive could be improved.

Recommendations for the Presidency



The evaluation of the Product Liability Directive is due to be completed by the end of 2017. We are requesting that the Bulgarian Presidency trigger a debate about the result of this evaluation and the need for a modern and effective product liability system. This will enable consumer trust in products linked to digital technology, such as connected products.

What we need to succeed

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

ADDITIONAL SOURCES

Review of Product Liability Rules
BEUC Position Paper
BEUC-X-2017-039

5

Revision of the Air Passenger Rights Regulation

Why it matters to consumers

The existing Air Passenger Rights Regulation (No 261/2004) significantly improved the status of passengers through the granting of basic rights. However, enforcement of these rights has been toothless and inconsistent. Problems remain widespread, and consumer complaints of poor compliance have risen steadily. This can be demonstrated by Ryanair's mass cancellations practice: Passengers were left in the dark, often not knowing whether their flight will be among the many cancelled flights and whether they will be able to reach their planned destination on time. Unclear and incomplete information including information on the right to compensation caused a great deal of consumer frustration and chaos.

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

State of play in legislative procedure



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



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

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

Recommendations for the Presidency



Negotiations in the Council have been deadlocked for more than four years. We thus urge the EU institutions and in particular the Bulgarian Presidency to trigger a discussion about the future of EU legislation for air passengers, in the light of the recent crisis with Ryanair's mass cancellations and airline insolvencies, such as Air Berlin.

What we need to succeed

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

ADDITIONAL SOURCES

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

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

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

6

Revision of the Rail Passenger Rights Regulation

Why it matters to consumers

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. This can be demonstrated by Ryanair's mass cancellations practice: Passengers were left in the dark, often not knowing whether their flight will be among the many cancelled flights and whether they will be able to reach their planned destination on time. Unclear and incomplete information including information on the right to compensation caused a great deal of consumer frustration and chaos.

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

State of play in legislative procedure



In September 2017, the **Commission** published a legislative proposal for a Recast of the current Regulation which dates from 2007.

Recommendations for the Presidency




The new proposal for the revision of the Rail Passenger Rights is a positive step forward as it reduces the number of national exceptions from the scope of application, increases transparency of rail services, and facilitates national complaint handling mechanisms. However, it unjustifiably reduces consumer protection in case of force majeure and does not offer a high level of consumer protection for tickets representing a single transport contract for several railway services (through-tickets). We hope that work in Council will be kicked off as quickly as possible, with the interests of consumers and passengers in mind.

What we need to succeed

- The possibility to use national exceptions should be further removed, both in time and in scope.
- The new proposal should not allow for an exception linked to extraordinary circumstances.
- The implementation of a comprehensive system for dealing with consumer claims is key for effective consumer protection.
- Increased powers for the National Enforcement Bodies (NEBs) so that they can efficiently monitor compliance with rail passenger rights legislation.
- The obligation for all operators to adhere to an Alternative Dispute Resolution (ADR) scheme, without prejudice to the right of the parties to seek legal action in court.
- The implementation of complaint handling procedures by all rail operators, including deadlines to be respected when dealing with complaints.

ADDITIONAL SOURCES


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


For more information: consumer-rights@beuc.eu



REDRESS AND ENFORCEMENT

1

Collective redress and review of the Injunctions Directive

Why it matters to consumers

Lack of compensation for suffered harm is a major loophole in legal systems, allowing businesses to retain illegal profits. Judicial collective redress for consumers exists only in a limited number of Member States. And even when it is available, the models and effectiveness of the mechanisms vary significantly. They also do not provide for solutions in the case of harm caused by cross-border business transactions. For these reasons, there is significant discrimination when it comes to access to justice, and this is to the detriment of consumers.

At the same time, the Injunctions Directive is unfit for practice and in need of reform. The Fitness Check of EU Consumer Law has shown that injunctions procedures fail not only in giving consumers access to justice, but also in empowering consumer organisations to protect the collective interest of consumers. High costs and the lack of redress options necessitate a major reform at EU level.

State of play in legislative procedure



The **European Commission** did not include a separate legal proposal on collective redress in its working programme for 2018. Instead, Commissioners have announced their intention to address the issue of compensation through a review of the Injunctions Directive, which is expected to be published in March 2018. Addressing widespread consumer harm via an injunctive tool that was designed to stop ongoing illegal practices rather than to assess harmful events that took place in the past is not ambitious enough. However, a reform of the Injunctions Directive offers a real opportunity to better protect the collective interest of consumers and to facilitate their access to justice.

Recommendations for the Presidency



We urge the Bulgarian Presidency to quickly start work on the expected proposal for a review of the Injunctions Directive, and to advance the negotiations as swiftly as possible. Member States should ensure that the revised Directive increases the deterrent effect of injunctions and ensures consumer compensation in the event that damage has been suffered. Member States should make sure that consumer organisations are designated as qualified entities in all countries, and that they are able to ask for individual and collective redress for consumers within the framework of the injunctions procedure.

What we need to succeed

- An EU-level collective redress instrument: consumers should be able to claim compensation in a group, and not just individually.
- Reform of the Injunctions Directive, with an extension of its scope of application to cover all infringements that bring harm to consumers. For example, the Directive should also cover financial services, product safety and passenger rights.
- The renewed Injunctions Directive should facilitate access to consumers and reduce costs for consumer organisations that protect the collective interests of consumers.
- A clear link between injunction orders and consumer redress. There should be one single procedure under which qualified entities, including consumer organisations, may request a stop to the breach of the collective interest of the consumers as well as compensation for the harm suffered.
- The responsible courts or administrative bodies should have the power to initiate collective settlement negotiations between the qualified entities and the traders. Where no settlement can be reached, a collective redress procedure should be available to protect consumer interests.
- Exemptions from the ‘loser pays’ principle so as to enable consumer associations to bring collective cases. Most civil society organisations do not have the financial means to start collective injunction proceedings.
- Effective, proportionate and deterrent financial penalties in the case of non-compliance with the outcomes of the procedure by the trader. Such penalties should amount to a percentage of the annual turnover of the infringer. This is already the case in many EU legal acts, including data protection laws.

ADDITIONAL SOURCES

European collective redress: what is the EU waiting for?
Position paper
BEUC-X-2017-086

Injunctions – Making them fit
Position paper
BEUC-X-2017-035

Collective Redress Factsheet
BEUC-X-2016-137

For more information: consumer-redress@beuc.eu



Financial Services

1

Reform of the European Financial Supervisory Authorities

Why it matters to consumers

Consumers expect the financial products on the market to respond to their needs and to meet legal standards. Financial supervisors must therefore deal with consumer protection effectively and independently. Over the past few years, several EU legislative texts have been adopted in the area of retail financial services. However, in many Member States the quality of supervision and enforcement is poor.

Effective enforcement and an equally high level of consumer protection and redress everywhere across Europe are preconditions for a successful single retail financial market and capital markets union. The ESAs (European Supervisory Authorities, including EBA, ESMA and EIOPA) have an important role to play in creating a common EU supervisory culture and a convergence in supervision practices. Thus, the ongoing reform of these ESAs is an excellent opportunity to bring about real change for EU consumers in retail financial services.

State of play in legislative procedure



In September 2017, the **European Commission** proposed a reform of the ESAs. However, although the proposal includes some useful improvements in the current architecture of the ESAs such as the composition of their boards, it is overall disappointing with regard to consumer/retail investor protection. Importantly, consumer protection is subordinated to other priorities for the ESAs.

Recommendations for the Presidency



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

What we need to succeed

- The establishment of a dedicated EU supervisor who would focus on defending consumer interests in financial services. As a minimum, conduct-of-business (consumer protection) supervision within the ESAs should be separated from prudential supervision.
- The provision of a mandate for this EU consumer protection supervisor to ensure the development, implementation and monitoring of common standards of conduct-of-business supervision at Member State level. This would entail having financial supervisors with strong consumer protection mandates, sufficient resources, and the power to fulfil these mandates in all Member States.
- Direct supervisory and effective product intervention powers for the EU consumer protection supervisor with regard to cross-border issues such as risky products and practices that are widespread in several Member States.
- The functioning of the ESAs' stakeholder groups should be enhanced. The composition of the groups should be more balanced between industry and retail users, and not-for-profit members should receive adequate resources to enable effective participation.
- A reform of the governance structures of the ESAs (Management Board and Board of Supervisors), with the goal of improving their operational efficiency and independence and ensuring the supranational orientation of their work.
- The ESAs must be provided with sufficient resources to adequately fulfil their tasks.

ADDITIONAL SOURCES

Review of the European Financial Supervisors
Response to the Commission consultation
BEUC-X-2017-051

2

Cross-border payment transactions involving different currencies

Why it matters to consumers

The Regulation on Cross-border Payments aligns fees for national and cross-border payment transactions in euros within the EU (ATM cash withdrawal, direct debit, credit transfer and card payment). As a result, euro transactions within Europe are cheap or even free of charge. However, non-euro EU currencies are not covered, with the result that consumers pay high fees for cross-border cross-currency transactions. The revision of the Regulation would allow for example a Bulgarian citizen working in a eurozone country to send levs to Bulgaria, and the Bulgarian bank would charge the same fee as for a national credit transfer.

The practice of dynamic currency conversion (DCC) constitutes a significant problem. When paying or withdrawing money in a foreign currency, consumers are often offered the option to immediately convert the transaction amount into their home currency. As a result, they may be hit with exorbitant currency conversion fees. As existing transparency requirements are clearly ineffective, a ban on these charges should be included in the revision of the Regulation.

State of play in legislative procedure



The **Commission** is currently considering its policy options based on two public consultations: one on the Green Paper on retail financial services, and the other on transparency and fees in cross-border transactions in the EU. The legislative proposal on the review of the Regulation is expected in early 2018.

Recommendations for the Presidency



We urge the Bulgarian Presidency to ensure that consumers are treated fairly when making cross-border transactions (money transfer, cash withdrawal and card payments) involving different currencies.

What we need to succeed

- All EU currencies should be brought under the scope of the revised Regulation in order to reduce fees for cross-border transactions involving the non-euro currencies of the EU. This would mean that the fee for a cross-border transaction would be the same as the fee for a local transaction.
- A ban on dynamic currency conversion practices is required, as transparency obligations alone will not prevent consumers from being ripped off by DCC service providers.

ADDITIONAL SOURCES

Dynamic currency conversion
Position paper
[BEUC-X-2017-118](#)

The great currency conversion scam
Infographic
[BEUC-X-2017-130](#)

The great currency conversion scam
Factsheet
[BEUC-X-2017-131](#)

3

Crowd and peer-to-peer finance

Why it matters to consumers

Investment-based crowdfunding and peer-to-peer lending platforms are gaining ground in the EU. While they potentially give consumers direct access to a wider range of investment options, they also come with fundamental risks that cannot be ignored.

Currently, these platforms are not covered by clear EU consumer rights rules, and national rules are either non-existent or differ from one country to another. This is a particular problem for services that are offered online across many countries. In these cases, consumers are steered towards investing in projects that hold considerable risk for them. BEUC members have already observed problematic practices attached to these platforms, such as underestimating risks and overstating possible returns.

State of play in legislative procedure

Recently, in its work programme for 2018, the **European Commission** announced that it will prepare a legislative proposal on crowdfunding and peer-to-peer finance in the beginning of the year.



Recommendations for the Presidency

We ask the Bulgarian Presidency to support a clear legal framework that guarantees consumer rights in the area of crowdfunding and peer-to-peer finance.



What we need to succeed

A consumer-friendly framework for crowdfunding and peer-to-peer finance consists at the very least of the following measures:

- Clearly visible risk warnings, highlighting the inherent associated risks with crowdfunding and peer-to-peer finance.
- Disclosure and organisational requirements, such as due diligence of investment propositions and measures to avoid conflicts of interest.
- A right of cancellation for consumers, giving them the opportunity to think twice.
- Caps on the investment amounts, limiting the relative exposure of consumers to risky investments.

4

Pan-European Personal Pensions

Why it matters to consumers

European consumers are increasingly struggling to meet their retirement needs. With government pensions on the decline and occupational ones covering only a minority of citizens and their pension needs, consumers are increasingly required to organise personal pension products. However, this growing trend has not been matched by an adequate and safe supply of value-for-money products. Therefore, we strongly support any drive to ensure better access for consumers to transparent and standardised personal pension products that generate a positive net real return (after inflation).

State of play in legislative procedure



In June 2017 the **Commission** adopted a proposal for a regulation on a Pan-European Personal Pension product (PEPP). The PEPP is a voluntary retirement scheme that will be available to savers as a complement to public and occupational pension systems, and will exist alongside national private pension schemes.

The proposal is accompanied by a recommendation for the tax treatment of personal pension products, including the PEPP.

Recommendations for the Presidency



We urge the Bulgarian Presidency to ensure that the PEPP incorporates very high consumer protection standards in order to provide a good ‘value for money’ option for all European consumers and pensioners.

What we need to succeed

- A cap on costs/charges, at least in the default option: charges have a huge impact on the return of long-term personal pension products.
- The minimum contract duration before consumers are able to switch providers must be as short as possible. The envisaged five year minimum contract period is too long. Furthermore, the cost of the switching process should be low.
- The PEPP’s key investor document, a standardised information sheet, should always be provided in the consumer’s language.
- The standard PEPPs should not include ‘mandatory guarantees’. Guaranteed return clauses increase the product’s complexity and involve high costs.
- An independent watchdog committee within the European Insurance and Occupational Pensions Authority that acts in the sole interest of PEPP holders should be set up. This committee would monitor the investment policies of PEPP providers and assess their value for money.

ADDITIONAL SOURCES

EU single market for personal pensions
Response to EIOPA’s consultation
BEUC-X-2016-056

For more information: financialservices@beuc.eu



Food

1

Food safety: antibiotic resistance

Why it matters to consumers

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

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

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 improve the EU's response to antimicrobial resistance.



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

Recommendations for the Presidency



Good progress was made under the Estonian Presidency, with Member States examining the Commission's proposals. The Bulgarian Presidency is thus expected to kick off trilogue negotiations with the European Parliament. We urge the Council to back the ambitious stance put forth by MEPs on AMR-related provisions in the veterinary medicines proposal. Public health and consumer safety should always prevail over economic interests and trade issues.

What we need to succeed

- We urge the Council to support the European Parliament's call to ban the prophylactic use of antibiotics. MEPs have agreed upon adequate rules that permit the use of prophylaxis in certain well-defined cases. This will allow for the limited use of prophylaxis while ensuring that this practice is no longer routinely used.
- The European Commission's proposals include a requirement to restrict the veterinary use of antimicrobials that are critically important to treat humans. This requirement has been endorsed by the Parliament, and we urge the Council to ensure that it is included in the final text.
- The European Commission's proposals also mention the setting up of a consumption database to monitor the usage of antibiotics in animal production, in addition to the existing database on antibiotic sales in the veterinary sector. We find this a very positive move in facilitating the monitoring of the use of antimicrobials on the ground. The European Parliament has improved the draft proposal by requiring more complete information about why and how antibiotics are used. We urge the Council to support the Parliament's proposal, which will assist in the identification of inappropriate practices.

ADDITIONAL SOURCES

The Superbug Tour:
antibiotic resistance from farm to you
<http://www.beuc.eu/superbugtour>

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

Antibiotic resistance
Campaign
www.beuc.eu/can-we-trust-our-meat

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

For more information: food@beuc.eu



Health

1

eHealth

Why it matters to consumers

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

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

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

State of play in legislative procedure

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



Recommendations for the Presidency



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

What we need to succeed

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

ADDITIONAL SOURCES

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

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

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

2

Access to medicines

Why it matters to consumers

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

State of play in legislative procedure



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



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

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

Recommendations for the Presidency



We urge the Bulgarian Presidency to advance swiftly on the approval of the legislative proposal on Health Technology Assessment, ensuring that only medicines that bring concrete benefits to consumers are reimbursed. We also call on the Presidency to follow up the Council conclusion on strengthening the balance in the pharmaceutical systems in the EU and its Member States.

What we need to succeed

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

ADDITIONAL SOURCES

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

Access to medicines
Position paper
BEUC X-2015-104

For more information: health@beuc.eu



Sustainability

1

Low carbon cars in the 2020s

Why it matters to consumers

The latest report on air quality in Europe estimates that over 500,000 EU citizens die prematurely due to air pollution. A switch to low emission cars will bring numerous benefits to consumers, including lower costs for fuel during the use phase, less noise and reduced air pollution (particularly in cities). It will also help to reduce pressure on the climate which may turn in the coming years more and more into a threat for consumers' health, safety and financial wellbeing.

State of play in legislative procedure



In November 2017, the **European Commission** published a large mobility package. It contains a proposal to lower CO₂ emissions from passenger cars by 15% by 2025 and 30% by 2030. The proposal neither contains a mandatory quota for putting electric vehicles on the market nor Real Emissions Driving (RDE) test for CO₂ emissions.

Regarding zero-emission vehicles, the European Commission only included an incentive mechanism for low and zero-emission vehicles which would bring credits to manufacturers selling more than a certain target (15% in 2025, 30% in 2030). However, no debit or penalty is foreseen for manufacturers not reaching the targets.

Recommendations for the Presidency



By 2050, the CO₂ emissions generated by the European transport sector will need to be 60% lower than 1990 levels in order to achieve EU climate targets. This will only be possible if large parts of the transport sector are electrified.

We recommend that the Bulgarian Presidency makes the proposal for reducing CO₂ emissions from passenger cars a top priority. Given the impacts of car emissions on human health and the environment, new and strengthened regulations are needed to ensure that consumers will be provided with low and zero emission vehicles.

What we need to succeed

- The EU must reduce CO₂ emissions from passenger cars by at least 40%-45% by 2030. The 2025 target should also be strengthened to at least 20-25%.
- More action must be taken to increase the availability, affordability and attractiveness of electric vehicles to consumers. Only a quota for electric vehicles will ensure that consumers have sufficient choice between different models of electric vehicles. The current credits scheme proposed by the European Commission needs to be completed by debits (meaning that a manufacturer not reaching the ZEV target would have to comply with a stricter specific CO₂ objective) or penalties.
- A real world driving test for CO₂ emissions must be developed and made mandatory during the type approval procedure. Just adding fuel meters to each car will not be sufficient to ensure the enforcement of CO₂ emission limit values.

ADDITIONAL SOURCES

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

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

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

2

Testing of passenger cars, type approval and market surveillance

Why it matters to consumers

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

State of play in legislative procedure



In January 2016 the **Commission** made a legislative proposal to reform the existing type approval and market surveillance of passenger cars. A general approach was adopted in May 2017, and negotiations between the Council, Parliament and the Commission are expected to be finalised before Estonia hands the Presidency to Bulgaria. The **Council**'s general approach is weaker than the Parliament and Commission's position. Disappointing proposals include a number of barriers to the issuing of penalties by the Commission for non-compliance; a lack of attention to financial conflicts of interest in vehicle testing; and the absence of independent auditors to check on the implementation of EU rules.

Recommendations for the Presidency



In case Member States and the European Parliament have not finalised the trilogue negotiations under the Estonian Presidency, we urge the Bulgarian Presidency to make the proposal a top priority. Given the impacts of the car emissions scandal throughout Europe, new and strengthened regulations are needed to increase consumer confidence in vehicle testing and compliance procedures.

What we need to succeed

- The EU must play a stronger oversight role with passenger cars, for example through conducting market surveillance activities and by evaluating the harmonisation of rules implemented across Europe.
- There should be significant quantifiable targets for the number of compliance tests conducted across the EU for both production and in-use vehicles.
- If the results of conformity tests differ significantly from the type approval vehicles, the manufacturers should revise their claims accordingly. Furthermore, they should be fined if wrongdoing is discovered and ultimately be liable for any consumer damage.
- A greater level of independence in the type approval process must be ensured, and any potential conflict of interest between car makers, national authorities and private test labs eliminated.
- Greater transparency of type approval and market surveillance practices must be ensured by providing access to vehicle test results and by reporting activities and decision making surrounding recalls. Effective penalties must apply for all forms of non-compliance, including the provision of misleading fuel consumption figures to consumers and the use of defeat devices that lower emission values for test purposes.

ADDITIONAL SOURCES

The Great Fuel Consumption Scam: BEUC position paper on improving fuel consumption testing of cars in the EU
BEUC-X-2015-016

A consumer view on the Commission proposal on type approval and market surveillance
 Position paper
BEUC-X-2016-052

The great vehicle testing maze
www.cartestingmaze.eu

BEUC's Key Recommendations for the Trilogue negotiations on type approval and market surveillance on 23 November 2017
BEUC-X-2017-132

Car testing and market surveillance
 Trilogue recommendations
BEUC-X-2017-089

For more information: sustainability@beuc.eu



Trade

1

Multilateral Investment Court for investment dispute resolution

Why it matters to consumers

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

However, previous attempts to reform ISDS have been inadequate. The current ICS models proposed in the Comprehensive Economic and Trade Agreement (CETA) and the Transatlantic Trade and Investment Partnership (TTIP) do not address the core flaw of the ISDS, and create the risk that consumer, health, labour and environmental regulations could be challenged as violations of 'investor rights'.

State of play in legislative procedure

European Commission

Council

European Parliament

In September 2017, the **European Commission** asked the **Council** for a mandate to negotiate the establishment of a permanent Multilateral Investment Court to adjudicate international disputes between investors and foreign governments. This initiative follows the EU proposal for an Investment Court System as part of the TTIP in 2015, and the modification of the investment protection chapter in CETA in early 2016.

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

Recommendations for the Presidency



We call on the Bulgarian Presidency to ensure that any Council decision authorising the Commission to negotiate a convention establishing a Multilateral Investment Court on behalf of the EU ensures that claims relating to public interest measures, such as consumer protection or public health, are not admissible in that Court.

What we need to succeed

- A legal safeguard for the right to regulate: it is essential that the article on the right to regulate in each free trade agreement or investment treaty that will be subject to investor protection be modified in such a way that claims against measures designed to meet public policy objectives will not be admissible in the Court. It is crucial that the current merely interpretative provisions are expanded to include legally enforceable tools to protect the right to regulate.
- To ensure that judges are truly independent and to prevent conflicts of interest from arising, it should be formally mentioned that judges are not authorised to work as ISDS arbitrators in other cases.
- The compatibility of the MIC with EU law must be verified. We urge the Bulgarian Presidency to facilitate a request for the opinion of the European Court of Justice prior to the establishment of the Court. This is key in order to ensure legal certainty and predictability in trade policy.
- There should also be means for other international disputes to be effectively resolved: contrary to investors, consumers do not have access to specific tools for international dispute settlement. This is notably the case when it comes for example to privacy violations or problems in commercial transactions.

ADDITIONAL SOURCES

Multilateral Investment Court
Position paper
BEUC-X-2017-140

International Investment Arbitration
Factsheet
BEUC-X-2016-096

2

EU-Japan Trade Agreement

Why it matters to consumers

The aim of the EU-Japan trade agreement is to further facilitate trade. The agreement could benefit consumers if it is well designed, consumer oriented, and adapted to today's public interest needs.

We are satisfied that the political agreement that was reached in July 2017 includes neither an investment court system nor provisions on data flows.

State of play in legislative procedure



In November 2012, the **Council** of the European Union granted negotiating directives to the **European Commission** to formally start trade negotiations with Japan. The EU and Japan reached a political agreement on the deal in July 2017, and are now engaged in negotiations to finalise the deal.

The **European Parliament** adopted a resolution in October 2012.

Recommendations for the Presidency



We call on the Bulgarian Presidency to ensure continued transparency during the technical conclusion phase of the negotiations. This is crucial, as highly sensitive issues such as investment dispute settlement will be dealt with following the political conclusion of the agreement.

What we need to succeed

- Regulatory dialogue must benefit and protect consumers. Exchanges between EU and Japanese regulators should have the clear objective of enhancing consumer welfare, and must remain voluntary. At the same time, trade agreements are not the place to define guidelines for good regulatory practices, as governments need to protect their right to regulate.
- Negotiators should refrain from including an Investor-to-State Dispute Settlement (ISDS) mechanism and Investment-Court-System (ICS) in the agreement. ISDS systems have proven harmful to consumers and the public interest in the past, as foreign investors have used them to challenge and undermine public interest policies. Despite some improvements put forward by the EU with its Investment Court System, there remain significant risks for consumers. For example, foreign investors will still be able to threaten governments with lawsuits for compensation when governments adopt laws to protect consumers. This could deter governments from introducing new protections, and lead to a regulatory chill. Moreover, there is no empirical evidence of the need for such a system between the EU and Japan, beyond protecting investors and keeping foreign direct investment flowing.

ADDITIONAL SOURCES

Guarantees for a positive trade agreement
Letter
BEUC-X-2017-093

Make EU-Japan trade deal work for consumers
Factsheet
BEUC-X-2017-092

For more information: trade@beuc.eu



Energy

On 30 November 2016, the European Commission presented its Clean Energy for All Europeans package, a series of legislative proposals that are now on the table of EU legislators. This package has three main goals: putting energy efficiency first, achieving global leadership in renewable energies, and providing a fair deal for consumers. The package is likely to be the largest overhaul of EU energy policy in the next ten years and beyond.

1

Energy efficiency

Why it matters to consumers

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

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

State of play in legislative procedure

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

As the **Council** adopted its general approach in June 2017 and the **European Parliament** followed in November with its position, the commencement of trilogue negotiations is anticipated.



Recommendations for the Presidency



We urge the Bulgarian Presidency to take a consumer-friendly stance during the trilogue negotiations, and to make every possible effort to advance the negotiations by pushing for ambitious energy efficiency policies that deliver real savings and the best outcomes for European consumers.

What we need to succeed

- A 40% increase in EU energy efficiency by 2030 through EU and national binding energy efficiency targets. The 'energy efficiency first' principle should be applied in all decision making.
- Short-term and long-term energy savings through the extension of obligation schemes beyond 2020.
- Loopholes in energy efficiency policy with regard to transport and renewables must be closed. The transport sector should be included in the calculation of energy saving obligations. This could benefit consumers in the form of reduced fuel bills and cost reductions in clean transport solutions.
- Energy efficiency measures that are cost-effective, monitored, and steered towards households, especially those affected by energy poverty. Although the responsibility for protecting energy poor and vulnerable consumers lies with Member States, the EU should manage the impact of its energy efficiency policy impacts on energy poverty.
- An analysis of the costs and benefits of heating, cooling and hot water meters. These meters should be implemented only with consumer consent, and consumers' privacy should be protected. When rolling out different technical solutions, the focus should be on beneficial outcomes for consumers such as accurate and timely billing information.
- Easy access for consumers to accurate information on their building's performance. Information about the smart features of a building should be designed in a user-friendly format.
- Interoperable charging points that avoid a lock-in effect in order to make it easy for consumers to charge their electric cars. The roll out of the necessary infrastructure should be faster, and SMEs should not be exempted.
- The energy efficiency legislation review should ensure further support for energy efficiency measures, with a focus on the most cost-effective long-term solutions, while keeping energy affordable. Special attention should be paid to vulnerable consumers as energy efficiency can help reduce energy poverty.
- Adequate financial support schemes to support energy efficiency in buildings are needed to enable all European consumers to be more energy efficient.

ADDITIONAL SOURCES

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

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

Consumer rights in electricity and gas markets
 Position paper
[BEUC-X-2013-083](#)

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

2

Clean energy for all Europeans and energy markets that work for consumers

Why it matters to consumers

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

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

State of play in legislative procedure

In November 2016, the **European Commission** launched its Clean Energy for All Europeans package which aims to achieve EU leadership in renewable energies and provide a fair deal for consumers.

The **European Parliament** was expected to vote on its position on the electricity market design, renewables and governance by the end of 2017. The Council is expected to adopt its general approach and negotiate with the European Parliament in trialogues under the Bulgarian Presidency.



Recommendations for the Presidency

While leading the Council's negotiations on the design of future electricity markets, we encourage the Bulgarian Presidency to focus on empowering consumers through tools that allow them to easily navigate the electricity market, engage with the market and benefit via lower prices and better services. We also call on the Bulgarian Presidency to swiftly advance on these legislative proposals and ensure the 'Clean Energy for All Europeans' package results in affordable energy services and more secure and cleaner future energy markets.



What we need to succeed

- Targeted interventions by Member States and regulators, including price setting, should be allowed when energy markets are failing and not delivering competitive prices. This is particularly important when other measures do not sufficiently protect energy poor households and consumers in vulnerable situations.
- Existing consumer protections should be extended to all third party intermediaries (including new generation energy service providers such as aggregators), and these parties should also be required to comply with relevant requirements on for example contracts and billing.

- Consumers should be able to compare offers at a glance, and comparison tools should include bundled offers and dynamic price offers.
- Consumers should receive clear contracts and a user-friendly summary of key contractual information. Important clauses in energy contracts on for example the product, discounts and factors unrelated to the energy supply should be highlighted.
- Bills should be simple, concise and include all essential information, and should be a tool for consumers to discover more advantageous tariffs. The process of switching energy suppliers should be faster, easier and without any disproportionate costs.
- Consumers should be rewarded for engaging with flexible electricity tariffs and services through lower bills.
- All household consumers should have a right to generate and store electricity. They should not be forced to participate in wholesale markets that are designed for large generators. They should maintain their full rights as consumers.
- Existing and prospective self-generators must enjoy security of investment, together with a dedicated long-term strategy to facilitate small-scale renewable self-generation projects by consumers and tenants. Undue financial burdens such as taxes or fees imposed on self-generated electricity should be removed. Member States should ensure that independent Alternative Dispute Resolution schemes are available to address consumer complaints in the energy market, including the settlement of disputes involving suppliers from different sectors.
- Effective market surveillance by reinforcing powers and enlarging the monitoring duties of regulators.
- As markets converge, cross-sector co-operation between National Regulatory Authorities and enforcement authorities is essential.

ADDITIONAL SOURCES

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

Stalling the switch: 5 barriers when consumers change energy suppliers
Brochure
[X-BEUC-2017-106](#)

Making electricity use smart & flexible
Brochure
[BEUC-X-2017-036](#)

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

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

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

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

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

For more information: energy@beuc.eu



Safety

1

Market surveillance of consumer products

Why it matters to consumers

Unsafe consumer products that require recall, including products bearing the CE marking, are often found on the European market. They pose an avoidable risk to the health and safety of consumers. Beyond information exchange through the Rapid Alert System and the limited number of joint actions being undertaken each year, the EU and its Member States need to step up their efforts to keep consumers safe.

The ‘Dieselgate’ scandal was a striking demonstration of current shortcomings: inadequate controls on the products already in use, and insufficient coordination across the EU. In addition, global markets are changing, and consumers are more often shopping online from EU and non-EU traders. This development calls for new methods and tools for market surveillance.

Additionally, more and more products that connect to the internet are coming onto the market, including cars, baby monitors, fridges and toys. Consumers interact with these devices through voice recognition, cameras and data input. Both experience and research have shown that these products often pose risks to consumer safety and security. Unfortunately however, the EU lacks effective mechanisms to quickly take these products off the market in the case of problems.

The only answer to these challenges is a harmonised European system for market surveillance, as a single market also requires a single response to unsafe products. An update of the current EU product safety and market surveillance rules in order to ensure consumers’ well-being is therefore overdue.

State of play in legislative procedure

In February 2013, the **European Commission** published a product safety and market surveillance package, which comprises proposals for regulations on consumer product safety and market surveillance as well as a multi-year action plan for market surveillance.

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. However, this legislative reform has been blocked since the summer of 2013 due to controversy about whether or not products have to be labelled with their country of origin (‘made in’).



It is expected that the European Commission will present a proposal to improve market surveillance in the EU before the end of 2017. A major component should be stronger coordination at EU level for joint market surveillance actions across the Member States.

Recommendations for the Presidency



We request that the Bulgarian Presidency deals with the new proposal on market surveillance as a matter of priority, and that it seeks to generate support among Member States for a Europe-wide harmonised system of market surveillance that will include a stronger role for the EU.

What we need to succeed

- Better coordination of market surveillance action at EU level is needed. Participation in joint actions should be mandatory for each Member State.
- More human, financial and technical resources for market surveillance are required at both the EU and Member State level.
- An adaption of horizontal and product-specific legislation to make sure that consumers are kept safe when using new types of products such as those connecting to the internet.
- Specialisation and burden sharing within the EU in order for market surveillance to be more effective. This could include sharing technical facilities and the results of laboratory testing, and developing specialised task forces to deal with very specific problems such as unsafe products sold online, chemical content or connected devices.
- Empowering the Commission to adopt additional traceability requirements in certain justified cases.
- Equipment and machines on which consumers ride or travel, e.g. amusement park rides, should be included within the scope of the Consumer Product Safety Regulation (CPSR).
- Product-specific legislation that addresses environmental issues such as the EU Ecolabel Regulation, the EU Ecodesign Directive and the EU Energy Labelling Directive should be included in the scope of the Market Surveillance Regulation (MSR).
- Business secrets cannot prevail over the immediate need to inform consumers about serious risks. Market surveillance authorities need to adequately warn consumers without delay, and publish all of the relevant information needed to identify a product and the risks involved.
- Penalties need to be proportionate to the infringement, not to the size of the company.
- An EU-funded accident statistics system and a European complaint handling/reporting point should be established.
- Products with characteristics appealing to children must be safe for children to use or touch under all conditions.

ADDITIONAL SOURCES

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

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

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Notes



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- AT - Arbeiterkammer
- AT - Verein für Konsumenteninformation
- BE - Test Achats/Test Aankoop
- BG - Асоциация Активни потребители
- CH - Fédération Romande des Consommateurs
- CY - Kypriakos Sundesmos Katanaloton
- CZ - dTest
- DK - Forbrugerrådet Tænk
- EE - Eesti tarbijakaitse LIIT
- FI - Kilpailu- ja kuluttajavirasto
- FI - Kuluttajaliitto – Konsumentförbundet ry
- FR - CLCV
- FR - UFC-Que Choisir
- DE - Stiftung Warentest
- DE - vzbv
- EL - EKPIZO
- EL - ΚΕΡΚΑ
- ES - CECU
- ES - OCU
- HU - Fogyasztóvédelmi Egyesületek Országos Szövetsége
- IE - Consumers' Association of Ireland (CAI)
- IS - Neytendasamtökin
- IT - Altroconsumo
- IT - Consumatori Italiani per l'Europa
- LT - Lietuvos vartotojų organizacijų aljansas
- LU - Union Luxembourgeoise des Consommateurs
- LV - Latvijas Patērētāju interešu aizstāvības asociācija
- MK - Organizacija na potrosuvacite na Makedonija
- MT - Għaqda tal-Konsumaturi
- NL - Consumentenbond
- NO - Forbrukerrådet
- PL - Stowarzyszenie Konsumentów Polskich
- PL - Federacja Konsumentów
- PT - DECO
- RO - Asociația Pro Consumatori
- SK - Združenie slovenských spotrebiteľov
- SK - Spoločnosti ochrany spotrebiteľov
- SI - Zveza Potrošnikov Slovenije
- SE - Sveriges Konsumenter
- UK - Citizens Advice
- UK - Financial Services Consumer Panel
- UK - Legal Services Consumer Panel
- UK - Which?



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