



---

# Romanian Presidency of the European Union

---

BEUC priorities  
2019



---

**Romanian Presidency  
of the European Union**

---

BEUC priorities  
2019

# Table of contents

Introduction	2
<b>HORIZONTAL</b>	<b>4</b>
Multiannual Financial Framework	4
‘A Clean Planet for All’ strategy	6
Better Regulation	8
<b>CONSUMER RIGHTS</b>	<b>10</b>
Proposal for a Directive on the sales of tangible goods	10
Contracts for the supply of digital content	12
The New Deal for Consumers – Proposal for a Directive on better enforcement and a modernisation of EU consumer protection rules	14
Revision of the Rail Passenger Rights Regulation	16
<b>DIGITAL RIGHTS</b>	<b>18</b>
ePrivacy	18
Copyright reform	20
<b>REDRESS AND ENFORCEMENT</b>	<b>22</b>
New Deal for Consumers – the proposal for a Directive on representative actions	22
<b>FINANCIAL SERVICES</b>	<b>24</b>
EU secondary market for non-performing loans	24
Reform of the European Financial Supervisory Authorities	26
Crowd and peer-to-peer finance	28
Review of the Motor Insurance Directive	30
Pan-European Personal Pension: tackling the pensions gap	32
<b>HEALTH</b>	<b>34</b>
Access to medicines	34
Digital Health	36
<b>FOOD</b>	<b>38</b>
More transparent scientific studies on food safety	38
Dual Food Quality	40
<b>SAFETY</b>	<b>42</b>
Revision of product safety and market surveillance legislation	42
Hormone disrupting chemicals	44
<b>TRADE</b>	<b>46</b>
EU-US trade negotiations and regulatory co-operation dialogues	46
World Trade Organisation & e-commerce	48
Trade agreement with Australia and New Zealand	50



## Introduction

---

The European Consumer Organisation (BEUC) is the umbrella organisation for 43 independent consumer organisations in 32 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 Romania is Asociatia Pro Consumatori (APC).

The next six months will see the wrapping up of this legislature. The Romanian Presidency, which will take on this role for the first time, will have the important task of concluding a number of files that are very relevant to consumers.

In this Memorandum for the Romanian Presidency of the Council of Ministers, BEUC highlights the most pressing consumer expectations for the European Union, makes concrete proposals for how the Romanian Presidency can work towards successful consumer policies, and finally urges the Council of Ministers and the European Parliament to legislate in favour of consumers.

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

### Consumer rights

---

The legislative proposal for a directive on better enforcement and modernisation of EU consumer protection (the ‘Omnibus Directive’) should ensure that consumers can benefit from harmonised remedies against unfair practices, and that stronger sanctions are imposed on traders 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. Misleading practices related to dual quality of products should also be addressed.

### Collective redress

---

The legislative proposal on representative actions should allow consumer associations to make use of a wide range of collective compensation actions, while at the same time creating a level playing field for all businesses by penalising the cheaters.

### Digital Single Market

---

The legislative proposal for ePrivacy should lead to real benefits for consumers in the digital age.

### Access to innovative medicines

---

The legislative proposal on Health Technology Assessment (HTA) has the potential to help governments save money, and to reward health technology only if it benefits consumers.

### Financial services

---

Legislation on non-performing loans, the review of the European Supervisory Authorities, and the review of the Motor Insurance Directive should all lead to better outcomes for financial services consumers.

### Product safety and market surveillance

---

The proposed regulation would help to remove unsafe products from the market, which is urgently needed.

### More transparent food safety evaluations

---

All safety tests used by the European Food Safety Authority (EFSA) in order to determine whether or not a given product or substance is safe shall be made public. This will ensure that EFSA’s scientific assessments are open to peer scrutiny.

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

We wish Romania a most successful Presidency.

**Monique Goyens**  
Director General

**Örjan Brinkman**  
President



# Horizontal

1

## Multiannual Financial Framework

### Why it matters to consumers

Consumer policy is one of the very few EU legislative areas that is immediately tangible to European citizens and consumers and can positively impact their daily lives. Through its Consumer Programme, the EU funds for example a product safety rapid alert system, coordinated enforcement actions, an online dispute resolution platform, and the representation of consumer interests at EU level.

Not only does the EU influence consumer policy through its legislative initiatives, it also financially supports European consumer organisations, thus enabling them to bring the consumer perspective to the EU policy debate. These policies and actions require corresponding financial support.

### State of play in legislative procedure

The European Union's next long-term budget (the so-called Multiannual Financial Framework, or MFF) is currently under preparation, and will cover the period between 2021 and 2027.

The budget proposal was presented in May 2018 by the **European Commission**. The Commission also put forward additional legislative proposals for specific spending programmes (including its Consumer Programme) in June. The **Council**, after obtaining consent from the **European Parliament**, will adopt the MFF regulation. The European Parliament and Council are both in the process of weighing the Commission proposal.



### Recommendations for the Presidency

We expect the Romanian Presidency to help deliver a budget that allows the EU to demonstrate to its citizens the added value of belonging to a strong political and economic union. Regaining people's trust in EU politics and institutions should be an important objective for the next Multiannual Financial Framework. Consequently, the financial envelope for consumer policy should be increased.



## What we need to succeed

---

- EU level funding for consumer protection organisations in the context of the EU's consumer policies should be guaranteed as a strong element of democratic EU and national decision making.
- Initiatives to support the financial sustainability of national consumer organisations should be introduced, such as requiring their meaningful and remunerated participation in consumer relevant research and innovation programmes.
- European capacity-building projects, which have enabled the training of consumer professionals in countries with less affluent consumer movements, should be continued.
- Public and private enforcement to ensure actual impact vis-à-vis consumer rights should be strengthened. This could partly be financed through the introduction of the principle that EU competition fines be retroceded to fund consumer projects.
- Activities to ensure a high level of protection for human health should also be increased. We call for an ambitious agenda for the funding of European health policy activities beyond 2020. There has never been a stronger case or a more vital moment for the EU to step up work on health protection. While life expectancy is improving, the years gained are often lived in relatively poorer health due to the proliferation of preventable chronic diseases.

### Additional sources



The New Multiannual Financial Framework (MFF) – 2021-2027  
BEUC response to the public consultation  
[BEUC-X-2018-015](#)

## 2

## 'A Clean Planet for All' strategy

### Why it matters to consumers

Carbon dioxide and other greenhouse gases are accumulating in the atmosphere and will stay for centuries. The result is that the climate will continue to change even if we manage to drastically cut emissions, exposing future generations to unexplored risks.

This means that European consumers are affected by and will increasingly suffer from the impact of a changing climate through – among other trends – endangered food security, lower health standards, and higher living costs related to increasing prices for food, energy and transport.

We welcome the European Commission's introduction of the very important 'A Clean Planet for All' strategy, which is focused on how to achieve a climate neutral Europe by 2050. This debate must take place now, as European consumers will increasingly suffer the consequences of climate change. The EU must act boldly in order to prevent devastating climate change, and ambitious and far-reaching policy measures will be necessary. When developing these measures, the needs of all consumers must be taken into account, and action must be inspired through a common vision for a sustainable and fulfilling future.

### State of play in legislative procedure



The **European Commission** adopted a strategic long-term vision for "a prosperous, modern, competitive and climate neutral economy by 2050 – A Clean Planet for All" in a Communication issued in November.

The Commission has invited the **European Council** and the **European Parliament** "to consider the EU vision for a climate neutral Europe by 2050". It has asked ministers to "hold extensive policy debates on the contribution of their respective policy areas to the overall vision".

### Recommendations for the Presidency



We call on the Romanian Presidency to prioritise this topic, and to initiate ambitious discussions among ministers on the strategy in order to develop responses for all policy areas, including consumer policy. We ask the Presidency to involve consumer organisations in their debates so that solutions will take consumer interests into account.

### What we need to succeed<sup>1</sup>

- **Food and farming:** The Communication rightly recognises that the food and farming sector can make a significant contribution to the EU's climate mitigation efforts. Proposed options for mitigating the climate impact of agriculture seem to be mostly geared towards technological innovation, whilst consumption choices are hardly addressed. Although a growing number of consumers are willing to adopt diets that are good for the planet, they struggle to do so due to the lack of clear guidance on what constitutes a healthy and sustainable diet. Making such information widely available to consumers should be a priority for the EU as part of its climate strategy. Consumers must be involved in discussions around food

1 | These recommendations constitute our initial response to the Commission Communication.



production and climate change, and their acceptance (or lack of) and attitudes towards certain food production technologies must be listened to and respected. The range of potential solutions to mitigate the climate impact of agriculture, food production and consumption must be openly debated together with consumers and society at large.

- **Transport:** As consumers suffer from air pollution and CO<sub>2</sub> emissions from transport continue to rise, the strategy rightly highlights the importance of decarbonising the transport sector. The best way to have a fully decarbonised transport sector by 2050 is to set ambitious medium-term objectives (such as the EU's CO<sub>2</sub> targets for 2025 and 2030) as well as a precise deadline for when the last fossil fuel car should be sold (between 2035 and 2040 at the latest).
- **Chemicals:** A successful circular economy can only be achieved if consumers are confident that secondary raw materials are safe. We therefore need effective controls on chemicals in secondary raw materials to ensure that recycled food contact materials do not contaminate our food, or that toys made from recycled plastics do not poison our children.
- **Financial services:** The financial system must serve society's needs. Environmental and social concerns are among the important challenges facing society, and the financial sector must take its share of responsibility in for example the transition to a low-carbon and green economy. Policy-makers must ensure that financial institutions cannot ignore the sustainability goals. Furthermore, consumers must have access to sustainable investment options.
- **Trade:** Member States should ensure consistency between the 'A Clean Planet for All' and the 'Trade for All' strategies. There must be a focus on the sustainable development chapters of trade agreements. In addition, Member States should consider the inconsistency between the Investment Court System/ Multilateral Investment Court and the goal of achieving a climate neutral economy by 2050.
- **Energy policy:** Smart, sustainable and inclusive energy policies must be integral to the EU's future policies and initiatives. In order to achieve the ambitious goals of the Communication, strong efforts will be needed to enable the participation of consumers in the energy transition. More attention to and a better understanding of the behaviour, needs and expectations of consumers is required.
- **Electricity system:** We will need more renewables and less consumption to decarbonise the system, with more action at the local and household levels. This transformation will require major investments in the grid, as well as a significant redesign. Consumers should not disproportionately bear the burden of the costs. The EU and Member States must support and provide flexibility to households in their attempts to increase efficiency; to produce renewable electricity, heating and cooling; and to change the way they consume.
- **Digital:** A strategic vision is needed in order for the EU to lead the way in ensuring that the digital transformation also serves the goal of achieving a climate neutral economy. Digital technology has the great potential to help reduce emissions and optimise resources and efficiency in all sectors of our economy. Nonetheless, the environmental impact of the digital revolution must also be properly tackled.
- **Product policy:** To allow consumers to live more sustainably, it is important that the EU pushes further for systemic changes in how we produce and consume products and services. To this end, design policies (Ecodesign) and consumer information schemes (Energy Label and Ecolabel) should be further developed to achieve better resource and cost savings. More action must be taken to ensure that products become more durable and are repairable, upgradeable, reusable and recyclable. Additional action should also be taken to phase out single-use materials, giving consumers access to better, reusable alternatives.

## 3

## Better Regulation

### Why it matters to consumers

Transparent policy and law making, effective and efficient EU legislation based on high levels of protection, timely implementation at the national level, and good enforcement are all essential in order to ensure that European consumers can fully benefit from the Single Market and trust in Europe's economy, society and democracy. EU legislation is essential, not only for opening markets for business but also in providing the necessary protection, information and redress tools to consumers.

Better transparency of EU decision making, another focus of the Better Regulation Agenda, is essential for generating and maintaining people's trust in our democracies.

### State of play in legislative procedure



Better regulation was a priority for the Juncker **Commission**, which presented its communication on 'Better Regulation for better results' in May 2015. This was complemented by two communications in the autumn of 2017, and another on subsidiarity and proportionality in 2018.

Whilst everybody agrees that unnecessary administrative burdens through EU legislation should be reduced or altogether avoided, the shift of the institutional discourse from an "administrative" to a "regulatory" burden is problematic. A focus on reducing "regulatory burden" as promoted by the European Commission's Better Regulation Agenda risks giving too much importance to avoiding legal compliance costs for businesses whilst neglecting the positive impacts of legal protection and empowerment. Although the number of Commission proposals that would actually reduce consumers' rights is small three and a half years after the launch of this agenda, the better regulation discourse has enabled procrastination in protective EU policy areas (such as food, health, chemicals, product safety and security).

The European Commission is currently taking stock of its Better Regulation Agenda, and the results will be presented in the spring of 2019. It is expected that a Communication 'on how to make the Union more united, stronger and more democratic in Communication terms' will be presented to the European Council in May 2019.

### Recommendations for the Presidency



Ministers are expected to discuss the European Commission's findings and lessons learned around the Better Regulation Agenda. We call on the Romanian Presidency to facilitate an open discussion on how to re-direct this Agenda to ensure that EU legislation and enforcement will better meet their objectives: not only reducing costs of compliance for business, but benefiting all.

## What we need to succeed

- Most importantly, the European Commission should change the concept and narrative of the Better Regulation Agenda to turn it into a positive initiative that acknowledges and promotes the values of EU legislation rather than questioning them. The scopes of the new Better Regulation and REFIT agendas should be broader, and they should improve EU legislation and not only reduce regulatory burdens. The primary objective of better regulation should be to look at how the objectives of EU legislation can be fulfilled and how to make necessary improvements for people.
- REFIT reports often provide for a wealth of interesting research and new information. And although these reports often illustrate important legislative shortcomings, the European Commission's follow-up action is often very limited. The Commission should make better use of REFIT reports in order to improve the effectiveness of legislation.
- Regarding public consultations, we welcome the clear increase in opportunities for stakeholders to express their views. However, the way in which many consultation questionnaires measure the effectiveness of EU legislation is unbalanced. For example, with regard to the achievement of legislative objectives, they look mainly at ways to achieve burden reduction.
- The European Commission's evaluations often do not put enough focus on the 'real' impact of legislation, namely how compliance and enforcement of EU legislation works. This is an important element in terms of measuring legislative effectiveness.
- The work of the REFIT platform to come up with recommendations for how to simplify and reduce costs of legislation suffered from its narrow mandate. Citizens' suggestions to the platform often did not receive a response, and this resulted in a negative perception of EU legislation. The mandate of this exercise should be expanded in order to cover recommendations for the effectiveness of legislation.
- The institutional appropriateness and added value of the so-called "after adoption feedback consultations" for proposals under ordinary legislative procedure is questionable. The European Commission should submit a report about the use and impact of this new feedback tool. More focus on the main public consultation opportunities would also help to increase the quality of these consultations.

### ADDITIONAL SOURCES

Response to the European Commission's public consultation on "Stocktaking of the Commission's 'better regulation' approach"

[BEUC-X-2018-120](#)



# Consumer Rights

1

## Proposal for a Directive on the sales of tangible goods

### Why it matters to consumers

Modern and effective legal guarantee rights are essential for consumers purchasing across the EU Single Market. There is a need for better consumer protection in the case of faulty goods. The Commission's proposal concerning sales of goods will impact existing consumer rights, and offers opportunities for improving the current state of play if these rights are strengthened rather than weakened.

Although the proposed legislation would bring some improvements, its full harmonisation approach would lead to a reduction of essential rights in several Member States. In particular, the length of the legal guarantee period and the choice of remedies if a product does not conform with the contract would be affected.

### State of play in legislative procedure

A proposal for a Directive on Online and Other Distance Sales of Goods was issued in December 2015, and was amended in October 2017 to extend its scope to offline sales.



In February 2018, the responsible Committee in the **European Parliament** (Internal Market and Consumer Protection) adopted a report. Unfortunately, the Committee opted for a position that would result in the deterioration of consumer rights in several countries. The free choice of remedies currently existing in several Member States was abandoned, and the period for the reversal of the burden of proof was reduced from the proposed two years to one year. On top of this, the Committee ignored the call to introduce rules reflecting the need for a longer legal guarantee period for durable goods, as well as rules addressing the importance of the reparability of products.



In the **Council**, the general approach adopted by the Austrian presidency in December provides for certain critical improvements: for example it takes into account the need for consumer protection in the case of goods with digital elements, such as smartphones or Internet of Things products. The Council also agreed that the onus should be on the seller to prove that a product was not faulty at the time of purchase for a period of either one or two years as decided by the Member States. It also agreed to allow Member States the flexibility to decide upon the length of the legal guarantee period.

## Recommendations for the Presidency



We urge the Romanian Presidency to ensure that the Council's general approach is used as the starting point in its negotiations with the European Parliament in agreeing upon a Directive that brings better protection for consumers and does not lower current protection standards. Any negative impact of new EU legislation – as would for example result from the European Parliament's Committee opinion – must 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, the burden of proof 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.
- We strongly support the extension of the reversal of the burden of proof period as envisaged by the Commission's proposal, and we reject the reduction to a maximum of one year as suggested by the IMCO Committee. Whatever the final solution may be, it must be ensured that Member States have the option of introducing a two-year time limit, after which period the consumer must prove that a product was not faulty at the time of purchase (as suggested by the Council).
- In line with the Council's general approach, the Member States must be able to decide upon the length of the legal guarantee period.
- Consumers must be ensured the protection of EU-wide specific rights when they buy goods containing software or connected to digital services (goods with digital elements). For example, it is essential that consumers receive updates – including security updates – for their products. The consumer must be able to decide upon her or his preferred remedy, as it is the trader who is in breach of contract. A free choice of remedy, already established and well received in a number of Member States, is the fair legislative response to misconduct by the trader.

### 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](#)

Proposal for a Directive on the Sales of Goods and Associated Legal Guarantees  
 Letter to Permanent Representatives of the Council  
[BEUC-X-2018-105](#)

## 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 e-books, 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. The **Council** agreed upon a general approach in June 2017. It maintained and even improved on a number of important elements in the proposal, but unfortunately agreed to reverse the burden of proof in favour of the consumer to only one year.



In November 2017, the responsible committees in the **European Parliament** (the Legal Affairs Committee and the Internal Market and Consumer Protection Committee) adopted their report. This report is more ambitious than the Council’s approach on many issues, for example regarding the inclusion of specific rights for conformity of software embedded in smart devices.



## Recommendations for the Presidency

We ask the Romanian Presidency to prioritise this proposal together with the proposal on the sales of goods 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. It must be ensured that consumers are also protected if they purchase products with embedded software.
- 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.
- It should be up to the consumer to freely choose the remedy for any lack of conformity. In any case, consumers should have the right to terminate the contract in case of failure to supply.
- 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. In case this is not possible, the Council’s approach, which states that it is up to Member States to provide a time limit that is not shorter than two years, is preferable.
- 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. The proposal for a time limit as suggested in the Council’s general approach and the European Parliament’s report should be abandoned.
- New rules should aim at ensuring that consumers receive updates for their software applications. Updates that are lacking, defective or incomplete should allow consumers to invoke guarantee rights.

### ADDITIONAL SOURCES

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

Digital Content Directive – Recommendations for the trilogue negotiations  
[BEUC-X-2017-003](#)

## 3

# The New Deal for Consumers – Proposal for a Directive on better enforcement and a modernisation of EU consumer protection rules

## Why it matters to consumers

In business-to-consumer commercial transactions, the consumer is in a weak position vis-à-vis the other party. For this reason, EU consumer law provides essential rights for consumers: for example the right to receive accurate information about products; the right to withdraw from a contract concluded online within 14 days; and the right to not be misled or treated aggressively. These rights are toothless if not safeguarded by remedies and sanctions mechanisms. Any 'deal for consumers' should ensure that consumer rights across the EU are not weakened but rather improved and modernised in order to cope with the digitalisation of our societies.

## State of play in legislative procedure



In April 2018 the **European Commission** published the long-awaited New Deal for Consumers package. This package includes a proposal for a directive on better enforcement and a modernisation of EU consumer protection rules (also known as the Omnibus Directive).



The **European Parliament's** Internal Market and Consumer Protection (IMCO) Committee is currently discussing the proposal. The IMCO vote is scheduled for January 2019.

## Recommendations for the Presidency



We urge the Romanian Presidency to prioritise work on the Omnibus Directive. The proposed changes should aim at achieving effective rules for business-to-consumer transactions in the internal market based on a high level of consumer protection. An agreement between legislators before the end of the current term of the European Parliament is urgently needed in order to ensure better protection for European consumers.



## What we need to succeed

- It is troubling that the European Commission decided to weaken the best-known consumer right – the right of withdrawal – when no conclusive evidence has been provided that this would be a significant burden for businesses. On the contrary, all data suggest a severe lack of compliance by traders, signalling the need to improve the right of withdrawal. There should be no change of law without evidence.
- Rogue traders should face dissuasive penalties for infringing consumer law. These penalties should amount to a significant percentage of a company’s annual turnover and take into account the EU-wide dimension of the infringement.
- As proposed by the Commission, consumers should enjoy remedies in case of unfair commercial practices. Beyond the right to compensation and the right to contract termination, additional remedies should be considered including the right to price reduction.
- The suggested changes provide better transparency obligations for online platforms related to ranking criteria used by platforms, information on the status of the trader/consumer, whether EU Consumer Law applies, and who is the responsible contracting party. However, a standard remedy in the case that traders do not comply with these requirements is lacking. In general, rules on the liability of platforms are missing in the proposal. This concerns both the liability of online marketplaces for their own claims and promises, and the liability of online marketplaces that have a dominant influence on the supplier.
- Consumers should be informed about the relative importance of ranking parameters used by the online platforms and about the use of personalised pricing techniques.
- The provisions on the right of withdrawal and information requirements under the Consumer Rights Directive should in the future also apply to situations where consumers provide personal data as a counter-performance if they sign up to a digital service. However, this approach also needs to be applied in cases where consumers provide non-personal data in exchange for the service. As a general principle, the scope should be extended to cover all kinds of counter-performances in the exchange of goods, services and digital content products.

### ADDITIONAL SOURCES

Proposal for a Better Enforcement and Modernisation of EU Consumer Protection Rules – “Omnibus Directive”  
BEUC position  
[BEUC-X-2018-081](#)

Roadmap for the REFIT of the consumer law acquis 2016: Comments to the European Commission  
[BEUC-X-2016-033](#)

Fitness Check of EU Consumer Law 2016  
BEUC Position  
[BEUC-X-2016-081](#)

Fitness Check of EU Consumer Law 2016 – Additional BEUC Policy Demands  
BEUC Position  
[BEUC-X-2017-040](#)

Review of the Consumer Rights Directive  
BEUC Comments  
[BEUC-X-2016-093](#)

## 4

# Revision of the Rail Passenger Rights Regulation

## Why it matters to consumers

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

## State of play in legislative procedure



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

The **European Parliament** adopted an ambitious position on this proposal in November 2018. Among other things, this proposal called for the clause on force majeure to be deleted, for the mandatory provision of through tickets, and for higher compensation levels.

## Recommendations for the Presidency



We ask the Romanian Presidency to ensure that the discussions in the Council on the rail passenger rights proposal move forward quickly, and that the consumer perspective and the European Parliament's position are taken into account. The new proposal for the revision of rail passenger rights is a positive step forward as it reduces the number of national exceptions from the scope of application, increases the transparency of rail services, and facilitates national complaint handling mechanisms. However, it unjustifiably reduces consumer protection in the case of force majeure, and does not provide easy access for consumers to through tickets. Through tickets, in which several railway services are represented by a single transport contract, would allow consumers to be covered by rail passenger rights for their entire journey.

## What we need to succeed

---

- The possibility to use national exceptions should be further removed, both in time and in scope.
- The provision of through tickets should be mandatory.
- 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 should be granted to the National Enforcement Bodies (NEBs) so that they can efficiently monitor compliance with rail passenger rights legislation.
- All operators should be obliged to adhere to an Alternative Dispute Resolution (ADR) scheme, without prejudice to the right of the parties to seek legal action in court.
- Complaint handling procedures should be implemented by all rail operators, and should include deadlines to be respected when dealing with complaints.
- Automatic compensation schemes should be available to passengers where technology allows it.

### ADDITIONAL SOURCES



Rail Passenger Rights Regulation Recast:  
BEUC position paper  
**BEUC-X-2018-014**



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



# DIGITAL RIGHTS

1

## 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



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. The negotiations for a general approach are still ongoing in the **Council**. Meanwhile, the General Data Protection Regulation (GDPR) has entered into application and there is pressure to adopt the ePrivacy Regulation proposal before the end of the current legislative term of the European Parliament.

### Recommendations for the Presidency



We urge the Romanian Presidency to swiftly reach a general approach in Council and to start trilogue negotiations on the proposal for the ePrivacy Regulation. The review must guarantee the protection of confidentiality in all electronic communications services and protect consumers against unwanted online tracking and unsolicited commercial communications. Hardware and software used by consumers must by default provide the highest level of privacy protection. The ePrivacy reform is essential for strengthening individuals' right to privacy and the confidentiality of communications, as well as for rebuilding and reinforcing public trust and security in the digital economy.

## 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. In line with the European Parliament's position, it should not be possible to process electronic communications data under broad legal grounds such as for 'legitimate interests' or 'compatible purposes'. Whereas the processing of metadata without prior user consent for statistical counting could be envisaged, this must be subject to strong safeguards and strictly limited to purposes of public interest.
- Default settings in devices and software should be configured to provide the highest level of privacy protection, in line with the European Parliament's position. An obligation to simply provide information about the privacy settings would not be sufficient from a consumer privacy protection perspective, and would undermine the 'data protection by design and by default' principle enshrined in Article 25 of the GDPR.
- The behaviour and activities of users 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, as stated in the Parliament's position. In particular, making access to a service conditional to the acceptance of cookies that process personal data that are not necessary for the provision of that service should not be allowed. This would go against Article 7.4 of the GDPR.
- 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, in line with the European Parliament's position.
- Specific provisions to protect the privacy of children must be introduced by Council, as Parliament ultimately neglected to do so.

### 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](#)

BEUC's views on Austrian Presidency proposed Amendments  
[BEUC-X-2018-070](#)

Open letter to EU member states from consumer groups, NGOs and industry representatives in support of the ePrivacy Regulation  
[BEUC-X-2018-108](#)

## 2

## Copyright reform

### Why it matters to consumers

A dynamic, fast-evolving market – such as the one for online content – requires a flexible legal framework that allows for new and socially valuable uses. The Copyright in the Information Society Directive dates back to 2001, preceding mass usage of the internet, and has thus not kept pace with technological developments. As a result, everyday domestic activities such as backing up files, copying legally bought music, films and e-books to play on different devices, or posting 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 **European Parliament** adopted its position in September 2017. In **Council**, a general approach was reached in May 2018 under the Bulgarian Presidency. Trilogue negotiations are ongoing.



### Recommendations for the Presidency



We ask the Romanian Presidency to take the consumer perspective into account during the trilogue negotiations, and to ensure that the outcome does not negatively impact consumers' freedom of expression or their normal use of the internet.

## 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 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 to protect users' interests are insufficient. The compatibility of this new obligation with the e-Commerce Directive and the rights granted under the European Charter of Fundamental Rights must also be carefully assessed.

### ADDITIONAL SOURCES

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

In no man's land:  
consumers in the copyright debate  
Blog post  
[www.beuc.eu/blog](http://www.beuc.eu/blog)

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

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

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

Copyright and consumers  
Factsheet  
[BEUC-X-2018-008](#)

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



# REDRESS AND ENFORCEMENT

1

## New Deal for Consumers – the proposal for a Directive on representative actions

### 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.

### State of play in legislative procedure



In April 2018, the **European Commission** published the long-awaited New Deal for Consumers package. This includes the proposal for a Directive on representative actions for the protection of the collective interests of consumers. This proposal links injunctions and collective redress measures and is a major breakthrough in EU consumers legislation as it finally addresses the gap in access to justice for EU consumers. The Bulgarian and the Austrian Presidencies made limited progress in the negotiations on this legislative proposal, and it has not yet been possible to reach a general approach.



On the other hand, the lead committee in the **European Parliament** has already adopted a constructive report. For example, the committee supports the broad scope of laws under which group actions may be filed, including several additions such as medicinal products and medical devices as well as product and food safety. The report also calls for the strengthening of provisions on minimum harmonisation. The deletion of the review clause for passenger rights is also welcome, as is the obligation to wait for the finality of the injunction order before claims for redress measures can be launched.

### Recommendations for the Presidency



We urge the Romanian Presidency to prioritise the representative actions proposal, and to do its utmost to ensure that the negotiations can be completed as soon as possible.



## What we need to succeed

- Member States should make sure that consumer organisations are designated as qualified entities in all countries, and that they are able to ask for collective redress for consumers in a wide range of mass damage situations. The Commission proposal splits collective redress possibilities into three groups of cases: i) those in which the harmed consumers are identifiable and have suffered comparable harm; ii) those in which consumers have suffered a small amount of individual loss and it would be disproportionate to distribute the redress to them; and iii) those in which the quantification of individual redress is complex. For this last category, the proposal allows Member States to empower the court or another authority to simply issue a declaration of the infringement instead of carrying out the full collective redress procedure. This is of concern: it is not realistic to expect consumers to claim their redress individually, particularly in complex cases. An EU-level collective redress instrument is needed in all cases. We welcome very much that the Legal Affairs Committee in the European Parliament has deleted the possibility of derogation, as well as the categorisation of cases.
- The scope of application of the representative actions should remain wide and cover all infringements that could potentially harm consumers. For example, the Annex of the proposal is currently missing EU legislation on data protection and product safety. We call on the Member States to include at least the legislation that was added by the European Parliament: namely food and product safety, and safety of medical devices and medicinal products (responsible for many mass harm situations).
- The new Directive should facilitate consumers' ability to receive redress and should reduce costs for organisations that protect the collective interests of consumers.
- It should be possible to launch redress actions simultaneously with infringement actions. This will help to avoid lengthy time lapses between the final decision on the breach of law and the redress actions. We hope that the Council will agree on the Legal Affairs Committee's improvement on this essential issue.
- Exemptions from the 'loser pays' principle so as to enable consumer associations to launch collective cases are needed. 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 are required. Such fines should then be redirected to consumer causes.

### ADDITIONAL SOURCES

Representative actions and collective redress  
Factsheet  
[BEUC-X-2018-097](#)

Myths and realities on collective redress  
Factsheet  
[BEUC-X-2018-048](#)

Proposal for a Directive on representative actions  
Position paper  
[BEUC-X-2018-042](#)

Injunctions: Making them fit  
Position paper  
[BEUC-X-2017-035](#)

Where does collective redress for individual  
damages exist?  
[BEUC-X-2017-117](#)

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



# FINANCIAL SERVICES

## 1

## EU secondary market for non-performing loans

### Why it matters to consumers

The European Commission has proposed to create a single – secondary – market for non-performing loans (NPL). This would enable banks to easily sell soured loans to third party investors, including so-called vulture funds<sup>1</sup>, established in any EU country or outside the EU.

This initiative is against the interests of borrowers who are in financial difficulty. They would be exposed to credit purchasers and credit servicers (debt collectors) located in other countries. And it is unlikely that a supervisory authority would monitor the overseas practices of a passported debt collector registered in their country but operating in another one.

### State of play in legislative procedure

The **Commission's** NPL package – containing a regulation and a directive – was published in March this year. The Parliament's Committee on Economic and Monetary Affairs (ECON) and the Council have prioritised work on the proposal for a prudential backstop regulation that aims to impose higher capital requirements on credit institutions to prevent future NPL accumulation. On the other hand, work on the proposed directive on a secondary NPL market has been slow, and neither the **Council** nor the **Parliament** have presented their positions yet.

### Recommendations for the Presidency

We urge the Romanian Presidency to ensure that the interests of individual borrowers are protected under the NPL Directive. NPLs in Europe are a legacy of the recent financial crisis and irresponsible lending practices by some financial institutions. Therefore, the solution to the problem of non-performing loans must not be borne by distressed borrowers alone. Exposing these borrowers to debt investors and collectors is not an adequate and sustainable way to tackle NPLs.



1 | Vulture funds are various forms of private equity firms and pension funds that invest across a series of asset classes, one of which is debt.

## What we need to succeed

---

- The scope of the directive should be limited to non-performing loans, while forbidding credit institutions from selling performing credit agreements to third parties.
- Whenever the borrower is in financial difficulty, the lender should exercise forbearance measures in line with Article 28 of the Mortgage Credit Directive and the European Banking Authority Guidelines on arrears and foreclosure.
- Credit servicers dealing with distressed borrowers should be required to obtain an authorisation from and establish a branch or a subsidiary in the Member State where they intend to operate. Furthermore, they should be supervised by that same country's authority.
- When a credit institution intends to transfer a credit agreement to a credit purchaser at a specified price, the credit institution should allow the debtors (individual households) to buy back their debt at the same price or with a small mark-up.
- Distressed borrowers should be strongly protected from unfair behaviour by credit servicers and credit purchasers. Thus, credit servicers and credit purchasers should be subject to strict conduct rules.
- Distressed borrowers should have the right to receive legal support when in court, to ensure equal representation of the borrower and the lender or a third party.
- Member States should be able to maintain existing national measures aimed at protecting distressed borrowers, as well to adopt stricter measures.

### ADDITIONAL SOURCES



Secondary market for non-performing loans:  
The European Commission's proposal is a bad deal for distressed borrowers  
BEUC position paper  
[BEUC-X-2018-068](#)

## 2

# 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 – 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. The **European Parliament's** Economic and Monetary Affairs (ECON) Committee has proposed a number of improvements related to the ESAs' consumer protection mandate (convergence of conduct supervision practices and a more balanced composition of the ESAs stakeholder groups). On the other side, progress in **Council** has thus far been very slow.

## Recommendations for the Presidency



We urge the Romanian Presidency to prioritise this file and to push for stronger consumer financial protection mandates for the ESAs in the context of the ongoing review. The governance, funding, and stakeholder groups of the ESAs must also be reviewed accordingly.

## What we need to succeed

- A committee composed of national competent authorities responsible for financial consumer protection should be established within the Board of Supervisors of each ESA.
- The ESAs should be provided with sufficient financial resources in order to adequately fulfil their consumer-related tasks, with at least 20% of their budgets allocated for that purpose.
- Supervisory convergence is essential: the ESAs should be empowered to ensure the development, implementation and monitoring of common standards of conduct-of-business supervision at Member State level. This would entail having national financial supervisors with strong consumer protection mandates, sufficient resources, and the power to fulfil these mandates in all Member States.
- The composition of the ESAs' stakeholder groups should be balanced between industry and retail users, and not-for-profit members of the stakeholder groups should receive adequate compensation in order to enable their effective participation.

### ADDITIONAL SOURCES

Review of the European Financial Supervisors:  
BEUC response to the Commission consultation  
[BEUC-X-2017-051](#)

Proposal for the EU supervisory reform  
Open letter  
[BEUC-X-2017-139](#)

ECON's draft report on the review of the  
European Financial Supervisors: disappointing  
for European NGOs and financial services users  
Open letter  
[BEUC-X-2018-072](#)

## 3

## Crowd and peer-to-peer finance

### Why it matters to consumers

Given the drop in nominal returns on traditional savings products, consumers are increasingly attracted to alternative investment vehicles such as those offered by crowdfunding platforms. Although crowdfunding services offer potential benefits for investors, consumers may bear an increased level of risk when investing in the projects offered by these platforms.

Furthermore, as a relatively new form of financing, crowdfunding platforms have not yet faced the test of recession. It is key that these platforms are adequately regulated and that consumers understand the significant risks involved when investing in them.

### State of play in legislative procedure



In March 2018, the **European Commission** adopted its proposal for a Regulation on European Crowdfunding Service Providers (ECSP) for business. Unfortunately, the proposal does not set minimum rules across the EU for crowdfunding platforms. Instead, it introduces an optional EU license that will allow crowdfunding platforms to choose whether to comply with their national regime or with the EU rules. If a platform chooses compliance with EU rules, it will no longer have to comply with existing national crowdfunding laws. Creating a purely optional license for crowdfunding platforms will not set a minimum standard for investor protection across the EU. It also provides a route for platforms to dodge the stronger rules currently in place in some Member States.



The **Parliament** adopted its position in November. The **Council** is still working on its general approach.

### Recommendations for the Presidency



We ask the Romanian Presidency to guide the Council towards the introduction of binding EU legislation on crowdfunding platforms. This approach is better oriented towards consumers/users than the purely optional EU regime as proposed by the European Commission, as it will ensure that investors are effectively informed and protected.

## What we need to succeed

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

- Clearly visible risk warnings, highlighting the inherent risks associated 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.
- Strict caps on the amounts that can be invested into crowdfunding projects, thus limiting the exposure of consumers to risky investments.
- A requirement for crowdfunding platforms to disclose the overall default rate of projects they list.
- Business continuity arrangements in order to ensure that investors do not lose money in the event that platforms go bankrupt.

### ADDITIONAL SOURCES

EU crowdfunding rules risk catering only for platforms, not consumers  
Press statement  
[BEUC-web-2018-008](#)

European Commission's legislative proposal on crowdfunding – missed opportunity!  
Proposal for a Regulation on European Crowdfunding Service Providers (ECSP) for Business  
Position paper  
[BEUC-X-2018-075](#)

## 4

# Review of the Motor Insurance Directive

## Why it matters to consumers

Consumers need to have access to affordable, fair and transparent motor insurance policies. The current review of the Motor Insurance Directive should deliver positive reforms for consumers, making insurance policies more transparent and enhancing the capacity for consumers to switch between insurance contracts. Consumers across the EU should benefit from more affordable insurance premiums based on their driving history.

## State of play in legislative procedure

In May 2018, the **European Commission** announced new rules amending the Motor Insurance Directive. The changes proposed by the European Commission will enhance the protection of motor insurance policyholders and potential victims of motor vehicle incidents. New measures will now also require insurers to take claims history statements from other EU countries into account. Under previous rules, insurers were not required by law to consider claims history statements issued in other EU Member States. This new requirement should ensure that citizens who purchase insurance when moving abroad can benefit from more advantageous insurance premiums based on their previous driving history in another EU country. New rules to deal with insolvent insurers will also provide stronger protections for the victims of motor incidents. European citizens will also benefit from more harmonised protection levels between EU Member States in cases of personal injury or material damage.

The **Council** and the **Parliament** are working on their respective positions.

## Recommendations for the Presidency

We urge the Romanian Presidency to work towards a consumer-friendly regime for motor insurance.





## What we need to succeed

- While we welcome the ‘portability’ of claims history statements across EU Member States, the European Commission has not introduced an explicit obligation for insurers to take claims history statements into account when calculating premiums for consumers. BEUC believes that EU Member States should be required to implement mandatory ‘bonus-malus’ schemes, requiring insurance undertakings to award automatic premium reductions based on drivers’ claims history statements. Under such rules, insurers would be required to automatically award reductions in premiums for consumers if they have not been involved in any recent accidents. In France, a mandatory bonus-malus scheme is already in existence: 95% of drivers receive a bonus based on their driving history.
- To help consumers compare offers between different insurance firms, a standardised template for bonus-malus policies should be developed for insurance undertakings. At the moment, the bonus-malus tables provided by insurance undertakings can differ significantly in format, impeding meaningful comparison and in turn the switching of providers by consumers.
- The Motor Insurance Directive must be future-proofed in order to deal with anticipated technological changes in the automotive industry (connected and autonomous driving). The European Commission should be obliged to reassess the suitability of the Motor Insurance Directive in the near future to determine whether or not the liability system it provides will suit future needs.

### ADDITIONAL SOURCES

Revision of the EU’s Motor Insurance Directive  
Position Paper  
[BEUC-X-2018-088](#)

Consultation response on the review of the  
Motor Insurance Directive  
Consultation response  
[BEUC-X-2017-149](#)

## 5

# Pan-European Personal Pension: tackling the pensions gap

## Why it matters to consumers

Retired European consumers are increasingly struggling to meet their financial 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. Consumers therefore need better access 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.



In September, the **European Parliament's** Economic and Monetary Affairs Committee (ECON) adopted a report on the European Commission's proposal. As fees can have a significant impact on the return of a pension fund, the Parliament recommended that the annual costs and fees for the Basic PEPP should not exceed 1% of a consumer's annual contributions. Such a fee cap would ensure that consumers receive value for money and that they do not pay excessive fees when saving for their future retirement. The



**Council** already adopted its general approach under the Bulgarian Presidency. The trilogue negotiations are currently taking place.

## Recommendations for the Presidency



We urge the Romanian Presidency to work 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

- The overall management fee of any default option in the PEPP should not exceed 1% on an annual basis: charges have a huge impact on the return of long-term personal pension products for consumers.
- Alternative Dispute Resolution mechanisms should be mandatory for PEPP providers, and a collective redress scheme should be included in the PEPP framework.
- 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 a 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  
Response  
**BEUC-X-2016-056**

BEUC calls for a cap on costs  
Letter  
**BEUC-X-2018-117**

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



# HEALTH

## 1

# Access to medicines

## Why it matters to consumers

Confronted with skyrocketing prices for medicines and limited public budgets, governments have to make very hard choices about which treatments to reimburse. Consumers increasingly must make 'out-of-pocket' payments in order to receive timely treatment, and they run the risk of not being reimbursed. This deepens existing health inequalities in the EU. What is more, many new health treatments are developed with the support of taxpayer's money, which is used to subsidise universities and projects contributing to medical research. Companies do not take these contributions into account when setting prices for treatments, and consumers therefore end up paying twice for the final product.

Finally, many of the new medicines entering the market do not offer consumers any additional value in comparison with existing treatments. Superfluous drugs waste taxpayers' money and, when reimbursed by healthcare systems, eat up budgets that could otherwise be spent on innovative treatments for consumers.

## State of play in legislative procedure



In January 2018, the **Commission** presented a legislative proposal on Health Technology Assessment (HTA). This proposal aims to foster collaboration between national HTA bodies at EU level in order to avoid duplication in the current assessments. The added value will be efficiency gains in the assessment of new drugs and medical devices, and the facilitation of decisions by national authorities on which treatments to reimburse. The **European Parliament** adopted its position in early October, and delivered a text that would significantly improve the Commission's proposal.



In parallel, the European Commission has begun elaborating the implementation rules for the next EU research framework, Horizon Europe. This offers an excellent opportunity to include licensing clauses that would ensure a fair return on investment for publicly funded medical research.

## Recommendations for the Presidency



We urge the Romanian Presidency to advance as quickly as possible on the negotiations for the legislative proposal on HTA, and to find a compromise that benefits consumers.

We further call on the Presidency to follow up on the 2016 Council conclusions “on strengthening the balance in the pharmaceutical systems” in order to ensure that new medical treatments are rewarded while at the same time guaranteeing the sustainability of healthcare systems. We in particular encourage the Presidency to promote the inclusion of funding conditions (such as equitable licensing) in the Horizon Europe framework.

## What we need to succeed

- Pricing and reimbursement decisions should reward truly innovative products that offer added therapeutic value in comparison with existing alternatives. The HTA proposal can make this happen, and will ensure that consumers get value for their money. To this end, the new Regulation must result in high quality assessments for all medicines and should ensure that Member States use these assessments in deciding about pricing and reimbursement.
- At the same time, the new mechanism must guarantee that countries have enough flexibility to adapt the HTA reports to the needs of their national healthcare systems. The Regulation must also ensure good governance in the new HTA system, with transparent decision making that is free from conflicts of interest.
- The text adopted by the European Parliament goes in the right direction, as it contains provisions to ensure high quality data, transparency and prevention of conflicts of interest. The text also ensures that Member States use HTA reports, while guaranteeing some flexibility for adaptation to national contexts. The Council should follow this approach, and agree without delay on a legal text that takes our recommendations into account.
- Many medicines that have been developed thanks to public funding are increasingly expensive or unavailable. The EU should make public funding for medicines conditional on them being accessible and affordable for patients. Attaching these conditions to public funding would guarantee a public return on public investment and safeguard the public interest.
- More effective and transparent research and development (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.

### 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**

## 2

## Digital Health

### Why it matters to consumers

New technologies mean that health and healthcare services are rapidly and inevitably changing. Traditional health products and services are becoming digital, and consumers will be profoundly impacted by ongoing and future developments. On the positive side, the digitalisation of health care has the potential to deliver better disease prevention, diagnosis and treatment. Tools such as the Electronic Health Record (EHR) could provide consumers with 24/7 access to their disease history and medicines prescriptions, also when travelling or moving abroad.

However, the benefits of digital health products and services are accompanied by high risks when it comes to consumer privacy, security and safety. With health data becoming very profitable, security breaches of personal health records and data stored in healthcare settings may become more frequent. There are serious and far-reaching questions about the trustworthiness and safety of digital health products and services.

### State of play in legislative procedure



In April 2018 the **European Commission** published a Communication on Digital Transformation of Health and Care, in line with the European Union's Digital Single Market Strategy. The Communication sets out a plan of action for the upcoming years aimed at enabling consumers to securely access their health data, also across borders; allowing researchers and healthcare professionals to advance medical progress through shared European data infrastructure; and empowering consumers with digital tools to look after their health, encourage disease prevention, and enable interaction between users and healthcare providers.

### Recommendations for the Presidency



We hope that the Romanian Presidency will place the digitalisation of health and care on the Council's agenda so that clear political guidelines on future developments in this area can be provided. In particular, we call on the Romanian Presidency to ensure that consumers' privacy, safety and security are central to the implementation of the action plan on digital health.

## What we need to succeed

- The EU must guarantee privacy, personal data protection and truly informed consent when implementing the European Electronic Health Record Exchange Format. 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 relevant healthcare professional(s). Different levels of confidentiality and 'access restrictions' on certain information will be required.
- When it comes to implementing the provisions on IT security in the Medical Devices Regulation, the EU should ensure that the principle of security by design and by default is fully respected. Further details should be provided on what is considered a minimum standard, and how manufacturers can ensure these standards.
- A minimum set of security measures must be obligatory for all digital health connected products – including health and wellbeing apps – as a condition for putting them on the market.
- The security of digital medical systems in healthcare settings must be strengthened through the timely and diligent transposition and implementation of the EU Network and Information Security (NIS) Directive.
- Given the growing use of digital health services and products, also in cross-border situations, it is of key importance that the approach to the liability of such services and products is harmonised across the EU.

### ADDITIONAL SOURCES

Digital Health – Principles and Recommendations  
Position Paper  
**BEUC-X-2018-090**

Article 29 Working Party Guidelines on Consent and on Transparency under the GDPR  
BEUC response to the public consultation  
**BEUC-X-2018-007**

Transformation of health and care in the Digital Single Market  
BEUC response to the public consultation  
**BEUC-X-2017-108**

Health in the time of smart phones  
Position paper  
**BEUC-X-2016-112**

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



# FOOD

## 1

## More transparent scientific studies on food safety

### Why it matters to consumers

Controversies around the safety of certain substances used in the agri-food chain (including pesticides, food contact materials such as packaging and containers, and food additives) have shaken consumer trust in the EU food risk assessment system. Negative perceptions held by consumers are in part due to the fact that safety evaluations by the European Food Safety Authority (EFSA) of authorisation dossiers for products such as novel foods, pesticides and GMOs are essentially based on scientific studies funded by industry. While in line with the EU principle that taxpayer money should not be used to help companies put products on the market, this situation has prompted calls for increasing the transparency of risk assessment in the EU food chain.

### State of play in legislative procedure



On 11 April, the **European Commission** published a legislative proposal revising the General Food Law Regulation (EC 178/2002). Under the proposed new rules, EFSA will be obliged to publish all studies underpinning a product authorisation request, except for certain confidential commercially-sensitive information. In addition, companies will notify EFSA of any studies they commission to demonstrate the safety of their products. All of this information will be published in a new EU register.

The Commission also suggests drawing up a plan for improved risk communication at EU and national level. Finally, it proposes that Member States become more involved in EFSA by sending representatives to the agency's management board and by proposing scientists to sit on EFSA expert panels.



The proposal is now with the **Council** and the **European Parliament**. The **European Parliament** completed its first reading in December 2018.



## Recommendations for the Presidency



The Austrian Presidency made very good progress on the proposal and managed to obtain a mandate to enter inter-institutional negotiations with the European Parliament. We now urge the Romanian Presidency to make every effort to ensure that EU institutions work towards completing the legislative procedure before the EU elections in May 2019. Although it must be strengthened, the Commission's text is a positive step towards restoring consumer trust in EU food safety evaluations.

### What we need to succeed

- The studies forming the basis of EFSA's determination of whether a given product or substance is safe or not must be made public. In this way the agency's scientific assessments are open to peer scrutiny and can be replicated.
- Confidential treatment of certain data for commercial reasons must be kept to a duly justified minimum. Public health interests should always prevail over industry competitiveness and other economic considerations when assessing confidentiality requests.
- The proposed setting up of an EU register of food safety studies is welcome. This will prevent the situation that industry research with unfavourable results is ignored (and can potentially be terminated at the lab stage).
- The public must be consulted on studies supporting new product authorisations or their renewal in order to ensure that EFSA looks at the totality of the evidence available.
- If eventually allowed, pre-submission meetings between EFSA staff and industry applicants must be transparent and preserve EFSA's independence from private interests.
- Improved risk communication and greater transparency in risk management is needed in order to allow consumers to better understand the policy decisions being made about their food. The reasons leading to some policy options being chosen over others to address the risks identified during the assessment phase must be better explained to the public. It is often unclear how various conflicting considerations are weighed in risk management, and this opacity can result in consumer distrust.
- Strong safeguards must be in place in order to ensure that the increased involvement of Member States in EFSA upholds the clear separation between risk assessment and risk management. In the early 2000s, this was one of the key measures in restoring consumer trust in food safety after a series of major crises including Bovine Spongiform Encephalopathy (BSE) and dioxins.

#### ADDITIONAL SOURCES



Closing the trust gap between consumers and the EU food regulatory system:  
BEUC's view on the Commission's proposal on the transparency and sustainability  
of the EU risk assessment in the food chain  
Position Paper  
**BEUC-X-2018-059**

## 2

## Dual Food Quality

### Why it matters to consumers

Recent tests have found that identically-branded and similar-looking products (mostly foodstuffs) are sold under different quality grades in various Member States. This 'dual quality' leads to consumer frustration. Wherever they live in the EU, consumers should be confident that their purchases are faithful to any expectations derived from the product's branding, packaging and presentation.

### State of play in legislative procedure



In April, as part of its New Deal for Consumers package, the **European Commission** published a targeted amendment to the EU Directive on Unfair Commercial Practices (Directive 2005/29/EC) to address dual quality of products. This will oblige national authorities to consider such practices in the unfairness test and may also help to tackle borderline cases of dual product quality.



The vote in the leading **Parliamentary** Committee on the Internal Market and Consumer Protection is scheduled for January 2019.

### Recommendations for the Presidency



We call on the Romanian Presidency to improve the European Commission's proposal and push for its swift adoption. Marketing products under the same brand with similar packaging but a different composition must be considered as an unfair practice if consumers are misled.

## What we need to succeed

- BEUC welcomes the proposed clarification that the identical marketing of products with different compositions may constitute an unfair commercial practice. However, improvement is necessary, most importantly by focusing on “identical or seemingly identical” marketing, by deleting the criteria of “significantly” different composition and “several” other Member States, and by removing the reference to “legitimate factors” as a justification to the misleading practice.
- Further evidence must be gathered in order to have a clearer picture of the breadth of the dual food quality phenomenon. We look forward to the publication of the results of the ongoing food label data collection campaign coordinated by the Commission’s Joint Research Centre, which is expected in the first quarter of 2019.
- The enforcement of existing EU food and consumer protection laws must be stepped up, and the diverging implementation and interpretation of current rules must be avoided as this can lead to dual quality cases.
- Consumer organisations must be better supported so that they have adequate resources to engage in testing and campaigning activities and can contribute to tackling dual quality practices.
- The European Commission should investigate the impact on consumer choice, both in terms of price and quality, of contractual and non-contractual practices that restrict retailers’ ability to source in the country of their choice (so-called ‘territorial supply constraints’).
- The EU should do more to ensure that all EU consumers ultimately benefit from healthier and higher quality food. It should swiftly adopt legally-binding restrictions on trans fats in food, and steer national reformulation activities to reduce levels of fat, sugars and salt.

### ADDITIONAL SOURCES



Dual product quality across Europe:  
State-of-play and the way forward  
Position paper  
**BEUC-X-2018-081**



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



# SAFETY

## 1

## Revision of product safety and market surveillance legislation

### Why it matters to consumers

When consumers purchase new products – such as toys, clothes and electronics – they expect them to be safe. However, safety rules are often missing, too lenient, violated by manufacturers and traders, or unchecked by Member States. As a result, products are often unsafe. To protect consumers from harmful products, European legislation must do more to ensure that only safe products make their way into physical and online shops.

### State of play in legislative procedure



European  
Commission

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



European  
Parliament

Although the **European Parliament** adopted its first reading opinion on the CPSR and MSR in 2014, the proposals have been stalemated in **Council** for the past four years. Therefore, two new legislative initiatives – on enforcement and compliance and on mutual recognition in the Single Market – were proposed in December 2017.



Council

The European Parliament's Internal Market and Consumer Protection (IMCO) and Environment, Public Health and Food Safety (ENVI) committees have adopted their reports, and the Council gave a mandate to the Austrian Presidency to start negotiations in trilogue. A first trilogue took place on 10 December. An agreement before the end of the term of this Commission and Parliament is still envisaged.

### Recommendations for the Presidency



Romanian  
Presidency

Negotiations on the 2013 product safety and market surveillance reforms have been blocked in the Council of Ministers for many years due to Member States' divergent opinions on country of origin labelling for products and the financing of market surveillance activities. The Romanian Presidency therefore has a crucial role to play in ensuring that the new enforcement and compliance regulation improves consumer safety, and that it will be finalised during the current term of the Commission and Parliament.

## What we need to succeed

- Special consideration must be given to the objectives, scope, definitions, risk assessment and market surveillance activities and strategies related to security -risks of consumer products (as opposed to merely safety aspects) for security. This is necessary, as products that can connect to the internet and are not adequately secured against unauthorised access and misuse may pose a risks to individuals as well as to societies collectively.
- Consumers must experience the same level of safety whether they purchase products online or in brick-and-mortar shops. As this is currently not the case, the safety of products sold online needs to be significantly improved. To this end, legal obligations for platforms and other intermediaries must be established. The EU should make sure there is a legal representative who is also obliged to carry out corrective actions including recalls. Market surveillance authorities should be given adequate tools, such as the possibility to shop undercover, and the ability to request the deletion of websites and website content selling dangerous and illegal products to consumers.
- In line with the proposals of the Commission and Parliament, the EU should set up a network of designated EU laboratories for joint testing. Carrying out more joint tests and using the results directly without double testing for enforcement in Member States is important for efficiency, effectiveness and coherence.
- A pan-European accident and injury database should be introduced. To this end, market surveillance authorities should systematically investigate and report accidents and injuries that occur in combination with products.
- Member State authorities should be able to recuperate all costs from economic operators for market surveillance activities to ensure a better funding base; this is necessary to step up enforcement.
- Co-operation between market surveillance authorities and customs authorities who sometimes check products for tax payment should be intensified.
- Consumer organisations regularly carry out comparative product testing in laboratories, and often find unsafe consumer products, including those carrying CE marking. While this information is already shared with authorities at the national and European levels, we request a more structured involvement in the EU's Product Compliance Network.

### ADDITIONAL SOURCES

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

European Commission proposal for a Consumer Product Safety Regulation  
ANEC and BEUC position paper  
[BEUC-X-2013-034](#)

Ensuring consumers' safety – What way forward for Market Surveillance in the EU?  
ANEC and BEUC position paper  
[BEUC-X-2018-030](#)

How the EU can make smart products consumer-proof  
Factsheet  
[BEUC-X-2018-103](#)

## 2

# Hormone disrupting chemicals

## Why it matters to consumers

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

Many of the chemicals found in consumer products are known to disrupt the hormonal system (these are known as ‘endocrine disrupting chemicals’ or EDCs). Endocrine disrupting chemicals have been linked to severe human health problems, including infertility, genital malformations, early puberty, obesity, cancer and neurobehavioural disorders.

In theory, EDCs are regulated by several EU laws. In practice, however, these laws fail to systematically protect consumers against endocrine disruptors, in part as current risk evaluation methods largely overlook a chemical’s possible endocrine disrupting properties. In short, EDCs escape effective control despite the urgent need to reduce consumer exposure.

## State of play in legislative procedure



In November, the **European Commission** published a new EU strategy on endocrine disrupting chemicals. One of the aims of the strategy is to minimise overall exposure to endocrine disruptors. However, even though the strategy announces a ‘comprehensive screening of existing legislation related to endocrine disrupting chemicals’ (a Fitness Check) it fails to identify concrete actions, plans or timelines for achieving this objective.

## Recommendations for the Presidency



Building on the 2017 Council conclusions on the sound management of chemicals, we call on the Romanian Presidency to facilitate an agreement within the Council on how the objectives set out in the EDC strategy should be further achieved without delay. The European Parliament report on how consumers can effectively be protected from these harmful substances should also be taken into account. In particular, we urge the Romanian Presidency to adopt ambitious Council conclusions on regulating EDCs in all consumer goods, based on clear objectives and observable deadlines. This topic has huge economic relevance for all Member States, as the diseases linked to environmental exposure to endocrine disrupting chemicals put a considerable strain on public health budgets.

## What we need to succeed

- As a matter of urgency, the EU needs to develop a strategic plan for how to reduce overall consumer exposure to chemicals in products, including EDCs, in line with the commitments of the 7th Environment Action Plan. This plan should also describe how chemicals of concern across different sectors can be more quickly identified and dealt with. For example, if a chemical is identified as problematic in the context of toys it is also a problem for childcare products and should be regulated accordingly.
- A science-based definition for ‘endocrine disruptors’ that is coherent and applicable to all existing and future EU legislation is needed. EDCs should be classified and regulated in the same way as chemicals that are carcinogenic, mutagenic or toxic to reproduction (CMRs).
- EDCs that have been identified as Substances of Very High Concern (SVHCs) should be included in Annex XIV of the REACH regulation. As a result, the use of these substances would require authorisation.
- The Cosmetics Regulation must be amended to ensure that consumers are protected against EDCs used as ingredients in cosmetic products.
- The presence of EDCs in consumer products must be made more visible. Better information about the use of known and suspected EDCs in products would allow consumers to make informed choices about how to protect their health.
- The EU should promote synergies between actions to protect consumers and the environment, the Commission’s Circular Economy action plan, and the Plastics Strategy to ensure that increased recycling does not perpetuate the use of harmful chemicals such as endocrine disruptors.
- As part of the 1999 EU strategy on endocrine disruptors, the European Commission identified a priority list of substances that require further evaluation regarding their role in hormone disruption. As this list was established several years ago, it needs to be updated in the light of REACH registration dossiers and other newly available data.
- Risk assessment and risk management methods must be updated to take into account the low-dosage effects of EDCs as well as the combined effect of different chemicals.
- More EU-funded research is needed in order to better understand the complexity of the endocrine system, as well as the effects of endocrine disrupting chemicals on human health and the environment.

### ADDITIONAL SOURCES

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

Towards a more comprehensive EU framework on endocrine disruptors  
BEUC comments to Commission roadmap  
[BEUC-X-2018-069](#)

Top 10 Actions MEPs can undertake to lower the exposure of consumers and of the environment to endocrine disrupting chemicals  
[BEUC-X-2011-040](#)

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



# Trade

1

## EU-US trade negotiations and regulatory co-operation dialogues

### Why it matters to consumers

The United States is one of the EU's top trading partners. Reducing tariffs on industrial goods could be beneficial to EU consumers in terms of price reduction and enhancement of choice.

In parallel, improved dialogues between regulators from the EU and US could bring positive outcomes for consumers. However, the deregulatory trend in the US is a cause for concern in this respect.

### State of play in legislative procedure

In July 2018, the EU and the US agreed to explore the possibility of negotiating a limited free trade agreement aimed at reducing tariffs on industrial goods. In addition, both sides agreed to improve dialogue between regulators on key issues in a framework separate from the trade discussions. Following the meeting of the EU Ministers for Foreign Affairs and Trade in November 2018, trade ministers agreed to work on a negotiating mandate in January 2019.

### Recommendations for the Presidency

We call on the Romanian Presidency to focus the negotiating mandate on tariffs on industrial goods. Regulatory co-operation must remain outside of the trade framework as a safeguard for the right to regulate.





## What we need to succeed

---

- Negotiating directives should focus only on tariffs; regulatory co-operation should be dealt with in parallel and driven by regulators (as opposed to trade negotiators).
- Regulatory co-operation – even carried out in a non-trade context – must be carefully weighed against the current deregulatory trend in the US.
- The US included a very stringent chapter on good regulatory practices in the recently concluded US, Mexico and Canada trade agreement. This cannot be a model for future EU-US talks, as it could negatively impact the ability of the EU and its Member States to regulate in the consumer interest.
- Transparency must be ensured in the trade negotiations. We call on the Romanian Presidency to publish the negotiating directive if tariffs negotiations are launched. The discussions on regulatory co-operation should also be transparent.

### ADDITIONAL SOURCES

Beyond trade:  
EU consumers in global markets  
BEUC vision paper  
[BEUC-X-2017-097](#)

Transatlantic Consumer Dialogue (TACD) Positive  
Consumer Agenda: New Rules for the Global  
Economy Vision paper

## 2

## World Trade Organisation & e-commerce

### Why it matters to consumers

E-commerce would not be the success it is without consumers: its continued growth depends on their trust in the market. This is why consumers must be at the heart of the e-commerce initiative of the World Trade Organisation (WTO). Any agreement, be it multilateral or plurilateral, must protect and deliver benefits to consumers.

### State of play in legislative procedure

In December 2017, a group of WTO members launched an initiative called 'Enabling e-commerce', with the aim of exploring the possibility of a WTO agreement on e-commerce. As not all members of the WTO are ready to join, this initiative could trigger plurilateral negotiations. The official launch of these negotiations may be announced in January 2019. The **Council** will need to grant a negotiating mandate to the **Commission**.



Council



European Commission

### Recommendations for the Presidency

We call on the Romanian Presidency to ensure that any international agreement on e-commerce will protect and benefit consumers. If the scope goes beyond e-commerce, for example covering larger digital trade issues, we call on the Presidency to exercise caution. For instance, sensitive issues for consumers such as cybersecurity and artificial intelligence first need to be addressed in EU law. Otherwise there is a risk of locking in weak levels of protection in a trade agreement. This would limit the ability of the EU to enhance consumer protection in the future.



## What we need to succeed

---

- The plurilateral agreement on e-commerce should dedicate a chapter to consumer issues in order to ensure that they are at the heart of the agreement. It should set the parameters for delivering benefits to consumers while maintaining high levels of protection.
- Benefits to consumers could notably come from voluntary provisions on online consumer trust, mirroring what the EU proposed to Australia and New Zealand. The agreement could go even further by calling for transparent and affordable telecom prices for consumers. There should also be political will for stronger co-operation between regulators dealing with consumer protection, from enforcement to product safety authorities.
- This trade agreement is not the appropriate fora for addressing sensitive digital topics such as cybersecurity, Internet of Things, artificial intelligence, net neutrality and data protection. The EU does not have sufficient consumer protections in place for most of these issues, and the creation of a common rulebook at this point would likely create a lock-in effect and limit the ability of countries to enhance consumer rights and protection in the future.
- Negotiations about e-commerce should be transparent and should meaningfully engage civil society. The EU negotiating directives should be made available to the public as soon as they are adopted by the Council. Negotiating proposals and consolidated texts should also be provided so that consumers know what is being negotiated on their behalf.

### ADDITIONAL SOURCES



The consumer checklist for an international e-commerce deal  
Factsheet

## 3

# Trade agreement with Australia and New Zealand

## Why it matters to consumers

The goal of the ongoing negotiations with Australia and New Zealand is to “help to deliver jobs, growth and investment, benefitting EU businesses and citizens alike”. The agreement could benefit consumers if it is well designed, consumer oriented, and adapted to today’s public interest needs.

However, current trade agreements fail to fully achieve these objectives. Specific consumer issues often play a minor role during the negotiation phase. Tariff reductions are often the only actual outcomes that could benefit consumers, but these reductions are usually not automatically passed on to them.

Furthermore, tangible benefits – such as reduced telecom prices and geo-blocking practices and easy access to redress – are absent from current trade agreements. Consumer protection is not always guaranteed, and can be undermined by tools like regulatory co-operation and investment protection if the agreement is not carefully designed.

## State of play in legislative procedure



In 2017, the Commission recommended that the **Council** approve the launch of the negotiations with both Australia and New Zealand. The **European Parliament** adopted resolutions in 2017 that supported the opening of trade negotiations with both countries under the condition that the highest level of consumer protection would be guaranteed. The Council authorised the Commission to open formal negotiations with both countries in May 2018. The negotiations were officially launched in July 2018.

## Recommendations for the Presidency



We call on the Romanian Presidency to ensure that the talks with Australia and New Zealand will contain safeguards to protect consumers, and tools to bring them tangible benefits.

## What we need to succeed

- The inclusion of a consumer chapter in both agreements to ensure that levels of protection are maintained while delivering tangible benefits to consumers. Such a chapter would include voluntary commitments from trading partners without creating substantial rules. It would be a tool to create the necessary political will to make trade deliver to consumers, in line with the EU Trade for All strategy.
- Regulatory dialogues must benefit and protect consumers. Exchanges between regulators from the EU and trading partners should have the clear objective of enhancing consumer welfare, and must remain voluntary. At the same time, trade agreements should not define guidelines for good regulatory practices, as governments must maintain their right to regulate.
- The Council should refrain from including an Investment Court System (ICS) in a parallel investment agreement. Investor-to-State Dispute Settlement (ISDS) systems have proven harmful to consumers and the public interest in the past, as foreign investors have used them to challenge and undermine consumer protections. Despite some improvements put forward by the EU with its ICS and the idea of creating a Multilateral Investment Court, 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 these two countries. We can rely on our highly developed public judicial systems.
- As the EU and New Zealand already have an adequacy agreement regarding their data protection laws, the EU should refrain from further discussing the issue of data flows in these two trade agreements. The only basis for possible talks should be the recent EU horizontal approach on data protection and trade.

### ADDITIONAL SOURCES

Australia  
The consumer checklist for a positive  
EU-Australia trade agreement  
Factsheet  
[BEUC-X-2018-051](#)

The consumer checklist for a positive  
EU-Australia trade agreement  
Position paper  
[BEUC-X-2018-053](#)

New Zealand  
The consumer checklist for a positive  
EU-New Zealand trade agreement  
Factsheet  
[BEUC-X-2018-050](#)

The consumer checklist for a positive  
EU-New Zealand trade agreement  
Position paper  
[BEUC-X-2018-052](#)

BEUC model for a consumer chapter in trade  
agreements  
[BEUC-X-2017-096](#)

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

Published in January 2019 by BEUC, Brussels, Belgium.



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

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

The content of this publication represents the views of the author only and it is his/her sole responsibility; it cannot be considered to reflect the views of the European Commission and/or the Consumers, Health, Agriculture and Food Executive Agency or any other body of the European Union.

The European Commission and the Agency do not accept any responsibility for use that may be made of the information it contains.

- 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 - Kuluttajaliitto – Konsumentförbundet ry
- FR - CLCV
- FR - UFC-Que Choisir
- DE - Stiftung Warentest
- DE - vzbv
- EL - EKPIZO
- EL - KEPKA
- ES - CECU
- ES - OCU
- HR - Unija potrosaca Hrvatske
- 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?



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