

Subject: Consumer mission letter for An Economy that Works for People

Dear Executive Vice-President Dombrovskis,

I wish to congratulate you on your recent appointment as Executive Vice President for An Economy that Works for People on behalf of BEUC, The European Consumer Organisation, which represents 45 national consumer groups from 32 European countries. In this capacity, you will oversee many areas of EU policy that concern European consumers.

Retail financial services are essential to consumers' daily lives, as well as to their financial and social inclusion. However, consumer trust in financial service providers across the EU remains low in comparison with many other sectors. This is because financial institutions do not always live up to the expectations of consumers. Despite offering some potential benefits, new trends such as digitalisation, big data analytics and artificial intelligence in financial services could pose additional challenges for consumers.

BEUC supports your headline priorities, notably, the Banking Union, the Capital Markets Union (CMU), the Green Finance Strategy, and the FinTech action plan. As part of your mission, you have been asked to protect retail financial services users. To support you in this important task, we would like to present to you what we think should be your mission for integrating consumer interest into your policy portfolio.

The current shortcomings and BEUC proposals

Trustworthy financial advice: Salespeople frequently give advice that is not in the consumer's interest, or sell expensive products to consumers that do not deliver what was promised. Commission-based financial advice, remunerated by product manufacturers for recommending a specific financial product to consumers, places a conflict of interest at the heart of the client relationship and often leads to biased advice to the detriment of consumers. To ensure that advice to consumers is tailored to their needs, the Commission should propose a **ban on the payment of commissions for advice on retail investment products and other complex financial products**.¹ This inducement ban would help to increase the engagement of retail investors in capital markets and would ensure access to more cost-effective investment opportunities, thus contributing to the success of the CMU project.

Open banking that benefits consumers: One of the biggest recent technological developments in retail finance is open banking. Although the Payment Services Directive 2 (PSD2) requires banks to grant third-party access to current bank accounts, it is quite unclear how consumers should be informed, give consent and retain control over the management of data, as well as how liability is dealt with in the case of incidents. In addition, the scope of open banking is not limited to current accounts, but also includes consumers' savings and investment accounts, insurance and pension contracts. However, only access to payment accounts is currently regulated. The Commission

¹ BEUC campaign <https://www.thepriceofbadadvice.eu/>

should propose legislation to **ensure a consumer-friendly open banking environment** in which consumers would be in full control of their financial data.²

Consumer's right to use cash: Consumers should have the right to choose how they pay for something. However, they increasingly face difficulties in accessing cash via ATMs and bank branches, as well as in using it for making payments. Cash is a public good, and public measures are needed to ensure its continued existence alongside electronic and innovative payment options. The Commission should propose legislation on **consumer access to cash and the acceptance of cash by traders**.³ We believe that such legislation is even more important when taking into account the risks to consumer privacy in a digital age.

Retail payments policy: The world of payments is changing rapidly due to the development of new technologies. For example, the development of instant payments offers a huge opportunity to create a new European scheme based on credit transfers. Although we fully support this idea, consumers are unfortunately poorly protected when making credit transfers. In recent years, many consumers have been tricked into transferring money to fraudulent accounts and there is no opportunity for them to receive redress.⁴ The Commission should upgrade the EU payments legislation to provide **all consumers with the same protection irrespective of the payment instruments used. As regards digital and crypto currencies, the consumer dimension should be integrated into any new legislation in this domain.**

Inclusive, fair and privacy-friendly insurance models: Insurance firms increasingly rely on Big Data analysis in order to market, set prices and personalise insurance offers for consumers. While such innovations could provide some potential benefits to consumers, they also trigger questions about privacy, discrimination, fairness and exclusion. The increased risk segmentation that insurance firms could potentially carry out using Big Data could undermine the whole concept of insurance, which has traditionally been based on the principle of solidarity. The Commission should **investigate how Big Data affects potential discrimination and financial exclusion of consumers in insurance contracts and – where necessary – propose regulatory interventions in order to protect consumers**.⁵

Protection of borrowers: Last year, as part of the non-performing loans package, the Commission proposed a directive aimed at building a single secondary market for non-performing loans. This legislative project raises serious concerns regarding the protection of vulnerable borrowers who would be exposed to debt investors and collectors from across Europe. Ideally, secured and unsecured consumer loans should be exempted from the scope of the directive. At the very least, the Commission should ensure **adequate safeguards to protect distressed borrowers:** forbearance measures by creditors, borrowers' rights to buy back their own debt, strict conduct rules for credit servicers and credit purchasers, maintaining the existing national measures aimed at protecting distressed borrowers, and the right of Member States to adopt further measures, as well as a strong supervisory role for host authorities. The Banking Union project should benefit EU businesses and consumers, including financially vulnerable consumers.⁶

Preventing and providing solutions for over-indebtedness: Credit helps consumers to finance home purchases, their children's education, a new car and other consumer goods. However, when indebtedness reaches high levels and becomes unsustainable, there can be serious negative consequences for the economy, society and over-indebted people. As the social costs of over-indebtedness are high, public policy measures such as responsible lending must be designed to prevent it from happening. **The EU responsible lending standards should be reinforced** in the context of the upcoming revision of the Consumer Credit Directive.⁷ Furthermore, **over-indebted**

² Consumer-friendly open banking, BEUC position paper, September 2018:

https://www.beuc.eu/publications/beuc-x-2018-082_consumer-friendly_open_banking.pdf

³ Cash versus cashless: Consumers need a right to use cash. BEUC position paper, September 2019:

https://www.beuc.eu/publications/beuc-x-2019-052_cash_versus_cashless.pdf

⁴ See e.g. Which? super-complaint on payment scams, and follow-up measures by the UK Payment Systems Regulator:

<https://www.psr.org.uk/psr-focus/which-super-complaint-payment-scams>

⁵ Big data & financial services. BEUC position paper, March 2017: https://www.beuc.eu/publications/beuc-x-2017-030_gve_beuc_bigdata_esaconsultation_publication.pdf

⁶ Secondary market for non-performing loans: The European Commission's proposal is a bad deal for distressed borrowers. BEUC position paper, July 2018: https://www.beuc.eu/publications/beuc-x-2018-068_secondary_market_for_non-performing_loans.pdf

⁷ Review of the Consumer Credit Directive. BEUC position paper, April 2019:

consumers must be helped and given a second chance through private insolvency. While these files fall within the remit of DG JUST, we invite DG FISMA to closely cooperate with DG JUST in this context.

Sustainable finance: We support your mission to develop a green financing strategy that would ensure that investment and financing can be directed towards the transition to a climate-neutral economy. Consumers have a crucial role to play in steering funds towards sustainable activities. The EU should ensure that taxonomy for financial products also includes a brown taxonomy; that sustainable finance is part of the Capital Markets Union strategy; that consumers can rely on trustworthy financial advisers and intermediaries when taking saving and investment decisions; that low interest rate green loans for energy efficient investments are available to consumers; and that support is provided for projects aimed at raising consumer awareness about sustainable financial products and providers.

EU driving licence for financial firms: EU passporting for financial services means that the supervisory authority of the firm's home country is authorised to oversee its activities, while the host authority (the country where the firm effectively operates) has limited power. The EU passporting model totally fails to consider the consumer perspective. Financial firms have an incentive to get their EU passports in a country with lax supervision so that they can slip under the supervisory radar in their pan-European activities. These weaknesses were recently highlighted in the ESA's report on cross-border supervision of retail financial services.⁸ The Commission should **initiate an overhaul of the passporting concept and replace it with the 'EU driving license' concept:** financial firms would still get their EU license in one country but would be supervised by the host authorities (the consumer's country) as far as conduct and consumer protection responsibilities are concerned. This reform would benefit consumer protection and the EU single market.

I know that you will have a busy agenda, but hope that you will find the time to meet with us. I would be very interested in hearing your reaction on our proposals and in telling you more about the European consumers' experience in financial services in a digital world.

Yours sincerely,

Monique Goyens
Director General

https://www.beuc.eu/publications/beuc-x-2019-019_review_of_the_consumer_credit_directive.pdf

⁸ Cross-border supervision of retail financial services. ESAs report, July 2019: <https://eba.europa.eu/-/esas-publish-recommendations-on-the-supervision-of-retail-financial-services-provided-across-borders>