

**Subject: The consumer mission letter for a Europe fit for the Digital Age**

Dear Executive Vice-President,

On behalf of BEUC, The European Consumer Organisation, which represents 45 national consumer groups from 32 European countries, we would like to congratulate you on your appointment. We look forward to continuing to co-operate with you on this new broader portfolio and strongly encourage you to continue with your much-appreciated work on ensuring better competition in digital markets for the welfare of consumers.

To support you in the important task of making Europe fit for the Digital Age, we would like to present our ideas for digital and competition policies to advance consumers' interests:

**Why digitisation and competition are essential for consumers**

Consumers deserve a fair share of the significant benefits the digitisation of the economy brings to the EU in terms of innovation and prosperity. Digital markets must therefore work better for European consumers, in terms of competitive prices, more choice and better quality.

**New technologies**, such as artificial intelligence (AI), are deeply changing both consumer markets and our societies. While their uptake comes with the promise of increasing convenience and efficiency for consumers, ambitious solutions will be required to ensure that technology does not harm them. Digitisation brings exciting opportunities but also serious risks, for example in relation to privacy, data protection, cybersecurity, autonomy and freedom of choice. The ever-growing power and influence of digital technologies on consumers' daily lives, coupled with their complexity and opacity, means consumers are in an increasingly vulnerable situation and cannot take full advantage of what digitisation could offer them.

Market dynamics are also creating serious consumer welfare concerns. In a world where 'free' is actually 'not free at all' and where competition seems one click away but there is no real alternative to click on, consumers end up deceived, locked-in and resigned.

The digitisation of markets represents new challenges for **competition policy**. Dominant companies can deny consumers value for money and access to a choice of innovative services by anti-competitive practices and pre-emptive acquisition of smaller rivals and start-ups. Another challenge is the pressure from some national governments to shift the focus of European competition policy away from consumer welfare towards promoting 'European champions', which might result in less choice and higher prices for European customers.

Furthermore, a strong European competition policy is of crucial importance to consumers both in the digital economy and more broadly. Timely and well-targeted competition enforcement to tackle cartels and monopolies is crucial for Europe's consumers to continue to benefit from choice and value for money and to ensure that consumers reap the full benefits of Europe's Single Market. Merger control must continue to uphold the interests of customers in Europe and any attempt to use it as an instrument to serve the interests of powerful companies must be strongly resisted.

## **Our proposals: making digitisation and competition work for consumers**

### **Breaking down silos between EU policy areas**

We welcome the fact that you will be responsible not only for overall coordination of the Commission's work on digital issues (including making digital markets work better for consumers so that they can benefit from lower prices, greater choice and better quality), but also for competition policy. We encourage you to make the most of this excellent opportunity, ensuring a coherent approach and making full use of the complementarity of these policy areas. Better enforcement and co-operation of enforcement authorities from different areas such as for example competition, data protection, telecommunications and consumer authorities should be an important element of the EU's digital single market.

### **Establishing the legal framework for trustworthy AI**

As indicated in your mission letter, you will have the task of coordinating the Commission's work on AI. Your role will be of utmost importance. The **EU approach to AI** must be built on the principles of **fairness, transparency, accountability** and other principles that ensure a fair, safe, and just society. These principles, and the rights that derive from them, must be enshrined in law. We have [identified the rights that consumers need when exposed to ADM processes. These rights go beyond what the GDPR provides](#). The existing EU legal framework gives rise to major legal uncertainty and has important gaps which jeopardise effective protection of consumers and citizens. AI can empower, strengthen and support consumers if they are able to be in control and make it work for them rather than the other way around. We need a horizontal legal framework that includes all the necessary rules to ensure a fair and safe use of AI and algorithm-based decision-making, as well as a revision of all relevant sector specific legislation. The higher the potential adverse impacts of the use of this technology, the stronger the appropriate regulatory response must be.

### **Ensuring safe online marketplaces**

We urge you to take additional steps to address the challenges created by **online platforms**.

The upcoming **Digital Services Act** is an opportunity to ensure that consumers are adequately protected when they buy goods and services online. For example, a recent [policy report by our UK member Which?](#) found popular online marketplaces failing to take basic steps to stop listing consumer products for sale that appear to have been declared unsafe such as [toys, children's car seats](#), chargers, clothing, smoke alarms and [CO detectors](#). Similar evidence is available from consumer organisations' research and testing in the Netherlands ([Consumentenbond](#)), Denmark ([Forbrugerradet Taenk](#)), Belgium (Test-Achats) Italy (Altroconsumo) and Germany ([Stiftung Warentest](#)). We want to see platforms take responsibility for this type of behaviour and regulatory intervention is necessary to make that happen.

### **Strengthening cybersecurity and ePrivacy protection**

With the Internet of Things, the number of connected devices and digital services is skyrocketing and interconnectivity between products is reaching all sectors of society, including transport, health, banking and energy. Connected devices available in the EU market often lack basic **cybersecurity** protections. For example, our Danish member Forbrugerradet Tænk recently uncovered [security flaws in smart door bells](#). The European Commission should propose a new

horizontal cybersecurity law which establishes basic mandatory cybersecurity requirements for all connected products sold in the EU.

Moreover, online tracking and cashing in on people's most intimate moments has become the main business model of the internet. Consumers are still continuously forced to give up their privacy in exchange for accessing online services. This not only violates their fundamental rights, it creates incentives to promote disinformation, manipulation and illegal content. The European Commission should push for the adoption of a strong **ePrivacy Regulation** to complement the GDPR and tackle the problems created by online commercial surveillance. We urge you to continue to firmly support the pending legislative proposal and not to withdraw or amend it. Europe's leadership is crucial for the creation of a healthy digital environment.

### Removing restrictions to enjoy an open internet in a well-functioning Digital Single Market

The Commission and national regulatory authorities should strictly enforce existing EU **net neutrality** rules, paying particular attention to so-called zero-rating practices.

The Commission should also propose EU rules on **device neutrality** so as to give consumers control over their devices and guarantee access to the open internet in all parts of the value chain. For example, consumers should as a principle have the right to uninstall from their devices any apps and content that they are not interested in.

Building on the recently adopted rules on geo-blocking in e-commerce, online broadcasting and content portability, the Commission should seek to put an end to **geo-blocking in the audio-visual sector** once and for all.

### Making data work for consumers

European data policy must ensure that consumers are the main beneficiaries of the data they generate while stimulating innovation. We urge you to develop an EU **policy on data access and control** that enables innovation and consumer choice by tackling data concentration and reducing the risk that consumers are exploited and locked in. This pro-competition approach should come into play where specific market failures or specific needs are identified, stimulating safe data sharing whilst fully respecting the rights of consumers under the GDPR and ensuring that consumers remain in control of their data.

### Strengthening competition in digital markets

We support decisive action, building on the progress made in the last five years, to boost competition law **enforcement** and, where appropriate, complement it with **ex ante regulation**.

The digitisation of markets requires competition agencies, and at times the law, to adapt quickly so as to avoid long-term distortions of competition. The Commission must ensure that enforcement actions are sufficiently swift to prevent markets from being dominated by a powerful company. We welcome your decision to revive the use of **interim measures** and encourage you to continue doing so in the future. We should avoid situations where powerful companies can prevent newcomers from entering the market.

The Commission must keep pace with the new challenges of the digital age in terms of enforcement priorities, enforcement capacities and assessment of harm to consumers. To do so, the Commission must invest in new tools and human resources to increase their analytical capability to detect competition law infringements in digital markets, including hiring computer scientists and economists with insights into behavioural economics and digital markets, so as to better address issues arising from data gathering, data analytics and machine learning.

## Updating Europe's merger rules and state aid rules

EU merger control should not be weakened to facilitate corporate concentration. More than ever, we need a strong merger policy to capture acquisitions that aim to suppress future competition and deny consumers the benefits of a competitive market.

The jurisdictional thresholds of the **EU Merger Regulation** should be adapted to include mergers that currently fall outside the scope of EU merger review due to the low turnover thresholds of the firms involved. This should be accompanied by specific measures to block or condition 'killer mergers'.

In digital markets, we also urge you to consider shifting the burden of proof on to merging companies so that the onus would be on them to prove that deals would not distort competition.

Moreover, the European Commission is expected to review state aid rules and guidelines, including those on environmental protection and energy. State aid can have a significant impact on consumers' bills. For instance, in the energy sector [too many industries receive massive reductions in energy prices which results in unacceptable costs passed on to households](#). We call on you to ensure that future state aid rules related to energy apply the polluter pays principle and better protect the interest of consumers.

## Launching new competition sector inquiries

Competition **sector inquiries** should be carried out more often. They can identify infringements but also support evidence-based policymaking, notably by informing new legislative proposals that can better contribute to fair and open competition in the Single Market. We suggest sector inquiries to include data gathered by car manufacturers and digital advertising markets.

## Product and services liability

European liability rules developed during the 80s are inadequate to protect consumers in the digital era. Consumers are more exposed than ever to harm stemming from faulty connected products and digital services such as software. The EU legislator must therefore take action by providing clear enforceable rules in case defective products and malfunctioning software, including AI applications, cause harm to consumers. Access to justice and compensation is a key element for establishing consumer trust in new technologies.

## The way forward

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

Yours sincerely,

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Director General

Ursula Pachl  
Deputy Director General

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