

Ms Ursula von der Leyen  
President of the European Commission  
Rue de la Loi 200

B - 1049 Brussels

The Consumer Voice in Europe

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14 December 2020

**Re: The need for a governance and transparency policy to guide the new EU-US agenda.**

Dear President,

I am writing on behalf of BEUC, The European Consumer Organisation, regarding the new EU-US agenda for global change.

We welcome the EU's initiative to launch a positive agenda with the next US administration with a focus on cooperation rather than a relaunch of a comprehensive trade agreement. **BEUC is in favour of voluntary cooperation between EU and US regulators, provided that it is designed to benefit and protect consumers and conducted transparently.** This is also the position of TACD, the Transatlantic Consumer Dialogue, which gathers more than 80 consumer groups in the EU and the US, and of which BEUC is a member (see enclosed link below).

The agenda you propose contains promising elements for consumers on health and sustainability. We agree that the EU and US should team up to **ensure access to safe, effective, and affordable COVID-19 vaccines to all.** Achieving synergies on early warning systems and stockpiling of medicines could be beneficial for consumers. We support the aim of the cooperation on **sustainability.** When exploring the idea of a global regulatory framework for sustainable finance, the EU Taxonomy Regulation should serve as a model. It could help mobilise private capital towards environmentally sustainable economic activities. The new cooperation agenda should also promote the adoption of clear rules for sustainable products. It must not prevent the EU from introducing legal requirements on design, consumer information and rights.

We are concerned however that a dialogue on the **responsibility of platforms and Big Tech** could limit the EU's clear objectives and political determination to regulate these actors. In this sense, it will be key to be transparent about who will take part in this dialogue, its objectives, what is being discussed and what the outcomes will be. **The scope of this dialogue should go beyond competition and taxation.** It should include how to address harmful business models based on data exploitation, actions to protect consumers from the use of unfair artificial intelligence (AI) systems, online scams and the sale of non-compliant and dangerous goods online. Indeed, these are the main problems that both EU and US consumers are facing today with online platforms and Big Tech.

While open dialogue is also important when it comes to tech issues, we expect the EU to be vigilant **about what it entails for its citizens' digital rights.**

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For instance, we would like to better understand what an **AI agreement** could contain and what the EU's expectations are for the **trade and tech council**. Before engaging with the US on AI, the EU should first focus on the adoption of a solid EU legal framework that ensures a high level of consumer protection and respects our fundamental rights and values. For example, recent US trade agreements contain rules to address forced technology transfers. These rules require consumer protection authorities to comply with strict conditions before being able to verify whether an algorithm complies with the law and does not discriminate against consumers. We seek reassurance that such rules will not constitute the basis of EU-US cooperation. Indeed, it would be counterproductive for the EU's goals to regulate on AI, and the digital economy more broadly, to protect consumers and enhance trust.

The agenda also refers to '**intensifying the cooperation to facilitate free data flow with trust**'. The choice of words is surprising, as it echoes the Japanese Osaka track, which promotes the Asia Pacific Economic Cooperation cross-border privacy rules. These rules are not compatible with the GDPR, as they do not provide an essentially equivalent level of data protection. We would have expected the agenda to insist on the EU's position that the free flow of data must respect citizens' rights. Data must travel with strong and effective privacy and personal data protections. Any cooperation on data flows should aim at raising the level of protection of citizens' fundamental rights. It should be conducted transparently and involve the appropriate policy experts.

**We call on the Commission to define a governance policy for its planned cooperation with the US**, as has been the case for trade negotiations. This should be based on the following checklist:

- Consumer protection and consumer welfare are an overarching objective of the cooperation, at least on equal footing with the objective of trade facilitation.
- The different cooperation dialogues are transparent: the public is aware of who takes part in the discussions, agenda and minutes of meetings are published in a timely manner and the Commission regularly informs civil society of the state of play.
- The relevant regulators and sector specialists such as DG Justice & Consumers are in the driving seat of the cooperation.
- Safeguards are put in place to prevent any regulatory 'chilling effect': the cooperation is conducted on a voluntary basis; regulators are not obliged to disclose draft laws nor to reply to comments from stakeholders.

**The respect of this checklist is essential for EU citizens to trust this cooperation agenda.** It would also allow consumer organisations to provide constructive input to the Commission.

We thank you for considering our recommendations and request for information. We remain at your disposal if you or your team require any further information.

Yours sincerely,

Monique Goyens  
Director General

Enclosed links:

- [BEUC recommendations on negotiations and regulatory dialogues with the US](#)
- [TACD positive consumer agenda](#)