

# THE CONSUMER BOOK

2009-2014

*"A guide for European Commissioners towards a more consumer friendly Europe"*



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## Introduction

**Dear Commissioner,**

BEUC, the European Consumers' Organisation, is the European umbrella association for 43 well-respected, independent consumer organisations in 31 European countries. It is our objective to promote the consumer interest across all EU policy areas.

The new Commission will have to deal with the financial crisis and its fall out in terms of rising unemployment, and loss of confidence in financial as well as democratic institutions. One of the main objectives should now be to restore consumer confidence by guaranteeing an appropriate level of protection. That means that consumer interests should be taken into account within all initiatives that are being discussed to overcome this crisis and to avoid any new ones.

In this context of economic downturn it is challenging to ensure that Europe takes the lead in developing a knowledge-based economy, finds innovative technologies to tackle climate change, promotes sustainable production and consumption, and remains an attractive example for accession countries.

In short, consumer organisations have high ambitions for the new Commission and urge you to put EU citizens firmly at the centre of your agenda.

For the EU to resonate more with its citizens it is essential to ensure, within the EU2020 strategy, that the benefits of the internal market are better understood, but also reach the final consumer.

We are very pleased to note that the new Commission is expected to develop a Digital Agenda. This is a key initiative as we now live "digital lives" and off-line consumer legislation is not able to deal with the new challenges consumers face.

Consumers are the key players in the economy. They are, or at least should be, the centrepiece of markets. Economic policies should be designed to promote consumer welfare. More fundamentally, the internal market should not be seen as a goal in itself, but as a tool to achieve empowerment of people, and, beyond that, citizen welfare. Within the EU, it is essential to design policies in such a way as to provide EU consumers with the tools to be confident market players.

This Consumer Book contains the priorities identified by our 43 members as key areas to be addressed by the new Commission.

We urge the new Commission, when defining its work programme, to take into account these priorities and to put the EU consumer at the centre of its policies.

**We also call for the following:**

- **Coordination of all consumer related policy:** in this Commission, consumer policy issues are spread across several Commissioners. It is important that guarantees are put in place in order to safeguard a consistent definition of the consumer interest as well as a coherent approach to consumer policy between the different Commission services in charge of consumer relevant dossiers.
- **Responsibility for the Transatlantic Economic Council:** to be transferred to DG RELEX or the Secretariat General, to ensure that the agenda is managed by a more neutral convener. So far consumer dossiers have not been prominent on the TEC agenda, even though the Transatlantic Consumer Dialogue is one of the advisors to TEC, on equal footing with the Transatlantic Business Dialogue and the Transatlantic Legislators Dialogue.
- **More prominence given to the consumer perspective in other common policies:** while this issue is far from new, it becomes more and more important to create an automatic reflex within the Commission in order to systematically take account of the impact of policies on EU citizens and consumers.

**Yours sincerely,**

**Monique Goyens**  
BEUC Director General

**Paolo Martinello**  
BEUC President



## The importance for Europe of a strong consumer movement

### Strong consumer organisations with the capacity to influence consumer legislation at EU and national level

BEUC is funded partly through membership contributions and partly from financing through the EU budget. We now count 16 consumer organisations from Central and Eastern Europe amongst our membership. These organisations make up more than 40% of our members but do not yet have the capacity to contribute to the financing of our activities. In fact, BEUC has been receiving EU financing partly to ensure that these organisations can be involved in our expert and other meetings, and can benefit from the experience of the longer established BEUC members and the BEUC secretariat.

Consumer organisations in Central and Eastern Europe, as well as in the accession and pre-accession countries, face specific challenges. Many governments in these countries still lack the traditions of involving stakeholders, including consumer groups, in the shaping of public policy. This situation is exacerbated by the general lack of availability of domestic resources and lack of access to external sources of funding. This lack of funding precludes consumer organisations from having an impact on both national and EU policy making. Indirectly, this has an impact on the effectiveness of the BEUC lobby at EU level, for which we need the active support and expertise of our members at national level. BEUC has received financing from DG SANCO to address this situation in several ways. We receive an operational grant for the Brussels office which provides funding for the experts based at our offices and for meetings with our members.

We are also involved in projects such as the TRACE training programme (Training for Consumer Empowerment), which provides training for all consumer organisations (not just BEUC members) in the EU, accession and pre-accession countries in the areas of management, public affairs, public relations and consumer law. We see the effects of this project as participants are now organizing their own courses at national level and are undertaking active lobbying campaigns.

In a joint project with DG SANCO, ICRT (International Consumer Research and Testing) and BEUC have concentrated on developing the capacity to conduct comparative product tests that will ultimately lead to generating income through publications or websites. The project is now completed, but a network of organisations from Central and Eastern Europe will continue to share test results within ICRT. Organisations in the accession and pre-accession countries would now like the project also to be available to them.

The CLEF (Consumer Law Enforcement Forum) project is helping these organisations learn how to ensure that consumer legislation is actually enforced at national level. It would be much appreciated by the partners involved if this project could continue.

#### Why we still need EU financial support:

Capacity building is a long-term process and it can be difficult to measure concrete results quickly. BEUC and consumer organisations across Europe appreciate the past commitment of the Commission in this area.

**We are certainly benefitting from the activities undertaken so far, but much more remains to be done. We would very much appreciate support from the EU budget to continue these and other activities.**

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## Consumer Contracts

**Consumer Rights Directive:** Strong rules to protect consumers when shopping online and offline, at home and cross-border

In October 2008, the European Commission adopted a proposal for a Directive on Consumer Rights which revises four consumer directives merging them into one single instrument. The proposed Directive would provide the legal system for basically all consumer contracts, be they of a domestic or a cross border nature, when shopping in the grocery store around the corner or on-line from the Internet. The Directive represents the most far reaching change in the approach to EC consumer law proposed to date because it would turn the revised directives into fully harmonising legislation, preventing Member States from maintaining or introducing more protective measures. As a consequence, the proposed Directive would de facto introduce a cap on the level of consumer protection across the EU and would force many Member States (and on some aspects all Member States) to significantly reduce the protection of their consumers.

The proposal's underlying concept is based on the assumption that the differences between national consumer laws are a decisive obstacle for traders and for consumers to engage more in cross-border activities. In reality other factors such as difficulties with language, hesitations due to complicated complaints handling and after-sales services, lack of cross-border redress facilities or fears regarding security and data protection on the Internet are much more relevant.

The concept of full "targeted" harmonisation is questionable as such: it cannot - or only to a very limited degree - provide for the unification of the national legal systems because consumer contract law is inseparably embedded in (non-harmonised) national civil law. As it stands now, it would create more legal uncertainty for many years to come. European consumers would lose essential national consumer legislation, while businesses stand to gain very little.

The proposed Directive requires substantive changes before it can become a piece of legislation that provides added value to the development of the Single Market and takes into account the needs and expectations of everyday consumers in the EU.

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## What you can do as a Commissioner:

- Adopt a more flexible attitude in relation to the type of harmonisation that is applied and support a “mixed harmonisation” approach using full harmonisation for certain limited issues only;
- Allow for and stimulate an open and comprehensive debate on all controversial aspects of full harmonisation of consumer contract law, and undertake more work on the consequences of full harmonisation in economic and legal terms. For this, further studies completing the existing impact assessment of the Commission need to be carried out;
- Undertake consumer research to find out what changes are needed to encourage European consumers to engage more in cross-border transactions and introduce the respective amendments into the proposed Directive;
- Ensure that the future Directive does not reduce but rather improves the rights of consumers by setting a high level of protection, taking into account everyday consumers’ needs and expectations;
- Develop clear criteria for applying full harmonisation in the field of consumer legislation based on the following conditions:
  - full harmonisation should only apply to technical and/or cross-cutting issues (such as the length of the withdrawal period, the conditions to exercise it, certain definitions such as the definition of a consumer and a trader, for example);
  - its application must not result in a decrease of the level of consumer protection, but is set at a truly high level of protection;
  - the scope of the fully harmonised field is clear from the text of the Directive so that legal certainty is provided.
- Modernise existing consumer legislation by adapting it to the challenges of digital products and introducing the concept of sustainability into consumer contract law.

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## Digital Rights

**Intellectual Property Rights (IPR):** Ensure a fair balance between consumers' digital rights and intellectual property rights holders' in the Digital Single Market

The objective of the establishment of the Digital Single Market requires the current copyright rules to be carefully assessed with the aim of ensuring a fair balance between the rights of consumers to content/knowledge with the right of copyright owners to fair compensation of their work. The development of new technologies provides opportunities for the emergence of new business models granting enhanced access to content online, thus fostering innovation and access to knowledge and creativity. However, the achievement of the Digital Single Market is underpinned by copyright rules that impose territorial barriers and by repressive and disproportionate measures regarding intellectual property rights (IPRs) enforcement, namely the so-called "graduated response" that would see the suspension of Internet connections in case of presumed infringement of IPRs.

### What you can do as a Commissioner:

- Adopt fair and proportionate regulatory measures for copyright enforcement ensuring that elementary consumer protection rights such as the right to fair licence conditions and the constitutional principles of privacy, confidentiality of communication and due process are also respected;
- Follow-up the previous Commission's European Digital Agenda with concrete proposals;
- Facilitate the multi-territory licensing of content online (music, games, films, books), currently hindered by the territorial nature of copyright, the lack of transparency in the management of copyright and the absence of rules on orphan works;
- Revise the current copyright framework with the aim of providing for the necessary flexibility in an environment of constant technological development while encouraging creativity and innovation in Europe.

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**Data Protection and Privacy:** Give consumers a secure digital environment, including effective control of their personal data

The Internet opens the door to potential violation of the right to privacy without precedent. New technologies (including targeting and profiling techniques) and new digital content platforms (for example social networking sites) allow players from the private sector, in particular, to identify consumers by collecting and using their personal details and invading their privacy without their knowledge or approval. This data is also often shared, exchanged or sold to third parties – depriving consumers of effective control over their personal data. A secure digital environment is needed to boost consumers' confidence online. This implies better consumer information about the collection and processing of their personal information, but also a real right to choose whether to give their personal data away or not. Privacy and security-by-design of digital products and services, as well as enforcement of relevant legislation, are paramount if this objective is to be achieved.

## What you can do as a Commissioner:

- Follow-up the previous Commission European Digital Agenda by concrete proposals;
- Impose transparency, consumers' control and respect of consumers' choice online in the use of new technologies likely to have an impact on consumers' privacy;
- Foster "privacy and security by design" i.e. have high privacy and security to be the default setting for digital products;
- Introduce new rights: the "right to be forgotten" i.e. to have your data deleted for good and the right to data portability i.e. the right to recover and/or to shift material/data posted from one platform/cloud to another;
- Put in place a general obligation to inform/notify consumers of any violation of security that compromises their personal data ('horizontal breach notification');
- Give consumers access to efficient complaint and redress mechanisms in case their personal data have been compromised.

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**Digital Markets:** Ensure net neutrality and access to telecommunication services for all

Today, the Internet has become central to European consumers' lives be it for shopping, accessing services such as e-government, e-health, e-learning, or content, to find a job, to compare prices, and/or to interact online with peers e.g. through social networking sites. Not having access to these services leads to social exclusion.

In the strategy to create growth and employment in Europe, the roll-out of high speed broadband has been central. We believe that it is time to widen the scope of universal services to broadband and to analyse whether at this stage mobile telephony should also be included.

Similarly, the neutrality of the Internet needs to be guaranteed. Internet Service Providers, telecom operators and content providers are increasingly vertically merging and cooperating so that they are technically capable of limiting access to content, to services or to applications which could represent competition for their own services.

## What you can do as a Commissioner:

- Follow-up the previous Commission European Digital Agenda by concrete proposals;
- Review the scope of universal services in telecoms to include broadband and analyse to what extent mobile telephony should also be included;
- Take a strong stance on net neutrality and guarantee the open and neutral character of the Internet in Europe.

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## Financial Services

**Pre-contractual Information:** All EU consumers should be provided with understandable, structured and comparable written financial information on all essential features of financial products and services well in advance of any contractual decision

The information offered to consumers is not adequate. Consumers have access to information which is often very long and not consumer-friendly; it does not help them to compare products and to make the right choice.

### What you can do as a Commissioner:

Introduce binding measures increasing quality of pre-contractual information provided to consumers.

\*\*\*\*\*

**Financial Advice:** All EU consumers who want to be advised should have access to independent and objective financial advice well in advance of major financial decisions

Financial products have become extremely complex. The current crisis has unveiled the problems consumers have to face: even the enlightened consumers have not been able to understand the financial products offered to them. Moreover, everywhere in the EU there is a lack of independent advice that consumers can rely on. Advice is in general only given by financial services providers and is often not targeted to consumers' needs and expectations but is rather linked to the bank's commercial practices. This creates a conflict of interests which is to the detriment of consumers.

### What you can do as a Commissioner:

- Promote affordable, independent advice partly financed by public authorities everywhere in the EU;
- Introduce binding rules applicable to all financial advisors (service providers and independent advisors) at the EU level.

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**Financial Inclusion:** Basic banking services should be available and accessible to all EU consumers everywhere in the EU

Access to financial services is key for consumers to be integrated in society and to live a normal social and economic life. As highlighted in the Green Paper on retail financial services the aim is “to facilitate EU citizens’ full participation in the economy”.

## What you can do as a Commissioner:

- Introduce binding measures on inclusion of basic current account in the universal services approach;
- Introduce binding protective measures on the attachment of bank accounts in order to preserve vulnerable consumers’ interests.

\*\*\*\*\*

**Payment Services:** Essential payment services used by consumers at national or cross border level, in any circumstances, should be efficient, affordable and with a high level of security

Banks’ business models across Europe are highly complex, opaque and unclear which leaves room for unfair price fixing, cross-subsidisation and harms consumer interests. Furthermore, with the arrival of SEPA there is a risk of removal of cheap and secure national means of payment.

## What you can do as a Commissioner:

- Bring forward initiatives, notably by applying competition rules, that maintain efficient and cheap debit cards schemes as with those that already exist at national level;
- Introduce binding measures on prevention of fraud covering all types of means of payment including e-payments and mobile payments;
- Introduce binding measures extending the current rules on equality of charges to all cross-border payment services.

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**Mortgage Credit:** All EU consumers who have sufficient resources to reimburse the loan should have access to mortgage credit that should be offered by responsible lenders/intermediaries on the basis of comparable information and should be repayable early with reasonable conditions

Consumers need credit to satisfy their multiple needs. Although granting credit is one of the main traditional functions of commercial banks, the increasing complexity of credit products and the rapid innovation in structured credit markets over exceeded consumer needs of those products. Therefore, all financial service providers, credit products and distribution channels of these products must be regulated to achieve a high level of quality and behave responsibly.

## What you can do as a Commissioner:

- Introduce binding measures harmonizing pre-contractual information (standardised sheet based on real consumer needs), APR calculation, major contractual provisions and responsible lending conditions in a first step. In the future, introduce measures harmonising conditions of early repayment (reasonable conditions);
- Introduce binding measures for intermediaries.

\*\*\*\*\*

**Unfair Commercial Practices:** All EU consumers should be offered financial services without being affected by discriminatory or unfair commercial practices

EU Consumers face unfair commercial practices in all financial services areas (payments, credits, accounts, insurance, etc.). Such practices must be prohibited to enhance consumers' confidence and to encourage them to shop around for financial services in the internal market.

## What you can do as a Commissioner:

- Introduce binding measures prohibiting discriminations based on residence or nationality;
- Introduce binding measures prohibiting unfair commercial practices not covered by UCPD, in all financial services areas, and in particular tied and bundled products, hidden fees (bank accounts), promotional rates in mortgage credits, etc.

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## **Food Information:** Help consumers make informed choices

While consumers may be more aware of the link between what they eat and their health, they are often bewildered when they look at the labels on food products. Either the nutritional information is incomplete, or they are faced with a variety of simplified labels on the front of the packaging which makes it difficult to make comparisons between products.

### What you can do as a Commissioner:

- Make healthy products more available and more readily accessible to all consumers, paying particular attention to disadvantaged groups;
- Make it compulsory to include complete, back-of-pack nutritional information on the 'Big 8' nutrients (Energy, Protein, Carbohydrate, Sugars, Fat, Saturated Fat, Fibre, Salt) in addition to imposing mandatory simplified front-of-pack labelling which is easy to compare and understand, showing the levels of key nutrients from a public health perspective and which reflects the independent evidence of what works best for consumers;
- Improve the legibility of the labels, in particular with regard to the size of the print and the contrast between the lettering and the packaging background;
- Introduce mandatory country of origin labelling, not only on foodstuffs consisting of a 'single' ingredient, but also for 'significant' ingredients and 'characterising' ingredients in foodstuffs made from several ingredients;
- Publish a proposal for nutrient profiles which reflects the purpose of the Health Claims Regulation which is to prevent consumers from being misled by untruthful or exaggerated claims on foods.

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**Novel Food:** Ensure a maximum level of protection and information to consumers

New technologies being used in food as well as novel ingredients can bring benefits to consumers but they may also present risks. Advances in food technology are occurring at a rapid pace. However, consumers are not always properly informed of related risks and benefits. Unlabelled foods manufactured using nanotechnologies begin to appear, while they may present new risks which have yet to be evaluated. Competitiveness and innovation shall not take priority over public health and safety.

BEUC has been actively involved in the revision of the Novel Foods Regulation, in order to ensure that specific provisions are introduced in the legislation to guarantee that products on the market are safe and enable consumers to make informed choices.

## What you can do as a Commissioner:

- Introduce a ban on animal cloning for food purposes;
- Publish a proposal to regulate all applications of cloning including in the food supply. In the meantime and in order to put an end to current legal vacuum, we call for foods derived from clones and their descendants to be covered in the framework of the Novel Foods Regulation as a temporary measure;
- Ensure that the use of nanotechnologies in the food supply is carefully regulated. The application of the precautionary principle and systematic labelling of the nano-content of food products in the list of ingredients are particularly crucial;
- Ensure that specific labelling requirements should apply to novel foods.

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**Marketing to Children:** protect children from the promotion of foods high in fat, salt and sugar

The rate of obesity among children in the EU has increased rapidly in recent years and this trend is set to continue. This is linked to both a modern lifestyle with a lower physical activity and a higher consumption of energy-dense foods by children.

Advertising and marketing of foods high in fat, salt and sugar (HFSS) made by the industry influence children's diets, as they are particularly vulnerable to commercial promotion, and undermine parents' efforts to ensure that their children follow a healthy diet.

BEUC has for some time questioned as to whether or not voluntary action in this area is sufficient to prevent them from being exposed to the marketing of HFSS foods.

## What you can do as a Commissioner:

- Propose an EU wide regulation to restrict the advertising and marketing of food and drinks to children high in fat, sugar and salt;
- Ensure such a regulation to cover all media i.e. 'traditional' – such as television and magazines, and 'new' media which covers internet and mobile advertising etc;
- Ensure such a regulation covers children up to the age of 16.

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## Group Action

**Consumer Collective Redress:** A binding Community instrument on consumer collective redress obliging Member States to put in place a judicial group action

The achievement of the Internal Market enables consumers to engage in cross-border transactions across 27 Member States and allows traders to reach 500 million consumers. Within this market, non-compliance with legal rules can easily affect a high number of European consumers who may suffer damages. However, consumers currently have limited or no means to seek redress collectively, while the significant divergence in national rules makes cross-border redress almost impossible which is to the detriment of consumers. In addition, the development of consumer protection rules should go hand in hand with the development of redress tools for its effective enforcement; without redress mechanisms, even the best EU consumer legislation cannot be implemented and enforced.

BEUC and its members have contributed extensively to DG SANCO's consultation exercise providing evidence as to the inefficiency of the current enforcement mechanisms both at national and EU level and the consequent need for an EU initiative. National redress mechanisms, where established, differ considerably and most often fail to provide efficient redress to consumers, particularly in cross-border and mass claims. BEUC calls upon the Commission to adopt a binding EU instrument that would require Member States to introduce collective judicial redress mechanisms into their national legislation that would have a wide scope and cover both national and cross-border cases.

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## What you can do as Commissioner:

Adoption of a European legislative proposal on consumer collective redress. Following the extensive evidence of need substantiated by the previous Commission, Community action in this field should take place as soon as possible. A Community binding instrument should lay down fundamental principles/benchmarks and provide for minimum common rules among the different national redress systems. In particular, such an instrument shall encompass the following principles:

1. Have a wide scope;
2. Aim to obtain compensation;
3. Allow for standing of consumer organisations;
4. Cover both national and cross-border cases;
5. Give the court discretion over the admissibility of the claim;
6. Cover identified, identifiable and non identifiable consumers;
7. Be accompanied by information measures directed at consumers;
8. Control out-of-court settlement;
9. Allow for compensation to be distributed fairly;
10. Foresee efficient funding mechanisms.

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**Private Damages Actions:** A framework directive that would allow for victims of anticompetitive practices across the EU to bring compensation claims for the damages suffered

Competition policy is of crucial importance to consumers because it allows them to benefit from an open market offering a range of products and services at the lowest prices. Consumers are directly affected by breaches of competition law such as cartels or abuses of a dominant position. However, they currently have no practical means to get compensation for the harm they suffer as a result of such practices. The nature of damages suffered in combination with the high litigation costs and the complexity of competition cases act as a deterrent for consumers to take legal actions on an individual basis. As a result, while competition authorities impose heavy fines on wrongdoers, the consumers are only rarely compensated.

BEUC regrets the fact that a proposal for a Directive on Private Damages Actions for breach of EC antitrust rules, although backed by scientific evidence and undergone inter-service consultation, was withdrawn from the agenda of the previous Commission due to strong pressure from industry representatives. The proposal would respond to the demand of the European Court of Justice to establish an instrument that would allow victims of anticompetitive practices to bring private damages actions. BEUC counts on the new Commission to fulfill the commitment of the EU and adopt the proposal that would allow victims of violations of competition rules to secure compensation for the harm suffered.

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## What you can do as Commissioner:

Adopt the proposal for a Directive on Private Damages Actions for breach of EC antitrust rules that has been prepared by the previous Commission. The draft Directive should lay down common procedural requirements allowing victims in every Member State to claim compensation following a competition infringement. In particular, such an instrument should encompass the following features:

- Standing of consumer organisations: consumer organisations should be qualified to bring representative actions on behalf of all victims. Consumer associations have the expertise to deal with the infringement and have long demonstrated their reliability to bring exclusively meritorious claims;
- Representative actions on behalf of all victims: Consumer organisations should be able to act on behalf of the full group of victims irrespective of whether or not the victims have identified themselves at the beginning of the procedure (**opt-out**). In competition cases, the damages suffered are rather scattered and hard to prove;
- Access to evidence: Victims of antitrust infringements should be granted access to evidence that is necessary to establish the infringement, unless the non-disclosure of information is justified by business secrets;
- Binding effect of National Competition Authorities' final decisions: Final decisions taken by National Competition Authorities should be granted a binding effect in all Member States as an irrebuttable proof of the infringement.

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## Health

**Medicines:** Consumers should have access to safe, innovative and affordable medicines

Medicines save lives but can also have serious adverse effects. To ensure patient safety, it is therefore of the utmost importance to have an efficient, transparent and proactive pharmacovigilance system. Patient safety in relation to the use of medicines is now endangered by an increase of counterfeit products that reach consumers mainly via the internet. Urgent measures are needed to address this public health threat.

Scientific breakthroughs revolutionise the way medicines are developed and prescribed and it is necessary to ensure the safety and the accessibility of new treatments. Adequate assessment procedures should be put in place to evaluate the benefits/risks and the costs/benefits ratios.

### What you can do as a Commissioner:

- Ensure that new medicines on the market have a well established safety profile;
- Grant the public greater access to pharmacovigilance information and information on clinical trials;
- Support independent research and post-approval safety studies on the potential long-term effects of medicines (e.g. FP7);
- Address the problem of counterfeit medicines sold on the internet (e.g. banning sponsored links to illegal web sites, reinforcing judicial cooperation, imposing stronger penalties on counterfeiters);
- Conduct public information campaigns to draw consumers' attention to the importance of reporting side-effects and on the risk of counterfeit medicines;
- Develop specific assessment methodologies for medicines developed using new technologies ( e.g. nanomedicines);
- Closely monitor the "functioning of markets" in the pharmaceutical sector;
- Establish an EU patent and litigation system with special attention to the pharmaceutical sector and its specificities.

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**Healthcare Systems:** Consumers should have the tools to be actively involved in the decisions regarding their own health

To play a more active role in the management of their health and make informed choices, consumers need better information about health, medicines and treatments. They should have clarity and legal certainty regarding their rights and have the means to enforce them.

## What you can do as a Commissioner:

- Develop, together with the Member States, an EU health information strategy that:
  - is based on an in depth assessment of consumers' information needs;
  - promotes reliable sources of information (e.g. EMEA);
  - allows consumers to choose and compare medicines and different treatment options;
  - addresses inequalities in access to information between and within countries.
- Ensure that information about medicines is high quality, comparative and non promotional;
- Ensure that consumers have clear health care rights in their country and when they seek health care abroad;
- Encourage the use of HTA, e-health, network of centres of excellence for more efficient health care systems;
- Ensure that e-health solutions are patient centred and respect consumer privacy.

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**Nanotechnologies and Nanomaterials:** Ensure the safety of consumer products containing nanomaterials

Nanotechnologies and nanomaterials are increasingly being used by various industry sectors to create new products or applications. Unfortunately, nanomaterials may also present new risks which have never been evaluated. BEUC is therefore concerned by the increasing number of consumer products containing nanomaterials, such as cosmetics, textiles and food products that are already sold on the EU market without having been subject to a proper safety assessment.

A first legal instrument containing nano-specific rules – the new Regulation for Cosmetic Products – was formally adopted by the Council in November 2009. This piece of legislation foresees a legal definition, specific control mechanisms and mandatory labelling of products containing nanomaterials. BEUC and its member organisations will closely monitor the implementation of this Regulation. Another legal proposal under discussion at EU level is the Novel Foods Regulation in which specific nano provisions have been included. BEUC will continue its active involvement in the related political negotiations (see section on Food).

Second, the EP adopted a resolution on regulatory aspects of nanomaterials in April 2009 urging the Commission to review existing legislation relevant to nanomaterials within two years. This resolution called for a harmonised definition to be agreed upon encompassing all EU legislation and for transparency, traceability and provision of information to be ensured. MEPs also called for the labelling of consumer products containing nanomaterials and for an EU-wide public debate. The Commission will prepare a response to the EP resolution by 2011. BEUC is looking forward to this response.

Furthermore, in October 2009 the Commission issued its second implementation report of the 2005-2009 Action Plan on Nanosciences and Nanotechnologies. In December, the Commission launched a public consultation for a new action plan "Towards a Strategic Nanotechnology Action Plan (SNAP) 2010-2015". BEUC, together with its sister organisation ANEC, will remain in close and regular contact with all the relevant Commission DGs and provide them with input with regards to this future action plan.

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## What you can do as a Commissioner:

Make a future EU action plan on nanotechnologies and nanomaterials that foresees the following:

- A complete review and, if necessary, adaptation of all EU legislation relevant to nanomaterials to ensure the safety of all products containing nanomaterials. The review should take into account the “no data - no market” principle. Such a review should in particular cover REACH, product safety legislation, waste legislation and worker protection legislation;
- An EU mandatory reporting scheme through which industry would have to notify the use of nanomaterials, the products in which they are contained and related safety and exposure data;
- A public inventory of all consumer products containing nanomaterials to ensure transparency and proper risk assessment;
- The labelling of consumer products containing nanomaterials and with which consumers come in direct, close or regular contact (such as food products and clothing);
- The regulation of claims that are made on products marketed as containing nanomaterials;
- The involvement of the Commission in the development of clear and common definitions of nanomaterials and nanotechnologies (as the lack of definitions leads to legal uncertainties and hampers the development of regulatory requirements);
- Increased funding for research on the environmental, health and safety risks of nanomaterials;
- The development of adequate safety and risk assessment methodologies taking account of all characteristics of nanomaterials;
- Effective participatory processes allowing citizens to fully engage into decisions which will have an impact on their everyday life.

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**General Product Safety:** Enhance the level of safety of consumer products with a more ambitious General Product Safety Directive

Unsafe CE marked consumer products are often found on the EU market and recalled, even after having been purchased and used by consumers, thus posing risks to health and safety that could have been avoided. In recent years, the first products to be notified by Member States as unsafe have been toys, electrical appliances and cars and this is likely to be the case in the next years. The high number of RAPEX notifications shows that general and sector-specific product safety legislation ought to be reviewed and adapted if deemed necessary. More clarity is needed as to how the various product safety legislations that are in effect within the EU interact with each other. In addition, manufacturers' responsibility needs to be strengthened and clarified. Last but not least, the level of enforcement is not always the same across the EU and market surveillance and control activities are often insufficient or ineffective.

The Commission is planning a revision of the General Product Safety Directive (GPSD), of which the preliminary consultation phase will start in the first half of 2010 in parallel with an impact assessment. BEUC, in collaboration with ANEC, will provide input to the Commission for a revised Directive through our participation in the GPSD Committee and the future public consultation prior to the revision. If applicable, we will also closely follow the co-decision process.

With regards to chemicals, we will continue to raise concerns regarding the use of problematic chemicals in consumer products and the lack of specific provisions for chemicals in the EU safety legislation.

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## What you can do as a Commissioner:

Bring forward a proposal for a revised General Product Safety Directive (GPSD) that:

- Strengthen the GPSD while developing a horizontal legal framework for the safety of services. In addition, it is crucial that the safety of products that are used in the context of a service provision, whether they be operated by consumers or the service providers, are covered by the legal framework for the safety of services. For the moment, only products provided in the context of a service and that are operated by consumers are covered by the GPSD. If a legal framework for the safety of services is not developed in the immediate future, the scope of the revised GPSD should be extended to all products provided in the context of a service;
- Ensure the safety of child-appealing products through the GPSD by including a legal definition for child-appealing products and introducing related specific safety requirements in the GPSD. In addition, the prohibition of food-imitating products should be maintained;
- Ensure a more effective market surveillance system through the development of a European framework for market surveillance and a wider access to information about dangerous products. An EU-funded accident statistical system and a European complaints handling and reporting point ought to be put in place;
- Adapt emergency measures to the risks posed. This means allowing Community emergency measures to be fully adapted to the risks they are intended to address either by making these measures permanent or ensuring their validity until a satisfactory solution is found;
- Give a legally-binding status to Commission decisions that lay down safety requirements under the scope of the GPSD and which aim to support the development of standardisation mandates.

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## Sustainability and Energy

**Sustainability:** Better coherence between EU policy instruments

As part of its Action Plan for Sustainable Consumption and Production and Sustainable Industrial Policy (SCP/SIP) published in 2008, the Commission undertook the revision of several pieces of legislation that aim to improve the sustainability of products and help consumers make sustainable purchase decisions, such as the EU Eco-design Directive setting eco-design requirements for energy-using products, the EU Energy Labelling Directive and the EU Eco-label Regulation. While a first reading agreement was reached on a revised Ecodesign Directive and Eco-label Regulation in 2009, a second reading vote in the EP is foreseen in spring 2010 to adopt the EU Energy Labelling Directive.

BEUC see a strong need to ensure that the different instruments work well together in order to address the production and the consumption sides in an equal and ambitious manner. This is particularly important as the scope of the revised Ecodesign and the Energy Labelling Directives has been extended to also cover energy-related products (i.e. products that do not use energy but have an impact on the energy consumption).

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## What you can do as a Commissioner:

- Ensure that Eco-design implementing measures phase out 20 % of the least performing appliances per product category;
- Ensure that the Ecodesign implementing measures for energy-related products will be ambitious and encompass all environmental aspects related to these products;
- Extend the scope of the Ecodesign Directive to all products with the potential to lower their negative impact on the environment including products that are not related to energy. This extension could be done at the time of the Directive's revision that is foreseen in 2012;
- Develop ambitious energy labelling requirements for more energy-using products (e.g. computer monitors, vacuum cleaners, coffee machines) and energy-related products (e.g. windows);
- Ensure that the Eco-label will award only 10-20% of the best environmentally performing products and that all environmental aspects of products are addressed, including the use of dangerous chemicals and waste.

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**A Retail Forum** that enhances the sustainability of products on the shelves

The Retail Forum which has been set up with the support of the EU Commission is supposed to gather retailers within the EU to promote more sustainable products on shelves. BEUC is an observer to the Forum and gives input on how to increase the sustainability of products and help consumers choose better products.

What you can do as a Commissioner:

- Promote initiatives within the Retail Forum that lead to taking the most unsustainable products off retailers' shelves;
- Promote initiatives within the Retail Forum that lead to increasing the number of environmentally friendly products on shelves, such as Eco-label products, as consumers need to have a wider choice of sustainable products.

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**Good Value and Efficient Energy Markets**

Consumers should be well informed about their energy consumption. Therefore energy bills have to be transparent and easy to understand. Consumers should also be able, within the liberalised energy market, to switch their energy supplier swiftly and easily. They should be assured that when they chose their energy supply based on environmental reasons, they are not misled about the energy mix and the product characteristics.

At the same time, the ongoing implementation of ICT in the energy sector has the potential to bring many benefits to consumers. Smart meters could end estimated and inaccurate bills, allow consumer to access information about their energy use, prices, and historical consumption patterns which could help consumers to save energy and contribute to reaching the 20 % energy savings target the EU has set itself. However, in order for consumers to reap the full benefits of smart metering technology and to maximise their positive impact on the environment, smart metering systems must be designed taking into account specific consumer requirements such as data protection and visible communication tools.

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## What you can do as a Commissioner:

- Follow up on effective implementation by energy suppliers of the recommendations on transparent energy billing as adopted at the Citizens' Energy Forum in London, in September 2009;
- Take initiatives to regulate green energy offers so that they do not mislead consumers as to their environmental benefits;
- Ensure the current discussions in the DG TREN Task Force on smart grids and smart meters take into account consumer specific requirements.

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## BEUC member organisations

AT - Arbeitskammer - AK  
AT - Verein für Konsumenten-information - VKI  
BE - Test-Achats/Test-Aankoop  
BG - Bulgarian National Consumers Association - BNAP  
CH - Fédération Romande des Consommateurs - FRC  
CY - Cyprus Consumers' Association  
CZ - Consumers Protection Association - SOS  
CZ - Czech association of consumers - TEST  
DE - Verbraucherzentrale Bundesverband - vzbv  
DE - Stiftung Warentest  
DK - Forbrugerrådet - FR  
EE - Eesti Tarbijakaitse Liit - ETL  
EL - Association for the Quality of Life - E.K.PI.ZO  
EL - General Consumers' Federation of Greece - INKA  
EL - Consumers' Protection Center – KEPKA  
ES - Confederación de Consumidores y Usuarios - CECU  
ES - Organización de Consumidores y Usuarios - OCU  
FI - Suomen Kuluttajaliitto  
FI - Kuluttajat-Konsumenterna ry  
FI - Kuluttajavirasto  
FR - UFC - Que Choisir  
FR - Consommation, Logement et Cadre de Vie - CLCV  
FR - Organisation Générale des Consommateurs - OR.GE.CO  
HR - Croatian Union of the Consumer Protection Associations – Potrosac  
HU - National Association for Consumer Protection in Hungary - OFE  
IE - Consumers' Association of Ireland - CAI  
IS - Neytendasamtökin - NS  
IT - Altroconsumo  
LU - Union Luxembourgeoise des Consommateurs – ULC  
LV - Latvia Consumer Association - PIAA  
MK - Consumers' Organisation of Macedonia - OPM  
MT - Ghaqda tal-Konsumaturi - CA Malta  
NL - Consumentenbond - CB  
NO - Forbrukerrådet - FR  
PL - Polish Consumer Federation National Council – Federacja Konsumentów  
PL - Association of Polish Consumers - Stowarzyszenie Konsumentów Polskich  
PT - Associação Portuguesa. para a Defesa do Consumidor - DECO  
RO - Association for Consumers' Protection – APC-Romania  
SE - The Swedish Consumers' Association - Sveriges Konsumenter  
SI - Zveza Potrošnikov Slovenije - ZPS  
SK - Association of Slovak Consumers- ZSS  
UK - Which?  
UK - Consumer Focus

