BEUC's 8 Priorities for the

Belgian Presidency

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BEUC calls on the Belgian Presidency to support a consumer friendly EU 2020 strategy

Belgium will take on the Presidency of the European Union at a very critical moment. The initial debates at Council level around the ***EU 2020 strategy*** constitute a unique momentum to adopt a more holistic approach towards the objectives of the EU in enhancing consumer welfare. BEUC therefore calls on the Belgian Presidency to champion the inclusion of people's empowerment as a flagship within the EU 2020 strategy. Indeed, while measures have been taken to save businesses and jobs, consumers are still waiting for measures to restore their confidence in the markets. One of the main objectives should now be to restore consumer confidence by guaranteeing an appropriate level of protection.

In this context, the Granada Ministerial Declaration on the **European Digital Agenda** which aims to cpmplement the Commission's Digital Agenda and the EU 2020 strategy is a welcome initiative to ensure that access to telecommunication services is granted to all and consumer rights in the digital world are sufficiently promoted. We call on the Belgian presidency to ensure that the work on the digital agenda will take the recommendations of the Ministerial Declaration fully into account.

Turning to pending legislative initiatives, it is particularly important that the Belgian Presidency guides the work of the Council on the proposal for a ***Directive on Consumer* Rights** to focus on the needs and expectations of the 21st century consumer when shopping domestically and cross-border and to make it a genuine pillar of consumer confidence. To achieve this, major improvements have to be brought to the design of the proposal itself, as the maximum harmonisation approach initially proposed by the Commission, combined with the low level of consumer protection, is not acceptable from the perspective of a sound consumer policy, neither at EU nor Member State level.

Under the Belgian Presidency an agreement on the regulation on food information to consumers may be achieved. We underline that the proposed legislation is a key tool to provide consumers with the means to follow a **healthy diet**. We ask for the introduction of a mandatory simplified front-of-pack labelling which is easy to understand and compare, showing the levels of key nutrients through the use of a multiple colour coding system
Another important sector of intervention to promote the consumer interest within the EU, also in line with the objectives of a more sustainable economy as indicated in the EU strategy, is that of a ***consumer friendly implementation of an energy efficiency and climate change strategy.*** In this context, consumers must be helped to make informed and more sustainable choices to be able to contribute to the fight against climate change.

We also invite the Belgian Presidency to make progress on the following dossiers to ensure that:

➔ More is done with regard to the safety of consumer products, with special regard to **dangerous chemicals,** particularly in the context of the upcoming revision of the **General Product Safety Directive,** or in respect to the unknown effects of **nanotechnologies** on health and the environment.

➔ More possibilities are available to obtain **redress** in case things go wrong. In this context, the availability of **collective consumer redress mechanisms** everywhere in the EU should be a priority for EU decision makers. BEUC together with our Belgian member organisation Test-Achats/Test-Aankoop will hold a conference on this important issue on 15 November 2010.

➔ A high level of protection is guaranteed to all EU consumers in the area of **financial services**, particularly during economic downturns, and consumer interests are taken into account when designing measures to regulate financial markets.

➔ Aggressive marketing of unhealthy food to children is addressed.

➔ Disguised **marketing of pharmaceuticals** is tackled.

With this in mind we have identified **eight main areas of concern** which we describe in this document, together with **numerous concrete proposals.** In the second semester of 2010, the Belgian government will be responsible for conducting discussions and negotiations on these dossiers. BEUC[1] and its Belgian member, Test-Achats/Test-Aankoop, call on the Prime Minister and the members of his government to make these a matter of priority, and to measure concretely how its programme will benefit consumers.

[1] BEUC, the European Consumers' Organisation, is the umbrella organisation for 43 of the most important consumer organisations in 31 European countries. It is our objective to represent and promote consumer interests with EU decision makers in all consumer relevant areas that match our members' strategic priorities.

Consumer contracts

Strong rules to protect consumers online and offline

I. Consumer Rights Directive

In October 2008, the European Commission adopted a proposal for a Directive on Consumer Rights (pCRD) which revises four consumer directives[2], merging them into one instrument. The Commission's aim is to simplify and complete the existing rules on contracts between businesses and consumers buying products or services, and to reap the full benefits of the Internal Market.

The minimum harmonisation approach (according to which Member States are able to maintain or adopt stricter consumer protection rules) is currently being blamed for having brought about different rules in different countries, and discouraging cross-border trade: it is deemed too complicated for traders to adapt themselves to different national consumer rules. The Commission therefore proposed to abandon the minimum harmonisation approach and replace it with full harmonisation (where Member States would lose the possibility to adopt or maintain rules going beyond the protection provided by the EU instrument). According to the proposal, the introduction of full harmonisation in the field of consumer law is necessary to increase the still limited cross-border trade and promote consumer confidence.

Not only do legal barriers prevent consumers from shopping outside their countries, there are also difficulties with language, hesitations due to the fact that in case of defective products, consumers have to complain to a foreign – and distant – supplier, lack of cross-border redress facilities or fears regarding security and data protection on the Internet.

In addition, the proposal provides for maximum harmonisation at a low level of consumer protection. In our view, the proposed directive should not result in taking away essential rights from consumers just for the sake of promoting the Internal Market. It is hard to see how the proposed Directives' objective of increasing consumer confidence in cross-border shopping could be reached in this way. The proposed "one-size-fits-all" is mainly in the interest of business and above all cannot provide them with a real level-playing field.

Given the lack of consumer confidence in online shopping, it is more important than ever to ensure that consumers are properly protected and that their rights are well respected. What consumers need is not a change in the level of harmonization of the current legislation, but new instruments and solid rights to ensure that all goes well when they engage in shopping across the EU.

The proposed Directive therefore requires substantive changes and supplementation 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 consumers in the EU both now and in the future.

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[2] Directive on contracts negotiated away from business premises (85/577), Directive on unfair terms (93/13), Directive on distance contracts (97/7), and Directive on sale of consumer goods and associated guarantees (1999/44).

Against this background, BEUC very much welcomed the recent announcement of the Commission to abandon the full harmonisation approach across the whole directive and to favour a more pragmatic and targeted full harmonisation, leaving the rest to minimum harmonisation.

How should consumer needs be addressed?

General

- Hold an open and broad discussion about the future of EU consumer legislation, the next steps in revising the consumer acquis and the link between the harmonisation of consumer contract law and the Commission's initiatives around a European civil code;
- develop an inter-institutional strategy on the role of EU consumer policy within the context of the re-launch of the Single Market and discuss how consumer policy and legislation should evolve in the next ten years in this context, bearing in mind its essential role in empowering consumers and making them feel confident;
- Ensure that the future Directive does not reduce but clearly improves the rights of consumers, by setting a genuinely high level of consumer protection;
- Shift the current focus of the discussions around the proposed directive from the level of harmonization of consumer legislation to the real questions at stake, namely what makes up a modern EU consumer legislation that finally is able to increases consumer confidence (see the more detailed proposals below);
- Adapt the existing consumer legislation to the digital environment. The proposed rules in the Consumer Rights Directive on information requirements, on remedies for lack of conformity and on unfair contract terms are not adapted – or do not cover at all – to the particularities of digital content products (such as downloaded software or music); the promotion of the on-line Single Market requires harmonised rules to address consumer needs with regard to these products;
- Accept full harmonisation under the following conditions only:
    - 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, and the definitions of a consumer and a trader for example);
    - Its application does not result in a decrease of the level of consumer protection and ensures a genuinely high level of protection;
    - The scope of the fully harmonised field is crystal clear from the text of the Directive so that legal certainty is provided.
- Current considerations to make a distinction of the level of harmonisation between face to face contracts (not fully harmonised) and distance selling contracts (fully harmonised) are not a practical solution. Such an approach would lead to two different legal regimes and to two different levels of consumer protection. Instead of creating clearer and more comprehensible rules for consumers and a level playing field for business, it would lead to consumers' confusion and increase complexity and competitive inequality;

- Clarify the links between the proposal and general contract law. Overall, the impact of the proposed Directive on general contract law at a national level needs to be assessed and to avoid undesired spillover effects of the Directive into national civil law or unexpected interpretations of the European Court of Justice. Consequently, the fields of consumer guarantees for defective products, unfair contract terms and information requirements, which are inseparably linked with (unharmonised) national civil law, should NOT be fully harmonised. The proposal could lead to a situation where general contract law could evolve freely and be easily adapted to new market developments, providing for a higher level of protection in business to business relations than in consumer contracts, whereas consumer contract law would be isolated and frozen due to the ceiling imposed by full harmonisation, i.e. stopped from evolving any further.

Further concrete demands to improve the proposal:

Information requirements

An EU-wide obligation to inform the consumer about all necessary elements of the contract and a non-exhaustive list of essential information items should be introduced. The relationship between the proposal and EC legislation is currently not clear and needs to be addressed. The proposed full harmonisation regime for information requirements regarding its impact on existing national laws, in particular in the field of services contracts but also in relation to some specific goods (e.g. dangerous goods), would be detrimental and should therefore not be maintained.

Right of withdrawal

More consumer friendly rules on the starting point of the right of withdrawal, on the consequences of omission of information from the trader and regarding the obligations of the parties in case of withdrawal should be introduced. The proposed rules do not offer a high level of consumer protection.

Some exemptions from the right of withdrawal as proposed in the directive are not justified anymore and should be deleted. For example, consumers nowadays should have a right of withdrawal in the case of e-auctions and for car rental and leisure services bought at a distance.

Legal guarantees

The provisions in relation to consumers rights in relation to defective products cannot be fully harmonised and should be improved: if adopted as they are, the proposed rules would deprive consumers from being entitled to having the initial choice between the remedies available. Furthermore, the proposed hierarchy of remedies would significantly reduce consumers' choice of remedies in a number of Member States. The proposal to deprive consumers from the right to a guarantee in case they did not notify a defect within a short period is not balanced and should be deleted entirely. Also, in suggesting an EU wide guarantee period of two years, the proposal does not encourage the commercialisation of sustainable products.

What consumers really need in case they buy defective goods is a prolongation of the reversal of the burden of proof for the defect which is currently short now and a free choice of remedies between repair, replacement, price reduction and the termination of the contract. The proposed hierarchy of remedies does not work well in practice and is contrary to a modern, consumer friendly oriented Single Market.

Unfair contract terms

The proposed regime for unfair contract terms would create important legal uncertainty and put long established efficient national case law at risk. Member States that have more extensive lists of unfair contract clauses would have to repeal these clauses from their black/grey lists. There is therefore a risk that in some Member States, contract terms currently considered as unfair – and therefore banned – would in the future have to be accepted. The rules on unfair contract terms should apply widely to all consumer contracts and be adapted to the particularities of digital products. We call for a list of black terms which are prohibited throughout the EU, but which is not exhaustive and hence allows Member States to maintain what goes beyond the EU list; in addition a notification duty for Member States should be introduced to increase transparency.

The following elements should be introduced into the proposed Directive to ensure effective and modern consumer rights:

- Allow the consumer to choose between four remedies (repair, replacement, cancellation of contract and priced reduction) in case he/she bought a defective good;
- Introduce a rule establishing the direct responsibility of the producer in case of lack of conformity. The introduction of such a rule would help achieve the objective of the pCRD to promote consumer confidence in cross-border shopping e.g. by allowing consumers to seek redress from the producer for defective goods purchased from retailers in other EU countries;
- Prohibit the most unfair contract terms across the EU;
- Provide for specific information requirements and specific guidance on unfair contract terms in relation to digital products and extend/adapt the regime of the legal guarantees for these products;
- Stop trapping consumers in through long-term service contracts (for example mobile telephone or Internet subscriptions) by granting the consumer the right to cancel a contract after a duration of one year, maximum;
- Allow consumers to choose an alternative payment system without being punished through additional charges.

II. Revision of the Package Travel Directive and of air passenger rights legislation

In December 2009, the European Commission consulted on certain aspects regarding the upcoming revision of the Directive on package travel, which dates back to 1990. The Commission's aim is to update and complete the existing rules on package travel as the travel market as well as consumer behavior have changed substantially through on-line booking, low costs airlines etc. In parallel, in the beginning of 2010, the Commission undertook a consultation on a possible revision of EU air passenger rights legislation. BEUC has responded to both consultations highlighting current consumer problems, which are not sufficiently addressed by the existing legislation and underlining the need to adopt a broader, horizontal and more consistent approach to consumer rights in the field of transport. A proposal for legislation on package travel is expected to be issued by the Commission beginning 2011.

How should consumer needs be addressed?

- Establish a comprehensive travel directive that would set out the legal rights and remedies of all passenger and holidaymakers in one single piece of legislation. The main issues that need to be addressed are listed below;

- Extend the current scope of the Package Travel Directive to cover the widest number of travel service contracts, in order to ensure that consumers' rights do not depend on the form under which a contract appears (transport, with or without accommodation, leisure service linked to transport, fixed or dynamic package);

- Clarify the legal regime for liability. Consumers are often confused by the current system on who is responsible in case of problems. We call for a joint liability of the seller and the organizer/tour operator. Furthermore, in case of liability, the Commission should provide guidance on an EU wide system to calculate compensation which is owed to the consumer;

- To avoid the misleading of consumers, request that the consumer is always informed about the full price and that prices cannot be increased after the conclusion of the contract;

- Establish efficient protection against insolvency of airlines or other operators offering prepaid travel services;

- Establish a list of unfair and therefore prohibited contracts terms in travel contracts;

- Oblige businesses to establish an efficient complaint handling system and Member States to establish an alternative dispute resolution system, which is in line with the Commission's recommendations on this matter;

- At present conflicts with regards to air passenger rights often fall under a jurisdiction other than that of the passenger's place of residence. This makes it very difficult for passengers to enforce their rights before the courts. The Rome I regulation should be amended in this respect.

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Safety

Safe consumer products - consumers and the environment protected against dangerous chemicals

I. Safe products for consumers

Unsafe consumer products, including products bearing the CE mark, are often found on the EU market and need to be recalled, 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 to cover all risks that may be posed by products. 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, it needs to be ensured that the level of enforcement is the same across the EU and that market surveillance and control activities are both numerous and effective. 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.

How should consumer needs be addressed?

- 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

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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.

II. Ensure the safe developments of nanotechnologies and nanomaterials

Nanotechnologies are newly emerging technologies. Using nanotechnologies is like working on a scale ten thousand times smaller than the thickness of a human hair. Increased energy efficiency, a cleaner environment, more effective medical treatment and improved manufacturing production – there is a wide variety of existing and foreseen applications of nanotechnologies in various areas.

We acknowledge that some of these applications could bring benefits in particular for consumers' health and safety and for the environment. However, we are concerned about the potential adverse effects of nanomaterials on human health and the environment, both in the short and long term.

In this context, we are alarmed by the increasing use of nanomaterials in consumer products that are being sold on the European market without prior risk assessment. We are particularly concerned about products with which consumers come into direct contact on a daily basis (e.g. cosmetics and food products), and in products which lead to discharges to the environment. It is crucial that consumers are properly protected and can feel confident that any product containing nanomaterials (or made using nanotechnologies) on the market has been independently assessed and found to be safe before it is permitted to go on sale. In this context, we have high expectations with regard to the future EU action plan on nanotechnologies and nanomaterials that will be launched at the beginning of 2010. In 2011, the Commission will also have to respond to the European Parliament's Resolution on regulatory aspects of nanomaterials adopted in April 2009. This resolution called for various ambitious actions to be taken to ensure the safety of nanomaterials and nanotechnologies.

How should consumer needs be addressed?

- Agree on clear definitions of nanomaterials and -technologies as the lack of definitions leads to legal uncertainties and hampers the development of regulatory requirements;
- Review and adapt, when necessary, all relevant legislation (such as REACH and product safety legislations) within the next two years in order to adequately address the potential risks of nanotechnologies for health and the environment;
- Promote the development of adequate safety and risk assessment methodologies taking into account all characteristics of nanomaterials;
- Impose a safety assessment and approval for all nanomaterials used in consumer products or in products that can have important impacts on the environment. The "no data, no market" principle should prevail;
- Establish an inventory of products containing nanomaterials on the EU market;
- Require manufacturers to label consumer products containing nanomaterials, in particular clothes, household and food products, as it will be done in the new regulation for cosmetic products that will soon enter into force;

- Regulate misleading claims that are made on products that are marketed as containing nanomaterials;
- Prioritise funding and research towards environmental and human health and safety aspects of nanomaterials;
- Launch a public debate on nanotechnologies and nanomaterials with the Commission and Member States across the EU in order to ensure that citizens are involved in the safe and sustainable development of these technologies and materials.

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Financial Services

A dynamic Internal Market for retail financial services

The financial crisis has clearly demonstrated that consumer rights have been at best simply not taken into account and at worst systematically violated. Financial service providers have been focusing on enormous profits rather than providing services tailored to individual consumer needs. Consumers have lost confidence in deposit, credit and investment service providers, which weakens the basis of the Single Market and prevents cross-border shopping for financial services. Furthermore, the financial sector does not operate in a competitive EU market.

I. Enhance financial supervision and regulation

In many Member States, national supervising authorities have not been capable of correctly detecting risks and imposing the necessary safety measures. If national supervisors are not doing their job properly consumers are at risk.

The Commission's legislative proposals establishing a European System of Financial Supervisors (ESFS) does not provide the new authorities with a real capacity of control and sanctions and does not take due account of the conduct-of-business side of supervision despite the fact that links between prudential supervision and consumer protection in the financial services area are so obvious.

How should consumer needs be addressed?

More powerful and independent national supervisors are needed everywhere in the EU. Reflection should be launched on the necessity to separate prudential supervision on the one hand and the control of marketing methods and professional compliance on the other hand: clear definition of corresponding responsibilities of both supervisors so as to avoid conflict of interests.

- In order to provide better protection to consumers, national supervisory bodies should fulfill the following functions: participate in advertising control, control of financial information, control of unfair practices (bundled and tied products), control the distribution of financial products (for example in the area of consumer credit), and take charge of an early warning system (inform consumers about the risks/risk category of various financial products on the basis of continuous enquiries);

- Since the development of financial services has led to the emergence of universal actors providing a wide range of financial services (for instance, together with their traditional role, banks offer more and more insurance services, investment products, etc.) it is not necessary to have a large number of supervisory authorities. A unique supervisor is needed to cover all financial services and all financial institutions (banking and non-banking). Therefore, there is a need to merge existing national supervisory authorities (bank/non bank credit, insurances, securities/pensions funds);

- Effective consumer representation on the boards of financial supervisors should be ensured. To this aim, consumer representatives should be provided with necessary means, e.g. sufficient financial resources;

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- Strengthen the cooperation between national supervisors and regulators: create a binding network between them (see e.g. the Regulation on consumer protection cooperation);

- Ensure coherent legislation to avoid regulatory arbitrage between financial products. Structured investment products sold by most banking systems are in competition with Undertakings for Collective Investment in Transferable Securities' (UCITS) and life insurance contracts. Even if these three categories of products are broadly interchangeable, their respective regulations are totally incoherent;

- Adopt binding rules at EU level so that all Member States are obliged to comply with them. Soft law has shown its limits especially in case of financial services. The regulatory gaps must be closed.

II. Pre-contractual information on financial products and services

The crisis made it even more visible that pre-contractual information offered to consumers is not adequate. Consumers have access to information which is often very long and not consumer-friendly (consumer-oriented), which does not help them compare products and make the right choice.

How should consumer needs be addressed?

- Provide information to consumers well in advance of contractual decisions;

- Make information shorter (no more than 2 pages) but also understandable, structured, and with comparable relevant information on all the key features;

- Create a single risk indicator for investment products. Such an indicator should include the following information:
    - Whether or not the invested capital is guaranteed;
    - Investment volatility;
    - Information on suggested retention period for the expected return to compensate for the volatility risk.

- Introduce stricter rules on marketing and advertising practices, particularly for investment products;

- Ensure that the provision of information is not misused by the service provider to avoid his responsibilities (responsible lending, responsible advice, etc.).

III. Financial advice

Financial products are more and more complex. The financial crisis has unveiled the problems consumers have to face: even enlightened consumers have not been able to understand the financial products offered to them (e.g. Madoff's clients). 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 service providers and is often not tailored to consumers' needs and expectations but is rather linked to the bank's commercial interests. This leads to a detrimental situation for consumers.

How should consumer needs be addressed?

- Independent advice is necessary to prevent consumers from taking unwise decisions, especially in case of major financial decisions:
    - Funding for independent advisors: should be provided partly by public authorities and partly by consumers. In any case, independent advice should be provided at affordable rates;
    - Advice could be provided by consumer organisations or other independent bodies.
- Responsibility of advisors (service providers and independent advisors):
    - Set up a MiFID profile (Markets in Financial Instruments Directive) for each investor. If the product does not match the profile, consumers should receive a warning;
    - Ensure information given to consumers is reliable;
    - Effective documentation of the advice should be given to the investor;
    - Make it easier for consumers to claim compensation (the burden of proof should lie with the advisor).
- Binding rules applicable to all financial advisors at EU level.

IV. Unfair commercial practices

All EU consumers should be offered financial services without being affected by discrimination practices or unfair commercial practices.

How should consumer needs be addressed?

- Binding measures prohibiting discriminations based on residence or nationality;
- Binding measures prohibiting unfair commercial practices not covered by the Unfair Commercial Practices (UCP) Directive, in all financial services areas (credit, accounts, payments,.) and more specifically tied and bundled products, etc.

V. Credit - responsible lending

Irresponsible lending is one of the main causes of the financial crisis. As a result, more attention should be paid to this issue. Lenders should be obliged to assess the financial capacity of consumers asking for a credit and check their creditworthiness. All financial service providers, credit products and distribution channels of these products must behave responsibly and be regulated to achieve a high level of quality.

How should consumer needs be addressed?

- Foster consumer protection and responsible behaviour of credit institutions with legislation on home loan credit: if the bank's decision is based on a poor quality assessment of the consumer's financial situation the costs of irresponsible lending should be taken on only by lenders and not by consumers (see Belgian law on responsible lending);

- Regulate home loans: binding measures harmonizing Annual Percentage Rates (APRs), maximum rates of variation (in case of variable rates), pre-contractual information, major contractual provisions, conditions of early repayment (reasonable conditions), responsible lending conditions and right of withdrawal;

- Regulate crediting activities that seriously endanger the solvency of consumers (foreign currency credit, credit secured with mutual funds, Lombard credit, revolving credit, etc.) as well as usury rates and excessive costs;

- possession of appropriate professional knowledge and ability; possession of professional liability insurance.

VI. Deposit Guarantee schemes

Deposit guarantee schemes currently work extremely inadequately at cross-border level, particularly in the case of banks which have the European "passport"[3] in their home country but conduct 99% of their business cross-border. No lessons have been learned from the current crisis: the rules adopted in 2008 do not take into account the Internal Market dimension of the issue. This could discourage consumers from cross-border shopping for financial services. We expect that the public consultation run by the Commission will lead to an appropriate legislative proposal.

How should consumer needs be addressed?

- Make deposit guarantee schemes work cross-border:
    - Consumers' deposits should be equally guaranteed across Europe, whatever the service provider's location;
    - Payout procedure should be as easy as it is at national level, especially in terms of delay.

- Ensure maximum harmonisation of deposit guarantee schemes with complete coverage of deposits all over the EU, in order to avoid an uneven competition among schemes;
- Ensure coverage 'per brand' and not only by legal entity.

VII. Harmonisation of legislation on financial intermediaries

Many financial intermediaries sell complex financial products without having any qualifications and are not accountable in case of failure of the product.

How should consumer needs be addressed?

- Introduce rules to limit initial commissions;
- Ensure harmonisation of rules for intermediaries, regardless of what they are selling;
- Introduce rules on registration, qualification, transparency, liability and insurance.

[3] Banks having an EU passport are allowed to work freely throughout Europe regardless of their place of establishment.

VIII. Impose access to a minimum service for all consumers

Financial exclusion is a problem for many European consumers, principally in the newer Member States. The result is that they do not have access to any basic financial services (current account, savings accounts, insurance). This often leads to social exclusion. There is also a European cross-border dimension to financial exclusion as a citizen who wishes to settle abroad must often overcome a real 'banking headache': in order to be able to open a bank account in a Member State, a consumer must reside there; at the same time, in order to rent or obtain housing a bank guarantee must be provided.

How should consumer needs be addressed?

- Recognise the right of citizens to have access to basic banking services with a European scope.

IX. Facilitate payment services

From lack of information to banks that try to dodge their obligations in the event of card theft to excessive fees on cross-border transfers, opaque and excessive bank fees and tied and bundled products that reduce possibilities of switching, we have all faced a problem with our payment services provider.

How should consumer needs be addressed?

- Ensure that the Single Euro Payment Area (SEPA) provides concrete advantages to consumers: All SEPA products (credit transfer, direct debit, debit card and credit card) should be efficient, affordable (cost-based) and with a high level of security;
- Ensure better governance of SEPA in order to take on board end-users needs. SEPA should be a market project, not only a banking project;
- Binding measures on prevention of fraud covering all types of means of payment including e-payments and mobile payments.

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Energy and Sustainability

I. Promoting access, choice and affordable prices for all consumers

a) Towards a competitive, consumer-centric and "smart" European energy market

It is a challenging time for the European energy market. On the one hand, the market has been liberalised for more than two years and yet consumers are still not benefiting from real competition. In a survey carried out by BEUC on the functioning of the European gas and electricity markets, published in 2008[4], BEUC's members identified in particular the lack of real choice, difficulties in switching suppliers and unclear bills as major concerns.

Choice is a fundamental consumer right and is the prime feature of a competitive market. The Third Energy Package aims to make Europe's energy markets more competitive and gives consumers the right to switch faster, obtain their personal data and be more regularly informed.

We participated in the work that has been carried out by the Citizens Energy Forum on transparent energy billing and hope that the recommendations defined by the Forum in September 2009 will soon be implemented by the industry. Consumers and energy suppliers periodically communicate through bills. Understandable bills are imperative for consumers to check what they pay and to allow them to compare offers.

On the other hand, climate change and its impact are prompting many consumers to reconsider their habits. Achieving the 20/20/20 objectives will significantly impact the energy sector through the implementation of "smart" technology such as digital meters and the integration of ICT into the energy networks, creating so-called "smart grids". Consumers are willing to contribute, but will only be able to if their views are taken into account during the planning stage of smart grids and if they are given enough information on their contribution, including information on "green" offers.

How should consumer needs be addressed?

- Ensure a swift implementation of the 3rd energy legislation package. Ensure the provisions for switching supplier, information and data ownership are fully transposed into national legislation;
- Investigate ways to separate the ownership of production from that of energy networks (described as 'full ownership unbundling') to make entry into the European energy markets for new suppliers easier;
- Ensure consumer views are taken into account when "smart grids" are being rolled out;
- Ensure the recommendations of the Commission's working group on billing are followed up during the 3rd Citizens Energy Forum in London in October 2010, which will take place during the Belgian presidency;
- Ensure consumers can have access to their actual consumption, notably through smart metering.

[4] The full results of the study are available at www.beuc.eu

b) Consolidate and implement consumer rights

Apart from a lack of real choice and difficulties in changing supplier, BEUC's energy survey also identified problems with non-cost-reflective payment methods and difficulties for consumers to assert their rights. These findings are in line with the ERGEG (European Regulators Group for Electricity and Gas) report on the transposition of consumer rights, published in October 2008. As energy is fundamental for every single consumer in the Internal Market, attention should be paid to the vulnerable groups in our society. The Belgian presidency has the opportunity to put flesh on the bones of the "Fighting poverty" Flagship of the Europe 2020 strategy. Energy poverty is currently increasing.

At the same time, consumer rights need to be taken into account when changing the energy sector. The right to privacy is fundamental to our society. When privacy concerns are well addressed, consumer acceptance of these technologies will be high and the roll-out will be facilitated. Unfortunately, we see that the most effective way to ensure these rights are considered is when consumer organisations block the roll-out, as was the case in the Netherlands.

How should consumer needs be addressed?

- Ensure consumers' privacy is fully taken into account when implementing smart grids and smart meters;
- Ensure access to energy for the most vulnerable consumers, notably by providing social tariffs and protecting their rights when new functions like remote disconnection or "smart" tariffs are implemented;
- Allow the European Commission to guide Member States when defining "energy poverty" under the 3rd energy package and develop guidelines when necessary;
- Reinforce and implement consumer rights through a comprehensive and binding instrument (including compensation in the event of interruption of supply, the right to representation and user-friendly complaint mechanisms).

II. Promote sustainable choices through efficient measures and useful tools

a) Encourage more sustainable design of products and take the least sustainable products off the market

More and more consumers are ready and willing to buy more sustainable products, in particular more energy efficient ones, in order to reduce their impact on the environment. In addition, there is an urgent need for reducing energy consumption and the use of natural resources in the European Union and to move towards sustainability. In this context, it is essential to impose strict and ambitious product standards, and to increase the number of sustainable products on the market. Yet the current Directive on Ecodesign, defining the principles, conditions and criteria regarding ecological requirements in product design, is limited to energy-using and energy-related products and their impact on energy consumption in the use phase.

In the summer of 2008, the Commission presented its much awaited Action Plan on Sustainable Consumption and Production and Sustainable Industrial Policy (SCP/SIP).

How should consumer needs be addressed?

- Ensure that the initiatives announced and the measures in the context of the SCP/SIP Action Plan are properly undertaken. It should involve all economic actors including industry, consumers and governments, and lead to the setting of ambitious regulatory goals in particular in relation to sustainable product standards;
- Develop specific eco-design requirements for the various product categories which would allow to regularly eliminate unsustainable products from the shelves, for example the highest energy-consuming products or products with the worst environmental performance;
- Promote the crucial role of retailers in sustainability and notably in 'choice editing' i.e. the withdrawal of non-sustainable or less sustainable products from the shelves in favour of a broader range of sustainable products and services in all price ranges. This should be done within the Retail Forum which was set up by the Commission in March 2009. Ambitious objectives will have to be set up by the participants and independent monitoring of progress will need to be undertaken regularly – possibly by consumer organisations. If no progress is made, the Commission should take stricter measures to ensure that retailers actually play their role.

b) Promote clear and objective information on sustainability-related aspects of products

Even if consumers wish to turn to more sustainable products, the lack of clear, reliable and comparable information and the vast number of 'green' labels and self-claims used by industry without third-party verification often prevent them from acting.

The EU A-G Energy Label has been one of the few labels that has really pushed the market towards more energy-efficient domestic appliances, notably thanks to its simplicity, transparency and user-friendliness for consumers. A survey of 7,000 people across Europe commissioned by BEUC and other partners and published in May 2008[5] shows that between 97% and 99% of respondents identified "A" as the most energy-efficient household appliance. This has been confirmed by other research[6]. On the other hand, the Commission recently provided stakeholders with the results of a consumer survey showing that interviewed consumers would prefer an open-ended scale and in particular a scale with A^{+} and A^{++} classes on top of the A class. However, we have strong reservations with regard to these findings as many other studies and surveys have shown the complete opposite. For this reason, we are not supportive of the political agreement that has been reached in November 2009 with regard to introducing three additional classes on top of class "A" ("A^{+++}") and shifting the colours over time. The agreed compromise will not provide for a long term solution as for some product groups, such as refrigerators, the last class will soon be populated. We will therefore continue to call for the A-G label to be made more dynamic by making the classes more ambitious over time.

5 See:http://www.mtprog.com/spm/files/download/byname/file/Full_MORI_summary.pdf
6 See: http://www.mtprog.com/cms/library-publications/.

How should consumer needs be addressed?

- Give consumers the possibility to act in a more sustainable way when they purchase, use and dispose of products, by providing them with easy tools such as the A-G Energy Label and the Ecolabel;
- Recognise the European Ecolabel as a label of environmental excellence following a full life-cycle approach and promote the launch of an awareness-raising campaign at European level to familiarise consumers with it;
- Make the Energy Labelling scheme more dynamic, so that it can be easily adjusted to new developments on the market (for example by updating the criteria for the various label categories), whilst maintaining a closed label design with classes from A to G;
- Ensure greater consistency between eco-design and the various EU eco-labelling schemes (in particular, existing ones such as the EU Ecolabel and the Energy Label);
- Promote sustainable products and more sustainable consumption through better targeted information campaigns (i.e. taking into account behavioural research).

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Group Action

How to make consumer rights a reality

Whilst existing legislation must be enforced and reinforced to improve the situation of consumers, this is not enough. Consumers must be in a position where they can implement the rights which they have been granted.

Very often, several consumers, possibly from different Member States, are victims of faulty or even dangerous goods or services, or of anti-competitive business practices. Individual actions are not an appropriate remedy, as the litigation costs involved can be much higher than the compensation the affected consumers are entitled to.

A European Group Action is essential to enable groups of consumers to secure compensation for a loss resulting from the same trader by combining their claims into one single action. Currently, national systems across the 27 EU Member States vary significantly. The integration of European markets and the subsequent increase in cross-border activities highlight the need for EU-wide consistent redress mechanisms.

Group Action does not grant any new rights to consumers. It only provides new means to enforce existing rights. Moreover, it does not impose any additional burden on companies. Experience from those Member States that already have collective redress mechanisms in place clearly demonstrates that European legal traditions provide for the necessary safeguards to avoid any abuse of the system. On the contrary, group actions will benefit those companies that comply with the law and respect consumer legislation.

How should consumer needs be addressed?

- Define and put in place, as soon as possible, and in cooperation with the European Institutions, a European-wide Group Action for violations of consumers' interests in order to:
    - Give consumers access to justice in cases where individual redress is not suitable;
    - Ensure effective access to justice to all EU consumers irrespective of their nationality or country of residence;
    - Foster the enforcement of consumers' rights;
    - Minimise litigation costs for both consumers and defendants;
    - Reduce overloading of courts;
    - Reduce inequality between consumers residing in different Member States as some can and others cannot benefit from group actions;
    - Improve the functioning of the Internal Market, as consumers will be much more confident about shopping abroad.
- Support the adoption of a Community Directive on Private Damages Actions for breach of antitrust rules that is open to victims of such practices with the aim of giving effect to the right to compensation for victims of anti-competitive practices, and make it possible for consumer organisations to bring claims on behalf of all victims.

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Food

Healthy food for informed consumers

I. Help consumers to make informed choices

In some EU countries, over half of the adult population is overweight, and one child in five is obese. Cardio-vascular disease is the cause of almost half of the total deaths in Europe, and almost one third of these cases are due to diet. Type II diabetes, which is also closely linked to diet and obesity, is also on the increase. Although the solution to the problem of obesity involves many factors, diet plays a key role.

Even if more consumers are becoming aware of the link between what they put on their plates and the effect this has on their health, they are often bewildered when they look at the labels on food products. Either the nutritional information is incomplete or difficult to use – consumers are faced with different simplified labels on the front of the packaging which makes it difficult to make comparisons between products – or they are misled about the nutritive value and benefits of products through the use of exaggerated or false claims.

How should consumer needs be addressed?

- 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 (protein, energy, fat, saturated fats, carbohydrates, sugar, salt and fibre) as well as transfats;
- Impose mandatory simplified front-of-pack labelling which is easy to understand and compare, showing the levels of key nutrients from a public health perspective (fats, saturated fats, sugars and salt). The use of a multiple colour coding system (green, orange and red) would show at a glance whether the amounts of these nutrients are low, moderate or high, and could be complemented by Guideline Daily Amounts (GDAs);
- Improve the legibility of the labels, in particular with regard to the size of the print ensuring that a minimum requirement of 1,2mm lower case height font is introduced and that the contrast between the lettering and the packaging background is clear;
- 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;
- Introduce strict nutrient profiles that are developed in an independent and transparent manner by the Commission which reflect the objective of the Health Claims Regulation. Nutrient profiles are essential as they will determine which food products can or cannot bear a health or nutrition claim and should enable consumers to trust those claims which are made on the products they buy.

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II. Protect children as a matter of priority

European Commission figures show that 14 million children in Europe are either overweight or obese. Studies by our member organisations show that most advertisements for foods and drinks targeting children are promoting products which are high in fat, sugar or salt.

Alongside 'conventional' advertisements in magazines or on TV, we are now seeing adverts on the Internet, via sponsorship of sports gear in schools, in product placement at the cinema or in SMS competitions. This puts unacceptable pressure on children – and their parents – to make them eat unhealthy food, and goes against all declarations made by EU decision-makers in support of the fight against obesity.

How should consumer needs be addressed?

- Introduce a ban on TV advertising of food and drinks which are high in fat, sugar or salt from 6 am to 9 pm (based on the nutritional profiles to be defined by the European Food Safety Agency - EFSA);
- Extend the restrictions on the advertising of food products to children to cover all forms of marketing techniques (e.g sms, viral marketing);
- Promote the adoption by the industry of the "Code on the marketing of food products and non-alcoholic drinks to children"[7] proposed by Consumers International, pending the setting up of a binding measure at European level.

III. Keep the level of food safety as high as possible

Thanks to the work of EFSA and the application of, among others, the HACCP[8] principles, the European Union has a reliable, scientific basis recognised at international level to guarantee its consumers the safety of the food they buy.

Under pressure from the United States, the Commission proposed to authorise the use of certain chemical substances for the antimicrobial treatment of poultry. Such a situation would lead to an unacceptable relaxation of the hygiene measures applied during production, transport and slaughter, particularly in the case of imported products. The US has decided to challenge the decision of EU Member States to reject the proposal and to pursue this issue with the WTO.

New technologies in food rearing and production processes may have an impact on food safety. Although consumers can benefit from these innovations, competitiveness and innovation must not be allowed to take priority over public health and safety.

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7 Recommendations in favour of a Code relating to the marketing of food products and non-alcoholic drinks to children, Consumers International, March 2008.

8 The HACCP system consists of Hazard Analysis and Critical Control Points in food hygiene.

How should consumer needs be addressed?

- Oblige all food companies, including small businesses, to apply the HACCP principles;
- Defend the principle of respect for the rules of hygiene 'from farm to fork' and categorically reject their replacement by 'chemical' treatment at the end of the production chain;
- Include on the list of 'novel' foods all those originating from a production technology not previously used, such as foods derived from plants, produced by non-traditional growing methods or modified by new production processes, such as nanotechnology and nanoscience;
- Ensure that all novel foods undergo a complete evaluation of their safety before being authorised on the European market.

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Health

Put consumers' health first

Health is a fundamental human right. Decision makers must ensure that public health is protected and guarantee access to high quality and efficient health services.

At EU level, it is important to ensure a better balance between public health and commercial interests in the formulation of policies regarding pharmaceuticals, medical devices and e-health.

I. Better health information

Patients need better information on diseases, treatment options and medicines. This information should be reliable, non-promotional and comparative. In order for consumers to be able to make an informed choice, it is imperative to maintain a clear distinction between information and advertising.

How should consumer needs be addressed?

Develop a health information strategy which:

- Is based on an in depth assessment of consumers' information needs, on the way these needs are currently met and on any potential improvements;
- Promotes reliable sources of information;
- Allows consumers to choose and compare medicines and different treatment options;
- Addresses inequalities in access to information from a wide public health perspective.

II. Safety of consumers in relation to side effects of medicines

Medicines save lives but can also have adverse effects which may sometimes prove to be fatal. To ensure patient safety, it is therefore of the utmost importance to have an efficient, transparent and proactive pharmacovigilance system.

How should consumer needs be addressed?

- Enable consumers to report side effects directly to the competent authorities;
- Put in place efficient pharmacovigilance procedures, with strict rules in case of non-compliance;
- Maintain strict criteria to grant (conditional) marketing authorisations;
- Grant the public greater access to pharmacovigilance information;
- Undertake independent research and post-approval safety studies on the potential long-term effects of medicines;
- Conduct public information campaigns to draw attention to the importance of reporting side-effects.

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III. Protect consumers from counterfeit medicines

Counterfeit medicines can be very dangerous for health. It is important that the supply of medicines is safe, more strictly monitored and more transparent.

How should consumer needs be addressed?

- Introduce safe track and trace technologies that do not generate an additional cost for consumers;
- Put in place specific measures against illegal sales of medicines on the Internet;
- Educate consumers about the risks posed by counterfeit medicines;
- Reinforce international cooperation;
- Impose stronger sanctions on counterfeiters.

IV. More certainty on patient rights

It is essential for European consumers, who are increasingly mobile, to know what their rights are in the area of health services, both in their country of residence and abroad.

How should consumer needs be addressed?

- Ensure that consumers have access to high quality health care services, are aware of their rights and have the means to enforce them in all Member States;
- Establish a clear legal framework for patients' rights in cross-border health care, namely on reimbursement, information provision, redress in case of problems and continuity of care;
- Ensure that the existing social security legislation on cross-border health care is effectively implemented.

V. E-health for the benefit of consumers

There is no agreed definition of e-health but it arguably includes a wide range of tools based on information and communication technologies (ICT) used in the prevention, diagnosis, treatment, monitoring and management of health. It also includes amongst others health information networks, electronic health records or telemedicine services. Major progress has been made in this area. All European consumers should benefit from the opportunities that ICTs can provide to the healthcare sector.

How should consumer needs be addressed?

- Ensure that new e-health applications bring concrete and tangible benefits to consumers;
- Take account of the patient's perspective in decisions regarding e-health.

Digital Environment & Telecoms

Empower consumers to play a central role in a safe, fair and competitive digital market

Information and communication technologies (ICT) have significantly changed consumption habits and make up an increasingly large part of household budgets. Although these technologies offer citizens a must-have tool to access information and participate in daily life, they are also giving rise to violations of a number of fundamental rights.

Many initiatives and action plans to develop the European digital strategy for the next 5 years are in the pipeline e.g. EU2020 strategy, European Digital Single Market, European Digital Agenda, post i2010 ICT Strategy. BEUC has prepared a "Digital Agenda" listing a set of 10 horizontal principles to be applied across all sectors and policy areas that will ensure that European consumers are empowered in their digital lives. Many of the actions listed below derive from that agenda.

I. Ensuring access to telecommunication services for all

The gradual liberalisation of the EU telecoms markets has increased choice and quality for consumers by stimulating competition. However, new competition threats are arising through companies' abilities to limit the access of consumers to some content, services and applications. At the same time, not all European consumers have access to broadband internet which leads to social exclusion.

a) <u>The Review of the scope of universal services in telecommunications should allow all European citizens to have access to these services</u>

E-government, e-health, e-business, user-generated content, e-learning such as online encyclopaedias and courses, job sites, websites to compare energy prices, social networks, etc. These are only but a few of the new services which broadband has made feasible. Driven by the increasing penetration rates – 50% of European households are using broadband now[9] – and increasing speeds, these services have become widespread. At the same time, not having access to these services leads to social exclusion.

The European Commission has launched a public consultation on the universal service provision in the telecommunications sector in the first half of 2010. As far as BEUC is concerned, 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.

How should consumer needs be addressed?

- Promote the inclusion of broadband in the scope of universal services in telecoms;
- Analyse to what extent mobile telephony should be included in the scope of universal services in telecoms.

[9] Eurostat 2008

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b) Ensuring the Internet remains open and neutral

Over the past few years the European Parliament and the Council have extensively debated the update of the telecommunications regulatory framework. The aim was to guarantee healthy competition, leading to a significant decrease in retail prices and better quality services.

In this context, more attention should be paid to the "network neutrality" principle; 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 is at stake in the long term is the innovative capability of the internet.

BEUC believes it is critical to take a strong stance on net neutrality. In order for regulators to do so, the new telecommunications rules should be fully and quickly implemented. This is all the more important if we take into account the inherent threat of abuse of dominant positions within network industries.

How should consumer needs be addressed?

Take a strong stance on net neutrality so that the fixed and mobile networks remain open and innovation is stimulated

- Ensure the EU regulators analyse their markets and fully apply the powers they have under the ex-ante competition rules to ensure that new companies can offer innovative services and that markets remain competitive while new technology is being implemented.

II. Protect consumer rights in the digital environment

Digital technologies have given rise to new ways of promoting, buying and receiving goods or services. There is practically no area of consumption that is not affected by the rapid development of modern information and communication technologies. The Internet is also an essential way of accessing knowledge and online services (such as administrations or health services) as well as the public and democratic debate. It must therefore be ensured that consumer rights are fully applied in the digital world.

How should consumer needs be addressed?

- Recognise and enforce the six basic consumer rights in the digital world:
  - Right to choice, knowledge and cultural diversity;
  - Right to the principle of “technological neutrality”;
  - Right to benefit from technological innovations without abusive restrictions;
  - Right to the interoperability of content and devices;
  - Right to the protection of privacy;
  - Right not to be criminalised.

In particular, the following two issues are of particular concern to consumers:

a) The protection of personal data and privacy

The Internet opens the door to potential violation of the right to privacy without precedent. New technologies (including behavioural targeting and deep packet inspection techniques) and new digital content platforms (for example social networking sites) in particular allow stakeholders from the private sector to identify consumers by collecting and using their personal details and invading their privacy without their knowledge or approval. These same data are also exposed to online crime, such as ID theft and/or the diversion of sensitive information. In addition, all these new technologies encroaching upon consumers' privacy are likely to be decisive in the development of "ubiquitous computing" also referred to as "the Internet of Things" (the integration of IT into the environment and everyday objects). Its deployment could lead to a series of negative consequences for privacy (for example discriminating against consumers based on their location, or profile) and security (for example theft, viruses, electronic eavesdropping).

How should consumer needs be addressed?

- Assess all European Commission proposals and international agreements in light of the European Charter of Fundamental Rights;
- Impose transparency, fairness, consumer control and respect of consumers' choice online in the use of new technologies likely to have an impact on consumer privacy;
- Encourage the implementation of "privacy and security by default" in ICT, digital products and applications including smart meters;
- Introduce new rights "to be forgotten" in a way that does not interfere with freedom of information and the right to "the silence of the chips" and to conduct research as to how such rights could be made effective in practice;
- Establish a general data breach notification obligation and impose joint responsibility between controllers and those third parties which process data on their behalf ;
- Give consumers access to efficient complaint and redress mechanisms in case their personal data have been compromised;
- Require companies to take the appropriate measures in order for telecom networks to be secure and reliable;
- Ensure that Internet Service Providers offer consumers adequate technology to resolve security issues, at reasonable prices.

b) Intellectual property rights (IPR) and "graduated response"

We fully acknowledge the need to ensure the protection of IPR – especially on the Internet – and for artists to get a fair remuneration for the distribution and use of their works. However, we are fiercely opposed to the IPR enforcement solution towards which France and other Member States seem to be moving, i.e. the "Graduated Response" according to which rights holders could ask Internet Service Providers to threaten to suspend Internet access for the presumed infringers of intellectual property rights. Whilst copyright must be respected, the same applies to the

elementary consumer protection rights such as the right to fair licence conditions and the constitutional principles of respect for privacy, confidentiality of communication and due process.

We strongly believe that instead of focusing on repressive enforcement measures, more attention is needed with regard to the fostering of innovative business models that would provide consumers with legitimate content online. The reform of the current copyright framework together with the establishment of an efficient and well regulated licensing system would contribute to the significant reduction of unauthorised use of copyright-protected works.

How should consumer needs be addressed?

- Acknowledge the distinction between counterfeiting/piracy conducted by organised entities running for profit and practices carried out by numerous private consumers, at home, on a small scale and without commercial motivation. In particular when it comes to criminal sanctions, it should be made clear that such sanctions can only apply to commercial infringers operating at the level of organised crime. A clear definition of the "commercial scale" is necessary to avoid divergence in the implementation by Member States and increase legal security;
- Respect elementary principles of consumer protection such as the right to fair licence conditions and respect for privacy and due process;
- Provide clarity as to the scope of the private copying exception and assess the effectiveness of the current systems of private copying levies as a form of fair compensation. It is essential to ensure alternative systems of fair compensation are being explored that would be best suited to the challenges of the digital environment and would compensate right holders for the actual economic harm suffered;
- Oppose any attempt to introduce the responsibility of the Internet Service Providers in terms of policing copyright violations: such a measure would be disproportionate, inefficient and, more importantly, would violate certain fundamental rights such as the right to the presumption of innocence, to a fair trial and to the protection of personal data and privacy. Numerous harmful effects are also reported in practice, such as the identification of a computer rather than the person responsible, and the application of very strict rules, despite the fact that the distinction between legal and illegal downloading is far from simple and cannot be made automatically;
- When discussing content online, reflect on new business models and possible measures at European level in order to enable inventors or designers of intellectual works – including users – to legitimately and fairly benefit and create value for their work, without consumers being unfairly wronged in the exercise of their own rights. In this respect, numerous creative avenues are to be explored and developed, such as increasing legal offers available online; adopting new types of licence or financing; and the use of interoperable technologies, etc. Regulatory measures are necessary in order to foster the availability of content online, including the promotion of multi-territory licensing, enhanced transparency in the management of copyright, efficient solution to the problem of orphan works, the assessment of the economic impact of the current system of exceptions and limitations, the adoption of rules on creative content, etc.

AT - Verein für Konsumenten-information - VKI
AT - Arbeitskammer - AK
BE - Test-Achats/Test-Aankoop
BG - Bulgarian National Association Active Consumers- BNAAC
CH - Fédération Romande des Consommateurs - FRC
CY - Cyprus Consumers' Association
CZ - SOS – Consumers Protection Association
CZ - TEST - Czech association of consumers
DE - Verbraucherzentrale Bundesverband - vzbv
DE - Stiftung Warentest
DK - Forbrugerrådet - FR
EE - ETL - Eesti Tarbijakaitse Liit
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 - Assocation 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

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