



# BEUC's Memorandum for the Danish Presidency





## Who we are

BEUC, the European Consumers' Organisation, is the umbrella organisation for 42 independent consumer organisations in 31 European countries. It is our objective to represent and promote consumer interests among EU decision makers in all consumer relevant areas which match our members' strategic priorities.

Our Danish member is Forbrugerrådet, the Danish Consumer Council, who is also represented in BEUC's executive and has provided BEUC's presidents for many years.

BEUC's members are:

**Austria:** Verein für Konsumenteninformation – VKI ; Arbeiterkammer – AK **Belgium:** Test Achats/Test Aankoop **Bulgaria:** Bulgarian National Association Active Consumers – BNAAC **Croatia:** Croatian Union of the Consumer Protection Associations – Potrosac **Cyprus:** Cyprus Consumers' Association **Czech Republic:** Czech Association of Consumers – TEST **Denmark:** Forbrugerrådet – FR **Estonia:** Estonian Consumers' Union – ETL **Finland:** Kuluttajaliitto – Konsumentförbundet ry; Kuluttajavirasto **France:** UFC – Que Choisir; Consommation, Logement et Cadre de Vie – CLCV; Organisation Générale des Consommateurs – OR.GE.CO **Germany:** Verbraucherzentrale Bundesverband – VZBV; Stiftung Warentest **Greece:** Association for the Quality of Life – E.K.PI.ZO; Consumers' Protection Centre – KEPKA; General Consumers' Federation of Greece – INKA **Hungary:** National Association for Consumer Protection in Hungary – OFE **Iceland:** Neytendasamtökin – NS **Ireland:** Consumers' Association of Ireland – CAI **Italy:** Altroconsumo; Consumatori Italiani per l'Europa – CIE **Latvia:** Latvia Consumer Association – LPIAA **Luxembourg:** Union Luxembourgeoise des Consommateurs – ULC **Former Yugoslav Republic of Macedonia:** Consumers' Organisation of Macedonia – OPM **Malta:** Ghaqda tal-Konsumaturi – CA Malta **Netherlands:** Consumentenbond – CB **Norway:** Forbrukerrådet – FR **Portugal:** Associação Portuguesa para a Defesa do Consumidor – DECO **Poland:** Polish Consumer Federation National Council – FK; Association of Polish Consumers – SKP **Romania:** Association for Consumers' Protection – APC **Slovakia:** ZSS – Association of Slovak Consumers **Slovenia:** Zveza Potrošnikov Slovenije – ZPS **Spain:** Confederación de Consumidores y Usuarios – CECU ; Organización de Consumidores y Usuarios – OCU **Sweden:** The Swedish Consumers' Association – **Switzerland:** Fédération Romande des Consommateurs – FRC **United Kingdom:** Which?; Consumer Focus



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## BEUC calls on the Danish Presidency to bring forward consumer-friendly EU policies

The next Presidency of the European Union, which starts in January 2012, will be faced with a number of highly important initiatives which are pending in the Institutions or soon landing on the agenda of the Council of the European Union. We hope that Denmark, who will be at the helm of the next Presidency, will put consumer protection and consumer interests high up on its political agenda. Confident consumers are the fuel for Europe's economy to grow and prosper. They prompt growth and reward good business practices.

The Consumer Rights Directive only being formally adopted in autumn 2011, the Commission is now pushing for an additional and much further reaching measure for standardising business to consumer contracts: an 'optional' **European Common Sales Law** proposal, presented in October 2011. BEUC is not in favour of such an instrument, as neither are many business stakeholders. We believe it will not provide added value for but will have a negative impact on the development of the Single Market and on consumer confidence to engage in cross-border transactions. In our opinion, the risks are very high that this optional European Sales Law would be imposed on consumers by the trader, potentially involving a lower level of protection.

We therefore call on the Danish Presidency to start a real debate with all stakeholders and to carefully assess if there is any need at all for this instrument, given that the Consumer Rights Directive will be implemented soon and considering the potential negative impact of the introduction of such an instrument for European consumers and consumer legislation.

Consumer organisations look forward to the Commission's legislative proposals on **Alternative Dispute Resolution** (ADR). The envisaged improvements of European consumers' access to ADR-mechanisms would offer cheap and effective solutions to individual consumer disputes. Only when effective and inexpensive systems of redress are provided can consumers actually make use of the rights granted to them.

Conversely, BEUC deeply regrets the fact that **Collective Redress** at European level remains unavailable for consumers, thus leaving them empty-handed in many group claim situations and allowing businesses to retain illegal profits. Such situations cannot be remedied by improving the ADR system. Much work on Collective Redress has been done already and we call on the Council to support the introduction of a legislative proposal on Collective Redress for the benefit of European citizens.

During the Danish Presidency, the **Mortgage Credit Directive** will be high on the agenda of Council and Parliament. Borrowing money to buy or build a house is often the most important financial decision in most people's lives. Many borrowers across Europe have been sold a bad deal or were inadequately protected. We call upon the Danish Presidency to help ensure that lending practices become more responsible, that bad products will be banned from the market and that advice given to consumers takes the whole market into account and is not misguided through conflicts of interest.

In January 2012, we expect a proposal for the review of the **Data Protection Directive**. We hope it will provide for a high level of protection of personal data and privacy and reflect our key demands, namely the need to strengthen the rights of data subjects' privacy by design, the introduction of a general data breach notification obligation and the need for stronger enforcement of existing legislation. We hope the work of the Danish Presidency will contribute to meeting the challenge of ensuring privacy in the digital world.

It is key for patients to have access to impartial and correct information on medicines, treatment and diseases and that they can be confident not to be exposed to disguised marketing messages. We ask the Danish Presidency to support us achieving this goal when the **Information to Patients** proposals of the European Commission, which were launched in October 2011, will be discussed.

In relation to food safety, the Danish presidency will deal with the European Commission's proposal to revise the framework legislation on **foodstuffs intended for particular nutritional uses** ('**PARNUTS**'). We hope that the presidency will work to ensure that this revision will lead to greater certainty and protection for European consumers.

The proposal for an **Energy Efficiency Directive** is currently under discussion at the European Parliament and Council. Energy efficiency is one of the most cost-effective ways of reducing energy bills, enhancing security of supply and reducing carbon-emissions. We call on the Danish Presidency to guide the discussion on this initiative in a way which ensures that the energy efficiency measures are appropriate to consumers' needs, be as cost-effective as possible and supported by the right incentives.

Finally we hope that the Danish presidency will put a policy focus on the issue of chemicals in consumer products and in particular **chemicals which disturb the hormonal system**. The exposure to multiple chemicals in everyday life of European consumers is of very high concern and needs to be reduced as a matter of urgency.

Apart from these key consumer dossiers we have in the current memorandum identified further important initiatives according to BEUC's 8 priorities areas. In the first semester of 2012, when the Danish government will be responsible for conducting negotiations and debates on these dossiers we hope that progress will be made on all these initiatives with the aim of delivering clear benefits to European consumers.

We wish Denmark a successful Presidency.



## Horizontal Issues

### I. Single Market Relaunch

#### Background

The European Commission published its Communication on the Single Market Act in April 2011 providing 12 key actions for the Single Market to “boost growth and strengthen confidence”. Despite the fact that the Single Market Act contains valuable initiatives for consumers including Alternative Dispute Resolution measures and more effective standardization procedures, BEUC was disappointed by the lack of a more consumer-focused approach, in particular as regards the digital Single Market. Consumer-oriented copyright and solutions for online shoppers’ daily worries need Europe’s sharpest attention to respond to the needs of consumers in the Single Market. The Commission intends to present the respective legislative proposals in 2011. The aim is for the Parliament and Council to adopt a first series of these priority measures by the end of 2012. “The Krakow Declaration” adopted by the inter-institutional Single Market Forum in autumn 2011 underlines the importance of fostering dialogue and communication with citizens in order to make progress with the development of the Single Market.

#### Our demands

- From a consumer perspective, the Single Market is not an end as much as a means. It has to be constructed with the rationale of serving European consumers and citizens, ensuring they can make transactions within and across European national borders with full confidence.
- The European Parliament, in its 2010 report (MEP Grech) on ‘Delivering a Single Market for consumers and citizens’, asked the Commission to give priority to “consumer-friendly” legislation. This should be the guiding approach for the Commission in implementing the Single Market Act.
- BEUC calls for a more “holistic” approach taking into account all factors that hinder consumers from fully benefiting from the Single Market, such as for example a consumer-oriented copyright legislation and solutions for online shoppers’ daily worries. The European institutions should take up these challenges as a matter of priority as well.
- The Commission should report once a year to the Parliament and the Council on how its Single Market policy has achieved its overall outcomes and in particular has delivered to consumers. A specific focus on reporting the consumer outcomes should ensure that the consumer perspective is taken into account right from the start and in a systematic manner.

#### Documents

- Public consultation on a Single Market Act – [Response by BEUC](#) (x/2011/023)
- [Letter](#) to Commissioner Dalli ‘A Single Market Act for Consumers’ (x/2010/091)

For more: [consumercontracts@beuc.eu](mailto:consumercontracts@beuc.eu)

## II. E-commerce

### Background

The development of online commerce, both at national and cross-border level, can potentially contribute to the achievement of the goals of the EU 2020 Strategy, boost the competitiveness of the European economy and improve consumer choice and welfare. Nevertheless, the data provided by the European Commission, reveals that only one third of European consumers have made a purchase on the internet and only 7% of those have engaged in cross-border online commerce.

In order for e-commerce to reach its potential growth, the EU needs to undertake concrete actions which respond to emerging issues which will help to boost consumers' trust and confidence.

In November 2011, the European Commission is expected to adopt an Action Plan for e-commerce to identify the key areas where EU action is needed, while clarifying certain provisions of the e-commerce Directive. The Action Plan should focus on ensuring the development of a well-functioning and inter-connected market for e-commerce, where consumer access and consumer welfare stimulate growth and innovation.

### Our demands

- The real problems facing cross-border trade need to be identified via an evidence gathering process and by consultation with all stakeholders.
- The European Commission's proposal on European Sales Law will not help to boost cross-border e-commerce. Instead the Commission should explore options less intrusive to consumer rights and more practical for businesses e.g. the adoption of 'European model contracts'.
- Compliance with, and enforcement of, Article 20.2 of the Services Directive which forbids territorial discrimination in the provision of services on the basis of the nationality and/or place of residence of consumers should be ensured.
- The current fragmentation of the online content market should be addressed by promoting multi-territory licensing, adopting forward-looking copyright exceptions and limitations and the reform of the copyright levies system.
- The current provisions of the exemption of Internet Service Providers from liability (Article 12-15 of the e-commerce Directive) should be maintained and extended to Web 2.0 service providers.
- A high level of protection of personal data should be ensured, while enabling their cross-border flow for the revision of the Personal Data Protection Directive.
- Enforcement of existing legislation must be improved and consumers' access to effective redress mechanisms, including via judicial collective actions ensured.
- Online Dispute Resolution systems should comply with the principles of the existing EC Recommendations for Alternative Dispute Resolution.

### Documents

- European Commission's consultation on the implementation of the e-commerce Directive – [Response by BEUC](#) (x/2010/078)

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## Consumer contracts

### I. The Common European Sales Law for business to consumer contracts

#### Background

A proposal for a regulation to introduce a 28<sup>th</sup> regime for European contract law, covering business to consumer (b2c) contracts, has been adopted by the European Commission in October 2011. It consists of a self-standing set of rules which can be 'chosen' by the parties as the legal basis for the contract. It would set aside the consumer specific regime of Private International Law (the Rome I Regulation) and circumvent the application of the relevant national, mandatory consumer protection provisions.

BEUC is not in favour of the introduction of a 28<sup>th</sup> regime for consumer contracts. There is no need to deviate from traditional regulatory means for consumer contract law. This is particularly true as the Consumer Rights Directive was adopted in October 2011, significantly increasing harmonisation of the most important elements of consumer contracts, in particular in relation to the most relevant cross-border selling method: distance selling (mostly online) contracts. Consumers are much better protected by solid legal rights enshrined in national law, than by an optional measure, offered or withheld from them by the trader. This 28<sup>th</sup> contract law regime would rule out the application of national mandatory consumer rules and, in its final form, might well prompt lower standards of protection than those currently enjoyed in many countries. It would give the trader the choice as to what level of protection the consumer benefits from. Importantly, it would be confusing for consumers and businesses to deal with different regimes of contract law (national and the European Law) and thus, instead of facilitating cross-border commerce, it would become more complicated and costly for consumers and businesses alike.

#### Our demands

- Before entering any discussion or negotiations on the proposal for a regulation on a Common European Sales Law, European legislators should thoroughly consider whether there is even a need for this very costly and time-consuming initiative and whether its objective to facilitate cross-border business to consumers cannot be met by much better, cheaper and swifter means using other, less intrusive measures such as the development of European model contracts and a speedy implementation of the recently adopted Consumer Rights Directive.
- The Commission's Impact Assessment for the proposed European Sales Law does not provide sound evidence that consumer contract law is a significant barrier to trade. Indeed, according to the Commission's own data, nearly 80 % of traders told the Commission that harmonised EU consumer law would make "little or no difference to their cross-border trade" (Flash Eurobarometer,

#300). We call on the legislators to carefully analyse and openly discuss the Commission's Impact Assessment methods and conclusions.

- Comprehensive research on the real obstacles to cross-border trade in b2c contracts is still missing. Such evidence should first be provided and discussed with key stakeholders.
- The Commission's basic assumption that differences in national consumer contracts are the reason for high legal compliance costs which hinder business from engaging into cross-border commerce is drawn from an incomplete legal interpretation of the Rome I Regulation: The Commission does not take into account that under current conflicts of law rules, businesses do not have to adapt in advance to 26 other Member States' laws when offering, but that they can choose their preferred contract law as the basis for a cross-border contract with a foreign consumer. Consequently, the Commission's impact assessment is flawed and needs to be sent back to the drawing board.
- BEUC could support a "toolbox" initiative for European contract Law, as long as the basis for consumer legislation consists of not just the Draft Common Frame of Reference, but also a set of more consumer-oriented rules specifically adapted to modern consumers' needs.
- Instead of introducing a new era of optional regulatory EU tools, which are inappropriate to consumer contracts, we call on the European Commission to continue harmonising and modernising consumer law in traditional ways, using full and minimum harmonisation techniques as appropriate and completing the review of the consumer law *acquis* as originally envisaged.

## Documents

- [Joint letter](#) with SMEs to the Council of the European Union: BEUC /UEAPME letter to Permanent Representatives (x/2011/113)
- BEUC comments on some elements of the European Commission's Impact Assessment on the proposed regulation for a Common European Sales Law (x/2011/110)
- BEUC's preliminary comments for the Commission's expert group on European Contract Law: [Part I](#) (x/2011/015); [Part II](#) (x/2011/086); [Part III](#) (x/2011/005); [Part IV](#) (x/2011/015); [Part V](#) (x/2011/035)
- Consultation on the European Commission's Green Paper on European Contract Law, [BEUC response](#) (X/2011/008)
- Letters to Ms. Le Bail, Director General of DG Justice on [17/09/2010](#) (x/2010/90) and on [27/10/2010](#) (x/2011/088)

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## II. Package Travel Directive and Air Passengers' Rights legislation

### Background

In the coming months, many initiatives will be put forward by the European Commission on passengers' rights and package travel.

In December 2009, the European Commission consulted on the upcoming revision of the Directive on package travel from 1990. The aim was and is to update existing provisions as the travel market and consumer behaviour have changed substantially, mostly due to online booking and low cost airlines. Specifically in cases of insolvency, BEUC answered the questionnaire of the European Commission requesting consumers also be protected when they buy a seat-only ticket (i.e. not package travel). A revision of this Directive is now scheduled for autumn of 2012.

In early 2010, the European Commission undertook a consultation on a possible revision of EU air passenger rights legislation, identifying gaps and shortcomings (e.g. carriage of luggage, settlement of disputes etc.).

BEUC responded to both consultations highlighting current consumer problems insufficiently addressed by the existing legislation and underlining the need to adopt a broader, horizontal and more consistent approach to consumer transportation rights.

In March 2011, the European Commission adopted a Communication on the application of Regulation 261/2004 on compensation and assistance to passengers affected by denial of boarding, cancellation and long delays of flights. A public consultation on the revision of this Regulation is due to be launched by the end of 2011 with the view to adopting a proposal in 2012.

### Our demands

#### *On the Package Travel Directive*

- BEUC advocates a wide revision of the Directive, covering "dynamic packages", but also standalone products which are currently not covered by this Directive.
- To avoid consumers being sent from one service provider to the other when problems arise, joint liability of the seller and the tour operator should be established.
- Prices should be all-inclusive and fixed (prohibition of price modification once the contract is concluded).

#### *On the revision of air passengers' rights legislation*

- Rights and obligations spread in different Regulations should be gathered in one legal instrument dealing with the pre-contractual, contractual and post-contractual rights of passengers.
- Surveys show passengers are often left with no information when they encounter travel problems, therefore information obligations should be strengthened.

- Enforcement of rights needs to be improved: both public enforcement (which covers all rights) and private means of redress (Alternative Dispute Resolution) should be strengthened.
- New rights should be added: transferability of tickets, withdrawal for early bookings, cancellation of the contract in case of 'force majeure' and correction of input errors in e-commerce. In cases of lost or damaged luggage, the rights of passengers should be tightened.
- A list of unfair contracts terms in air transport contracts should be established.
- An EU-wide guarantee scheme to protect buyers of a seat-only ticket in case of insolvency of an air company should be established.

## Documents

- Public consultation on passenger protection in case of insolvency - [Response by BEUC](#) (x/2011/048)
- Synthesis of BEUC's concerns on air passengers' rights in the EU (x/2011/70)
- Public consultation on Air Passengers Rights - [Response by BEUC](#) (x/2010/013)
- Public consultation on the Package Travel Directive - [Response by BEUC](#) (x/2010/008)

For more: [consumercontracts@beuc.eu](mailto:consumercontracts@beuc.eu)

### III. Unfair commercial practices

#### Background

The Directive 2005/29/EC on Unfair Commercial Practices was the first horizontal EU consumer legislation to regulate unfair marketing practices. It is based on a full harmonisation approach precluding Member States from maintaining more protective national consumer legislation in this field. Member States implemented it by 2007 and the Commission now has to submit to the European Parliament and Council a first report on the application of the Directive. In addition to providing an overview of the implementation of the Directive in Member States, the report will address specific issues such as the application of the Directive in financial services and immovable property as well as the application of the Directive to specific areas of regulation, such as sales promotions. The Commission launched a public consultation in August 2011 and the report is expected in the first quarter of 2012. A proposal for a review of the directive may follow.

#### Our demands

- While the publication of the Commission's UCPD database is a useful step, an obligation on Member States to ensure a summary of all enforcement actions taken on the basis of this Directive would be a useful development for comparability of and compliance with consumer protection measures
- The UCPD has been recently transposed by Member States and it is not clear at this stage what its impact would be on national laws which might be precluded due to the full harmonisation character of the Directive. In this regard, the time limit established in paragraph 5 of article 3, which allowed Member States to continue until June 2013 applying national provisions more restrictive or prescriptive than the Directive, should be extended.
- Unfair Commercial Practices in the area of sales promotions have been regulated in a rather limited way in the UCPD (e.g. inclusion of some sales promotional practices in the black list) compared to existing provisions at national level. The full harmonisation character of the annex has created problems in some countries which provide for general prohibition of certain practices related to sales promotions. As a result, the European Court of Justice issued several rulings precluding the general prohibitions in those Member State legislations of practices not included in the annex to the Directive. This situation calls into question certain acquired consumer rights and causes a situation of legal uncertainty. The Directive's annex with prohibited practices should be extended and more flexible.
- The definitions of the Directive regarding the "average" consumer and the "vulnerable" consumer have proven to be problematic as they do not correspond to real life situations and lack flexibility to adapt to specific cases
- The unfair and misleading character of certain commercial practices is often difficult to prove because of the too rigid conditions attached to the corresponding terms in the Directive.

## Documents

- Public consultation on the implementation of the Directive on Unfair Commercial Practices - [Response by BEUC](#) (x/2011/109)

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## Consumer Redress

### I. Collective Redress

#### Background

Groups of consumers across different Member States are sometimes victims of faulty goods, dangerous services or faced with unfair or anti-competitive business practices. Individual actions are not a fitting response, as the litigation costs involved can be much higher than the compensation to which the affected consumers are entitled.

A European Group Action procedure is essential to enable groups of consumers to secure compensation for loss caused by the same trader, by gathering their claims into a single action. Currently, national systems across the 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.

In spring 2011, the European Commission undertook a consultation called "Towards a Coherent European Approach to Collective Redress". Although we welcomed this initiative, it is worth noting that this was the third one since the 2005 Green Paper and a 2008 White Paper on anti-trust damages actions, as well as a 2008 Green Paper on consumer collective redress. We believe it is time action finally be taken and we have high expectations for the Communication from the Commission (expected in early 2012) to outline further concrete steps of the EU.

#### Our demands

A binding instrument at Community level should outline the main features a judicial group action mechanism must respect:

- Encompass all areas of consumer harm and aim at obtaining compensation;
- Allow for standing of consumer organisations;
- Cover both national and cross-border cases;
- Give the court discretion over the admissibility of the claim;
- Foresee both opt-in and opt-out procedures;
- Be accompanied by information measures directed at consumers;
- Control out-of-court settlements;
- Allow compensation to be distributed fairly;
- Foresee efficient funding mechanisms.

#### Documents

- [Consumer redress Factsheet](#) (x/2011/96)
- Public consultation on collective redress, [BEUC answer](#) (x/2011/049)
- [List of potential cross-border collective cases](#) (x/2011/011)
- [Country by country guide to Group Action](#) (x/2010/067)
- [Brochure - 10 Golden Rules on Group Action](#) (x/2008/31)

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## II. Alternative Dispute Resolution

### Background

Alternative Dispute Resolution (ADR) mechanisms, which lead to settlement of disputes by intervention of a third, independent party can offer cheap and effective solutions to individual consumer disputes. As such, ADR is an important tool for consumer redress. However, currently there are important shortcomings in the functioning of ADR in the EU which must be addressed to ensure consumer protection and fair procedures.

The European Commission acknowledged the necessity of EU-wide ADR, qualifying policy measures in this respect as a flagship of the Single Market Act. Two proposals of legislation – on ADR and on On-line Dispute Resolution systems for e-commerce disputes - are expected in autumn 2011. We call on the Danish Presidency to ensure that the legislative process will proceed quickly.

### Our demands

- The principles of the 1998 and 2001 Commission recommendations for consumer ADR should be included in a binding instrument.
- There should be a regular assessment of compliance with those principles.
- Independence and transparency should be considered key elements of ADR.
- Appropriate ADR should exist for all consumer complaints in all sectors.
- Consumers should receive extensive information about ADR. This information should be provided by businesses and ADR schemes.
- ADR must always remain a choice for the consumer and can never be an obligation. Also, an ADR outcome should not be binding on a consumer in the sense that it prevents the consumer from bringing the case before a court. However, to counterbalance the weaker position of the consumer, it could be binding on business.
- It should be ensured that legal prescription periods do not run for the period where the ADR scheme is used, but instead start anew at the end of the ADR procedure.
- Relying on ADR as the only solution for mass claims situations should be avoided, the work on judicial collective redress must be pursued further.

### Documents

- [Alternative Dispute Resolution Factsheet](#) (x/2011/096)
- Public consultation on Alternative Dispute Resolution, [BEUC response](#) (x/2011/033)

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## Digital Environment & Telecoms

### I. Net neutrality

#### Background

Net neutrality is one of the fundamental principles of the internet which has significantly enhanced citizens' participation in society and access to knowledge and diversity, while promoting innovation, economic growth and democratic participation. Nevertheless, the neutral architecture of the internet is currently being challenged by various parties, such as network operators providing end-users' connections.

The European Union has missed the opportunity to safeguard net neutrality as a fundamental regulatory principle during the revision of telecom rules in 2009. Through the recognition of the possibility for network providers to engage in traffic management as a default rule, the EU has opened the door to potentially unfair and discriminatory traffic control on the internet. The adoption of transparency and information disclosure requirements cannot be the sole remedy, especially in a market where competition is seriously hampered by barriers to switching.

The Communication of the European Commission, adopted in April 2011, only included general principles and refrained from providing national governments with specific guidelines when implementing the revised Telecoms package. In the meantime, an increasing number of net neutrality interferences occur at EU level.

#### Our demands

- The European Commission should provide Member States with specific guidelines on the implementation of the revised Telecoms package to ensure a coherent implementation across Europe.
- Net neutrality should be recognised as a fundamental regulatory principle.
- Consumers should be entitled to:
  - an internet connection of the speed and reliability advertised;
  - an internet connection which enables them to send, receive and use content, services and applications of their choice;
  - an internet connection free from discrimination of the type of application, service or content, or based on sender or receiver address;
  - competition among network, application, service and content providers;
  - know which network management practices are deployed by their network providers.

#### Documents

- Public consultation on net neutrality, [BEUC response](#) (x/2010/070)

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## II. Data protection

### Background

Digital information technologies and new services, although beneficial to consumers, also represent a major challenge to consumers' personal data. ICT often leads to a proliferation of information collected, stored, filtered, transferred or otherwise retained. The risks to privacy therefore multiply. In the digital environment, almost every communication leaves behind detailed footprints and the collection of personal data has become the default rule. Internet and mobile information appliances allow large quantities of personal data to be collected, while data mining tools are used to track the online behaviour of individuals and predict their preferences.

The European Commission is reviewing the Data Protection Directive 1995/46, and a proposal is expected in January 2012. The new Framework needs to be user-centred and ensure that individuals remain in control of their privacy. A high level of protection of personal data and privacy is not only required by the entry into force of the Lisbon Treaty, but it also constitutes a *sine qua non* condition for the realisation of the EU Digital Agenda, which needs to be built upon consumer trust in the online environment. We hope the Danish Presidency will do its most to ensure negotiations on this highly important revision will provide a high level of protection and will ensure consumer confidence in online transaction.

### Our demands

- A general transparency principle should be introduced, the use of Transparency Enhancing Technologies should be promoted and the development of standard privacy notices supported.
- The introduction of an obligatory, horizontal, data-breach notification should be considered for serious data breaches, in line with a proportionality test.
- Specific modalities to exercise of the right to access, correct and delete personal data should be introduced.
- Effective implementation of the right to be forgotten and the right to data portability must be ensured.
- The rules on meaningful consent involving all stakeholders concerned should be clarified.
- 'Privacy by design' as an explicit, mandatory principle should be introduced and the use of Privacy Enhancing Technologies promoted.
- Joint and multiple liability rules between business and a third party for breaches should be established.
- EU data protection laws should apply to cases where services are directed at EU citizens in line with the criteria established by the Article 29 Data Protection Working Party.

### Documents

- Public consultation on data protection, [BEUC response](#) (x/2011/003)

For more: [digital@beuc.eu](mailto:digital@beuc.eu)

### III. Intellectual Property Rights Enforcement Directive

#### Background

The European Commission is currently reviewing the Intellectual Property Rights Enforcement Directive 2004/48 'IPRED' with the aim of adopting a proposal for revision by the end of 2011.

However, due to the late transposition of the Directive by EU Member States and the lack of case law, BEUC believes it is premature to adopt stronger rules for IPR Enforcement. The adoption of stronger enforcement measures pre-supposes a revision of the substantive law with the aim of adapting it to the digital environment. An overall assessment of the economic impact of the current provisions on the development of the information society and on innovation is required by the Directive.

Nevertheless, the European Commission has not carried out such an assessment, while it has ignored the conclusions of a number of independent studies by governments, international organisations and academics highlighting the overall positive economic impact of file-sharing on the development of the content industry.

#### Our demands

- Enforcement measures need to be proportionate and fully comply with consumers' fundamental rights, namely the right to presumption of innocence, the right to a fair trial, the right to privacy and the right to the confidentiality of communications. Legislations treating consumers as criminals are rejected.
- IPRED should not be revised before an overall economic analysis of the impact on innovation and the development of information society is carried out.
- The European Commission should clarify the infringing nature of mere downloading acts and clarify the limits of the private copying exceptions.
- Any proposal for enforcement of IPR needs to treat an IP address as personal data and ensure that personal information about online users must only be disclosed to public law enforcement authorities.
- Internet Service Providers should not be required to apply general filtering and blocking technology to enforce copyright, in accordance with the Opinion of the Advocate General of the European Court of Justice in the *Sabam V. Scarlet* case.

#### Documents

- Public consultation on the review of the Intellectual Property Rights Enforcement Directive, [BEUC Response](#) (x/2011/041)

For more: [digital@beuc.eu](mailto:digital@beuc.eu)

## IV. Collective management of European copyright

### Background

Consumers want to have access to diverse content of good quality and at a fair price, irrespective of their nationality and their country of residence. They must be able to benefit from the establishment of a Single Market both online and offline. Currently, the territorial management of copyright, in combination with the uncertainty as to the ownership of copyright, the complex licensing mechanisms and the lack of standards regarding the governance and supervision of collecting societies result in the fragmentation of the European market for creative content.

The forthcoming proposal of the European Commission on collective management of copyright, which is expected for the 1<sup>st</sup> quarter of 2012, must include concrete measures to facilitate both multi-territory and pan-European licensing, as well as high standards regarding collecting societies.

### Our demands

- Multi-territory and pan-European licensing of content should be promoted.
- Transparency of copyright ownership needs to be increased through the creation of a Rights Database which is publicly accessible.
- A 'one stop shop' for the clearance of rights and the granting of multi-territory licences should be established.
- Competition between collecting societies in terms of services and tariffs must be introduced.
- The development of new and innovative business models for online distribution of content should be fostered.
- The current system of nationally-based release windows should be revised and the media chronology in the distribution of audio-visual content be eliminated.
- Comprehensive rules regarding the governance, transparency, accountability and supervision of collecting societies should be established.

### Documents

- [BEUC IPR Strategy: How to make IPRs work for both creators and consumers \(x/2011/034\)](#)
- Reflection Paper on creative content online, [BEUC response \(x/2010/003\)](#)

For more: [digital@beuc.eu](mailto:digital@beuc.eu)

## V. Roaming Regulation review

### Background

Despite the commitment of the EU to ensure consumers are able to use the full functionality of their mobile devices - for calls, messages, emails - when travelling abroad, the reality is that a competitive market for roaming services has yet to respond to consumers' expectations. The majority of consumers are still not confident using their mobiles or advanced smart phones abroad and even prefer to turn their phones off in order to avoid high bills. This reality is also supported by a Eurobarometer survey concluding that 72% of mobile users continue to limit their mobile voice calls when abroad because they are concerned about costs.

In July 2011, the European Commission adopted a proposal for a new Roaming Regulation. The proposal further reduces the wholesale and retail caps for voice and SMS pricing while introducing retail caps for data roaming for the first time. In addition, the European Commission has proposed the introduction of structural measures to foster competition by allowing customers from 1 July 2014, to sign up for an alternative roaming provider. The proposal is also introducing wholesale roaming access which will allow mobile operators (including so-called virtual mobile operators) to use other operators' networks.

### Our demands

- BEUC calls for further decrease in regulated, maximum average Eurotariff charges for wholesale and retail prices:
  - Wholesale caps for voice roaming to €0.10 per minute as the starting point with further decrease to €0.07 and € 0.04 in July 2013 and July 2014; retail caps to be reduced to €0.15 per minute, €0.13 and €0.10 for calls made on 1 July 2012, on 1 July 2013 and on 1 July 2014
  - The prices for calls received to €0.07 per minute on 1 July 2012 and further decrease to €0.05, €0.03, €0.00 in July 2013, in July 2014 and in July 2015 respectively;
  - Reduction of Euro-SMS tariff to €0.07 per SMS on 1 July 2012 with further decrease to €0.05 per SMS in 2014;
  - Decrease of data roaming wholesale caps to €0.25/1MB as of July 2012 with further decrease to €0.15/1MB and €0.05/1MB in 2013 and 2014 respectively. Reduction of Euro-data tariff to €0.50/1MB as the next retail price cap followed by further decrease to €0.30/1MB, €0.10/1MB in 2013 and 2014 respectively.
- The switching period between roaming providers should not exceed 3 days.
- Data roaming safeguard limit should apply to all tariffs and packages – postpaid as well as prepaid customers and for all services.
- Introduce the kilobyte (KB) as the billing unit without any round up.
- Remove the retail caps only when the market is competitive - revision in 2016 at the earliest.

### Documents

- [BEUC position paper on the Commission's proposal on roaming](#) (x/2011/108)

For more: [digital@beuc.eu](mailto:digital@beuc.eu)

# Financial Services

## I. Guarantee schemes

### Background

The financial crisis has shown that protecting consumers' deposits is essential, both for ensuring stability of the banking sector and encouraging consumer confidence. The function of Deposit Guarantee Schemes (DGS) legislation is major: it ensures deposit protection while providing safety to financial systems by helping to prevent bank runs.

The European Commission's Directive proposal contains many advances in comparison to the current legislation on deposit guarantee schemes. However, there is room for some improvements. It seems that too much emphasis is given to the safety of the banking sector rather than increasing consumer safeguards by harmonising useful protection measures.

The protection of investor assets in cases of fraud or mismanagement by an investment firm or bank is important to restore retail investor confidence in financial services. The European Commission Directive proposal on Investor Compensation Schemes (ICS) contains many advances to ensure consumer compensation for fraud compared to the current legislation on Investor Compensation Schemes.

Both proposals on DGS and ICS are currently blocked within the Council and between Council and European Parliament. We therefore call upon the Danish Presidency to work on resolving this blockade and ensure a swift closure of both dossiers in the interest of European consumers.

### Our demands

#### A. Deposit Guarantee Schemes

- BEUC supports the European Commission proposal to abolish compensation mechanisms between the liabilities of the depositor and his deposits; protection of the accrued, but not credited, interests; compulsory *ex ante* funding of the DGS.
- The guarantee limit should be *per depositor and per brand*, not *per bank license*.
- Minimum harmonisation is needed for temporary higher balances and the circumstances which lead to protection should be extended.
- Repayment of depositors should not be privileged over interventions to permit deposit transfers to another institution or to prevent failure.
- If the repayment does not occur within 7 days, the depositor should be entitled to receive early repayments.
- There should be no time limit to claiming repayment. Each DGS should settle a provision for all depositors whose identity is known, but who have not yet contacted the DGS.



## B. Investor Compensation Schemes

- BEUC welcomes the main modifications to the ICS Directive which are:
  - The extension of protection to some cases not previously covered (failure of a depositary or of a custodian chosen by the investment firm).
  - Protection for the unit holder in case of failure of the depositary of the UCITS assets.
  - A higher protection level: €50,000 instead of €20,000.
  - Exclusion of the co-insurance principle.
  - Coverage of funds in currencies other than Member State currencies.
- We believe all gaps in the protection of liquidities should be eliminated. Consumer protection should not be weaker for clients who enter the market via an investment firm than those who do so via banks.

## **Documents**

- [BEUC Position paper on Investor Compensation Schemes \(x/2010/084\)](#)
- [BEUC Position paper on Deposit Guarantee Schemes \(x/2010/083\)](#)

For more: [financialservices@beuc.eu](mailto:financialservices@beuc.eu)

## II. Enhance investors' protection: PRIIPS, UCITS, MiFID & IMD

### Background

The complexity and long term dimensions of investments make it difficult for the retail investor to assess the suitability of an investment before a long time has elapsed since the decision to invest. The lack of comparability of the different kinds of retail investment makes it impossible for the non-sophisticated investor to make an informed decision regarding his investments. The mis-selling of long term investments is highly prejudicial to consumers who will not have sufficient revenue when retiring.

In December 2010, the European Commission consulted on certain aspects for the upcoming revision of several Directives regarding the protection of the retail investor: Package Retail Investment Products (PRIIPs), Undertakings for Collective Investment in Transferable Securities (UCITS), Market in Financial Instrument Directive (MiFID) and Insurance Mediation Directive (IMD). BEUC responded to all of those consultations highlighting the improvements needed to avoid mis-selling of investments and to restore consumer confidence in the financial sector. The MiFID review proposals (Directive and Regulation) have been released in October 2011. The proposals for legislation on PRIIPs, IMD and UCITS are expected at the beginning of 2012.

### Our demands

- The duty to act honestly, fairly and professionally in accordance with the best interests of clients should be a general principle applicable to all financial services, irrespective of the financial product type.
- Introduction of a standardised Key Investor Information Document (KIID) with a Synthetic Risk Indicator (SRI) is essential to better inform consumers and make comparison easier. BEUC supports a highly standardised information sheet and asks for a review of the existing SRI for UCITS to make it useful for all types of investments.
- BEUC fully supports the measures suggested by the European Commission in the Consultation Document on MiFID review regarding organisational requirements for the launch of products, services and operations, in particular: assessing the compatibility of a specific product, service or operation with the characteristics and requirements of the clients to whom these products would be offered; and stress-testing the products and services. This is a missing link in the retail investor protection.
- Regarding UCITS, BEUC supports the European Commission approach that the level of protection for UCITS should not go below the standard applied for the AIF (Alternative Investment Funds) and that the large retail base of UCITS investors should be provided with the necessary guarantee for them to place their confidence in UCITS.

### Documents

- [BEUC Brochure on retail investments "A good investment – How the EU can better protect consumer finance"](#) (x/2011/102)
- BEUC responses to consultations on [PRIIPS](#) (x/2011/009), [MiFID](#) (x/2011/010), [IMD](#) (x/2011/026) and [UCITS](#) (x/2011/007)

For more: [financialservices@beuc.eu](mailto:financialservices@beuc.eu)

### III. Mortgage Credit Directive

#### Background

Borrowing money to build or buy a home is the single most important financial decision in most people's lives, one which engages them for 20, 30 years or longer. Borrowers cannot afford to be sold a bad deal. One of the lessons of the financial crisis has been on inadequate protection of borrowers in many EU countries: unsuitable loans, misinformation, aggressive marketing, lack of information on risks linked to using foreign currency and superficial assessment of people's financial means have made many loans increasingly unaffordable, raised defaults of payments and seen an increase in foreclosures.

BEUC welcomes the long-awaited legislative proposal on credit agreements relating to residential property which should provide borrowers from all over Europe with a higher protection standard, while allowing Member States to raise national standards even further. While the minimum harmonisation approach adopted by the European Commission is welcomed, the proposal needs some further improvements. The proposal is now pending in co-decision procedure.

#### Our demands

- Combine a high level of EU consumer protection with a minimum harmonisation approach;
- Complete the Commission proposals as regards the conduct of business obligations and minimum competence requirements;
- Enable competent authorities of the host country to play an important role in supervision of creditors and intermediaries: in this perspective we prefer a 'European driving license' rather than a 'European passport'.
- Extend the scope of the Directive proposal to ensure responsible contractual relationships between creditors and borrowers, including in cases of prolongation of contracts;
- Ensure that all the identified problems in the application of the Consumer Credit Directive regarding advertising and pre-contractual information are properly taken into account;
- Adapt the APRC definition to include all tied ancillary services;
- Address the issue of variable interest rates;
- Restrict the cross-border data exchange to negative credit data only;
- Remove the provisions concerning sanctions against consumers;
- Add provisions aiming at the development of truly independent advice;
- Redraft the Commission proposal to offer consumers a real right of early repayment.

#### Documents

- [BEUC Position paper on credit agreements to residential property Directive \(x/2011/055\)](#)

For more: [financialservices@beuc.eu](mailto:financialservices@beuc.eu)

## IV. Transparency and comparability of bank account fees

### Background

In August 2010, the European Commission invited the European banking industry (represented by EBIC) to take prompt action to identify and implement appropriate solutions to ensure proper understanding and comparability of personal current account fees throughout the EU. The European Commission's request was a follow-up to its study published in September 2009 which found that bank fees across Europe are often opaque and difficult to understand. The following objectives should be achieved by the self-regulatory initiative: clarification and easier to understand terminology, improved comparability of banking fees, greater transparency and enhanced availability of the information on banking fees.

The European Commission also requested that consumer representatives should be closely associated with this project. BEUC requests have been brought to the attention of EBIC and the European Commission. However, the proposals which EBIC has proposed so far fell short of our expectations and are not considered capable of achieving transparency and comparability of personal current account fees for consumers. Furthermore, in the absence of appropriate monitoring and supervision at national level, this code of conduct would be worthless. The Commission has asked EBIC to improve its proposal.

### Our demands

- In case the final proposal by EBIC will meet our expectations, we ask the Council to reinforce its status by endorsing it and ensure supervision to achieve a swift implementation by the banking sector.
- If EBIC's proposal will be unsatisfactory, we invite the European Commission to propose legislation in this area.

### Documents

- "Transparency and comparability of bank account fees" project - [BEUC requests](#) (x/2011/054)

For more: [financialservices@beuc.eu](mailto:financialservices@beuc.eu)

## V. Enhance financial supervision

### Background

The European financial supervision package was adopted in 2010. Three European Supervisory Authorities (ESAs) and a European Systemic Risk Board (ESRB) were set up in January 2011 to replace the former supervisory committees. BEUC is already strongly concerned as to how consumers' interests will be taken into consideration by these new authorities: designation of stakeholder group members of each authority already shows a clear imbalance in favour of financial providers and consumers are underrepresented. This is the reason why BEUC has sent a complaint for mal-administration to the European Ombudsman.

Furthermore, while more and more legislation protecting consumers in the financial services area is adopted at national level, nothing has been done at EU level to ensure effective supervision of rules protecting consumers in each EU Member State.

### Our demands

- The membership of ESA's stakeholder groups should be re-examined to allow consumers' voices to be properly taken into account at ESA level.
- We call on the Danish presidency to launch a debate on the need to have independent and efficient national financial supervisors in charge of consumer interests everywhere in the EU.
- We invite the European Commission to propose initiatives in this area: national financial supervisory bodies, or a specific body in charge of consumer protection, should effectively monitor the compliance with all rules protecting consumers within the area of financial services. As legislation is increasingly issued from the EU, to achieve a high level of consumer protection national bodies should cooperate at EU level.

### Documents

- [BEUC Study on financial supervision](#) (x/2011/056)
- [BEUC Position paper "Protection consumers in the financial services area: Need for independent and efficient supervisors everywhere in the EU"](#) – BEUC requests (x/2011/111)

For more: [financialservices@beuc.eu](mailto:financialservices@beuc.eu)

# Energy and Sustainability

## I. Energy Efficiency Directive

### Background

The proposed Energy Efficiency Directive repeals Directives 2004/8/EC and 2006/32/EC and is being debated in the European Parliament and Council, while an agreement is expected during the Danish Presidency. It will provide a framework for the energy efficiency and savings policies of Member States, the public sector, industry and consumers, including targets, financing, and consumer information.

Energy efficiency measures and provisions on supply of services will affect energy consumers in their daily lives. BEUC demands that consumers are not only provided with the right tools and information to be more energy efficient and increase their savings potential, but also become more active players on the energy market contributing to increased security of supply.

### Our demands

- The final cost of energy efficiency obligations schemes shall not be passed on to consumers. Moreover, robust monitoring, auditing of actual savings and reporting on and transparency of cost-effectiveness of the obligation scheme is necessary to ensure that measures indeed deliver the carbon or energy savings claimed to assess the impact on energy bills.
- Member States should develop specific strategies to promote and enable an efficient use of energy in the home. Building on the approach established in the third energy package, a single point of contact should be in place to provide basic energy services advice and to signpost to accredited providers. Moreover, it is important that information provision is not set as an end itself but is included in a legislative framework that will only reward the outcomes of energy efficiency projects.
- Any reference to smart meters in the Directive must depart from the assumption that consumers need accurate, timely and understandable information on their energy usage to be able to change their consumption patterns and eventually save energy. Moreover, sensible requirements regarding the format and content of information provided to consumers via displays should be appropriately addressed in order to deliver behavioural change. Therefore, upon the installation of the smart meter, customers should be also provided with the appropriate information and advice to maximise the potential benefits of smart meters.

### Documents

- BEUC position paper on Energy Efficiency Directive (x/2011/115)
- [ANEC/BEUC position paper](#) on Energy Efficiency Plan 2011 (x/2011/057)

For more: [sustainenergy@beuc.eu](mailto:sustainenergy@beuc.eu)

## II. Smart Grids /Smart Meters (roll-out of smart technologies)

### Background

Europe has paid a significant price for its poorly interconnected and often out-dated energy infrastructure. The EU is now facing many challenges: ensuring the security of supply, increased efficiency needs and proper integration of renewable energies are crucial for well-functioning markets delivering benefits to consumers.

As set out in the European Commission's Communication on 'Energy Infrastructure Priorities for 2020 and Beyond' the roll-out of smart grid technologies are among the European Commission's priorities.

BEUC has been actively involved in a European Commission Task Force on Smart Grids to develop a common vision for the implementation of smart grids and smart meters, and to recommend regulatory requirements to address the key issues.

### Our demands

- Consumer trust and engagement are crucial for successful deployment. Member States should develop strategies and campaigns based on a social marketing approach to promote behavioural change.
- Transparent and robust processes are needed to assess whether the benefits of implementation outweigh the costs. Regulatory mechanisms are needed to ensure benefits are reflected in consumers' bills.
- Consumer interests and consumption patterns differ. Therefore, it should be up to them to decide if they want and need a smart meter.
- Special attention should be paid to vulnerable consumers. It should be analysed how smart meters will affect them and if they will benefit.
- Data protection and privacy should be integrated from the very inception of the project and at all stages of its development. Security and privacy by design, together with the principle of data minimisation are crucial.
- It is necessary to provide easy-to-read and consistent information on consumption to allow comparisons of the deals available on the market (e.g. time of use tariffs). Consumers must have free access to their actual energy consumption information as well as to backdated data.
- Strong protections are needed for remote disconnection and switching.
- Standards to promote interoperability and additional functionalities of smart meters are necessary.

### Documents

- ERGEG Consultation on guidelines of Good Practice on regulatory aspects of smart metering for electricity and gas, [BEUC response](#) (x/2010/065)
- Smart Energy Systems for empowered consumers - [ANEC/BEUC Position](#) (x/2010/044);

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# Safety

## I. Revision of the General Product Safety Directive

### Background

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 which could have been avoided.

The European Commission is planning a revision of the General Product Safety Directive (GPSD) in 2012, of which the preliminary consultation phase took place in 2010. BEUC has made suggestions to the European Commission and Parliament for a revised Directive. Many of our concerns have been addressed by the European Parliament in its Resolution of March 2011 and we hope that it will be taken up by the European Commission in its proposal for a “product safety package” consisting of a Single Market surveillance instrument for all products, a proposal for a new General Product Safety Directive (GPSD) and a multiannual market surveillance framework plan to be presented in 2012.

### Our demands

- BEUC calls on the European Commission to reflect the recommendations of the European Parliament Resolution of March 2011 on the Revision of the General Product Safety Directive (GPSD) & Market Surveillance in its legislative package.
- More clarity is needed as to how the various product safety legislations in effect in the EU interact with each other. Manufacturers’ responsibility needs to be strengthened and clarified.
- It needs to be ensured that the level of enforcement is the same across the EU and that market surveillance activities are effective.
- Child-appealing products should be explicitly addressed. In addition, the prohibition of food-imitating products should be maintained.
- A European framework for market surveillance and wider access to information on dangerous products should be developed. An EU-funded accident statistics system and a European complaints handling and reporting point should be set up.
- EU emergency measures should 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.
- A legally-binding status should be given to European Commission decisions which lay down safety requirements under the scope of the GPSD and which aim to support the development of standardisation mandates.

### Documents

- Joint BEUC/ANEC paper: Revision of the General Product Safety Directive – [Key issues from a consumer’s perspective \(x/2010/031\)](#)

For more: [safety@beuc.eu](mailto:safety@beuc.eu)



## II. Nanotechnologies and nanomaterials

### Background

Nanotechnologies are newly emerging technologies. Some of these applications could bring benefits to consumers' health and safety. Or for the environment could bring increased energy efficiency, more effective medical treatment and improved manufacturing production. 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 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). 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. BEUC has high expectations with regard to a future EU Action Plan on Nanotechnologies.

In October 2011, the European Commission published a recommendation to define the term 'nanomaterials'. Although BEUC welcomed the fact that more clarity about the term 'nano' can lead to the adoption of specific safety requirements in legislation, we were disappointed because the definition was too narrow.

### Our demands

- A review and adaption, if necessary, of all relevant legislation (REACH and product safety legislations) should be undertaken in order to adequately address the potential risks of nanotechnologies.
- The development of adequate safety and risk assessment methodologies should be promoted taking into account all characteristics of nanomaterials.
- Safety assessment and approval should be imposed 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.
- Manufacturers should label consumer products containing nanomaterials, as it will be done in the new regulation for cosmetic products. An inventory of products containing nanomaterials on the EU market should be established.
- Misleading claims are currently made on products marketed as containing nanomaterials and need them to be regulated.
- Funding and research should be prioritised towards environmental, human health and safety aspects of nanomaterials.
- A public debate on nanotechnologies needs to be launched across the EU.

### Documents

- Consultation for a definition of "nanomaterials", [BEUC answer](#) (x/2010/081)
- [Leaflet](#) (x/2010/076) for [2010 inventory of products claiming to contain nanomaterials](#) (x/2010/077)
- Small is beautiful, but is it safe? [ANEC/BEUC position paper](#) (x/2009/043)

For more: [safety@beuc.eu](mailto:safety@beuc.eu)

### III. Chemicals which disturb the hormonal system

#### Background

Every day we come in close contact with an enormous range of man-made chemicals. We use skin creams with parabens, computers with brominated flame retardants and plastic kitchen tools with bisphenol A (BPA). Many of these chemicals found in consumer products are known to disturb the hormonal system in particular when the exposure takes place during crucial stages of development such as the pre-natal phase. Endocrine disruptors are associated with common diseases such as obesity, diabetes, cardiovascular diseases, cancer and infertility.

The exposure to multiple chemicals in everyday life is of particular concern as the EU regulatory framework largely neglects this 'chemical cocktail effect' and assesses the safety on a chemical-by-chemical approach. In December 2009, the Environment Council requested the European Commission to make recommendations as to how exposure to endocrine disruptors should be further addressed within relevant existing EU legislation, *inter alia* in the context of its 4<sup>th</sup> progress report on the implementation of the strategy on endocrine disruptors published in August 2011.

#### Our demands

- The exposure to endocrine disrupting chemicals (EDCs) should be reduced. To this end, chemicals with ED properties need to be subject to restriction and phased out. Safe alternatives have to be used where they exist.
- A scientifically based definition for "endocrine disruptor" which should be coherent and applicable to all existing and future EU legislation is needed.
- Under REACH, the role of authorities is to evaluate registered substances and to propose appropriate risk management measures. When screening the registrants' chemical safety assessments, authorities should not only consider the information of the REACH dossier but also take into account other available information to assess if the substance is (potentially) endocrine disrupting.
- EDCs which have been identified as Substances of Very High Concern (SVHC) should be included in Annex XIV of the REACH Regulation. Where consequently the use of these substances would need authorisation.
- As part of the EU strategy on endocrine disruptors, the European Commission identified a priority list of substances for further evaluating their role in endocrine disruption. However, this list was established several years ago and should be updated taking into account REACH registration dossiers and new available data.
- Risk assessment and risk management methods have to be updated to take into account low-dose effect of EDCs as well as the added effect of different chemicals.
- More EU-funded research is needed to better understand the complexity of the endocrine system and the effects of endocrine disrupting chemicals on human health and on the environment.

#### Documents

- [Top 10 actions MEPs can undertake to lower the exposure of consumers and of the environment to endocrine disrupting chemicals](#), (x/2011/040)
- [Endocrine Disrupting Chemicals Factsheet](#) (x/2011/039)
- BPA should be phased out from consumer products – [Position paper](#) (x/2011/038)

For more: [safety@beuc.eu](mailto:safety@beuc.eu)

## Food

### I. Health and Nutrition Claims

#### Background

Health and nutrition claims are used as a major marketing tool by the food industry in order to entice consumers into buying products. Due to the huge number of exaggerated or unsubstantiated claims that are currently on the market, it is very difficult for consumers to know which ones to trust and ultimately make an informed choice. Too often claims stress only one positive aspect of product claiming a low level of sugar, for example, but not mentioning the high levels of salt, or saturated fat.

In response to the proliferation of food products claiming health and/or nutrition benefits to appeal consumers, an EU regulation was adopted in 2006 laying down harmonised rules for the use of claims.

The purpose of regulating claims is to eliminate unsubstantiated and misleading claims and only allow claims that are scientifically proven and that consumers can trust. It also ensures that companies which make scientifically substantiated claims can benefit from their investments.

#### Our demands

- BEUC has put high expectations in the establishment of a positive list of authorised claims. The final lists of authorised health and nutrition claims should be relevant for European consumers, should not contradict broader public health messages and should not mislead consumers into purchasing a product which has no added value. It is indeed essential that exaggerated claims are removed from the market as soon as possible so that consumers can trust the claims which are made on foods.
- Claims relating to the botanical substances should be assessed by EFSA as a matter of urgency in the same way as all other general function health claims.
- Nutrient profiles, a vital and a necessary part of the Health Claims Regulation, will help consumers to make an informed choice. They were due to be developed by the European Commission by January 2009. However, two years later and we are still awaiting a proposal. BEUC therefore calls for the European Commission to come forward with its proposal for nutrient profiles as soon as possible. We ask that such profiles be robust and scientific and to be fit for purpose i.e. that they prevent consumers from being misled about the qualities of a food through the use of claims.

#### Documents

- [BEUC Factsheet Nutrition & Health claims \(x/2011/025\)](#)
- [BEUC Factsheet on Nutrient Profile \(x/2011/024\)](#)
- [Position paper on nutrition labelling \(x/2008/052\)](#)

For more: [food@beuc.eu](mailto:food@beuc.eu)

## II. Cloning and Novel Food

### Background

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. With regards specifically to cloning technique for food production, BEUC has expressed concerns. Indeed, an overwhelming majority of EU consumers do not want cloning to be used for food production purposes. Also, given the lack of traceability and labelling, consumers have no means of knowing if their meat or milk has been produced from clones or not. Furthermore, EFSA itself has recognized that scientific uncertainties remain when they stated that all the issues were not “satisfactorily addressed”.

BEUC reacted to the European Commission’s report on cloning published in October 2010 wherein they proposed to come forward with specific legislation establishing a temporary ban of the cloning technique and food from cloned animals.

We regret the negotiations in conciliation between the European Parliament and the Council on a Novel Food regulation failed, leaving a loophole in the regulation of marketing of food products from offspring of clones, and dropping the positive provisions achieved, for instance improved authorization procedures for foodstuffs from third countries or a definition of nanotechnology. The European Commission now has to put forward regulation including on the cloning issue as soon as possible. We hope that the Danish Presidency will quickly start to work on the new proposal.

### Our demands

- The European Commission’s new proposal for a regulation should tackle the issue and loopholes of food derived from cloning technique of a matter of urgency.
- The European Commission’s proposal of a 5-year suspension on the marketing and import of food from clones should be extended to the offspring and the reproductive materials (semen and embryos), at least until knowledge gaps have been addressed and consumer choice is ensured, as it is food from the offspring which would be consumed.
- Should the moratorium be removed in the future, there should be a full compulsory traceability system of clones and their offspring as well as labelling rules for derived food.

### Documents

- Cloning for food production - [BEUC comments to the Commission’s report \(x/2010/087\)](#)
- [Position paper on Novel Food Regulation \(x/2010/005\)](#)

For more: [food@beuc.eu](mailto:food@beuc.eu)

### III. Food intended for particular uses ('PARNUTS')

#### Background

In June 2011 the European Commission put forward a proposal to revise the framework legislation on foodstuffs intended for particular nutritional uses ('PARNUTS'). This regulation aims to abolish the concept of dietetic foods and provide for a new framework establishing general provisions only for a limited number of well-established and defined categories of food which are considered as essential for certain vulnerable groups of the population (infant formulae and follow-on formulae, cereal based foods and baby foods for infants and young children and foods for specific medical purposes).

BEUC supports the Commission's proposal to revoke the Framework Directive but maintain some of the existing specific rules for these specific food categories. BEUC has previously voiced concerns that having a special designation under the current Framework Directive would exclude certain foods from complying with other important provisions laid down in the horizontal rules which apply to all foodstuffs and could provide loopholes for manufacturers or importers to circumvent other pieces of legislation. We believe that the proposal will lead to a better functioning of the internal market and, ultimately, greater certainty and protection for European consumers.

#### Our demands

- The European Commission's proposal should contain rules on the marketing and promotion of foods for infants and young children.
- All other categories of foods besides those contained in the proposal could and should be addressed by the other pieces of horizontal legislation governing food composition and labelling issues.
- Specific rules governing the specific food categories detailed in the Commission proposal should be maintained. In particular:
  - I. Specific compositional criteria which are underpinned by scientific evidence (e.g. minimum and maximum amounts of vitamins, minerals, amino acids etc., specific pesticides residues limits);
  - II. Additional labelling requirements which are justified by consumer protection considerations (e.g. important notice as to the specific nature and particular nutritional characteristics of these product, their target group and intended uses, the necessity of a medical supervision when appropriate, the promotion and protection of breastfeeding practices);
  - III. Particular monitoring requirements which condition the efficient official monitoring of these specific products. BEUC supports a centralised authorisation process and the end of the notification procedure at member state level. This would put an end to similar products being subjected to different levels of constraints and controls, due to discrepancies in interpretation and implementation between member states.

#### Documents

- [Food intended for infants and young children, and for medical purposes - BEUC position paper on the Commission's proposal](#) (x/2011/95)

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# Health

## I. Information to Patients

### Background

In October 2011 the European Commission published its revised proposals on industry information to the general public on prescription medicines. BEUC acknowledged the efforts to improve the original proposals, but remains concerned that patients could be potentially exposed to some forms of promotional information.

Facing strong opposition from the public health community on the initial 2008 proposal, the massive redrafting by the European Parliament and the Council's reluctance to open discussions on it, the European Commission decided to revise.

We hope that in examining the proposals the Council and the European Parliament will put health interests first and will defend the consumer right to unbiased and non-promotional information on medicines.

### Our demands

- Carefully assess the added value of the proposals and ensure they truly respond to consumers' health information needs.
- Better clarify what can be considered as information and what constitutes commercial communication from a commercially interested party.
- Ensure that the proposal doesn't introduce a bias in favour of the most profitable medicines and against non-drug therapies.
- The dissemination of printed material prepared by the industry should be banned.
- The source of the information should be clearly identified.
- Effective enforcement of the legislation, including on the internet and in social media needs to be guaranteed.
- There should be no undue interference of pharmaceutical companies in the health care professional-patient relationship.
- An efficient and effective ex ante control and monitoring system to maintain the ban on advertising should be put in place.
- Good and independent sources of information (e.g. European Medicines Agency, EU register on clinical trials) should be promoted and reinforced.
- The source of the information should be clearly identified.
- Effective enforcement of the legislation, including on the internet and in social media needs to be guaranteed.

### Documents

- [BEUC position paper](#) on information on prescription medicines (x/2010/068)

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## II. Medical devices

### Background

In the first half of 2012, the European Commission will present a proposal to revise the EU medical devices legislation with the aim of simplifying and strengthening the current system. In July 2011 the Council adopted conclusions on innovation in the medical devices sector.

BEUC has been involved in the debate that preceded the adoption of the Council conclusions and in the exploratory process on the future of medical devices conducted by the Commission in 2009 and 2010 to identify the main public health and industrial challenges of the sector.

We hope that the Council will advance the adoption of the proposal in a way that takes the consumer perspective fully into account.

### Our demands

- Higher quality and safety standards for medical devices.
- Extend the scope of the Medical Devices Directives to include new and borderline products, such as those used in cosmetic surgery.
- Introduce stricter pre-marketing and post-marketing requirements.
- Strengthen the market surveillance systems and facilitate cooperation between member states.
- A European ban on advertising of medical devices.
- Address the problem of counterfeiting.

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### III. E-health

#### Background

In 2010, the Digital Agenda for Europe and the Innovation Union Communication were launched as part of the EU's 'Europe 2020' strategy for smart, sustainable and inclusive growth. The EU Digital Agenda includes targeted eHealth actions and objectives as part of a wider strategy towards sustainable healthcare and ICT-based support for dignified and independent living.

In parallel, Member States have been taking a complementary and pro-active approach to eHealth. The Council's conclusions, adopted in December 2009, called upon the European Commission to update the 2004 eHealth Action Plan and were followed by the creation of the 'eHealth Governance Initiative'. Its overall objective is to contribute actively to the shaping of the eHealth political agenda at EU level, with a specific focus on interoperability.

The second eHealth action plan (eHAP) which is now under discussion will provide an opportunity to consolidate the actions which have been addressed to date, take them a step further where possible and provide a longer term vision for eHealth in Europe, in the context the EU 2020 Strategy, the Digital Agenda for Europe as well as the Innovation Union Communication and its associated European Innovation Partnership on Active and Healthy Ageing.

#### Our demands

- Awareness and confidence should be promoted for an adoption of eHealth services by consumers.
- Consumers should always give informed consent to the sharing of their personal health information and the collection of any other classes of sensitive data.
- The legal, regulatory and organisational barriers to eHealth interoperability need to be overcome.
- Conception and implementation of initiatives are needed to allow for the deployment of eHealth services.

#### Documents

- [BEUC position on the electronic health records](#) (x/2011/059)
- Public consultation on the EU eHealth Action Plan, [BEUC answer](#) (x/2011/058)

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## IV. Active and healthy ageing

### Background

2012 is the European year of active ageing. The European Innovation Partnership on Active and Healthy Ageing is part of the EU's Innovation Union Strategy, which is in turn one of the Europe 2020 flagship initiatives.

The initiative, which was endorsed by the Council in February 2011, aims to enable consumers to lead healthy, active and independent lives while ageing; improving the sustainability and efficiency of social and health care systems; boosting and improving the competitiveness of the markets for innovative products and services.

### Our demands

- BEUC calls for more emphasis on prevention and health promotion, giving consumers adequate tools to make informed and healthy choices.
- All consumers should have access to high quality health care, including safe, affordable and innovative medicines.
- The digital divide between generations needs to be taken into account, as well as safety and privacy considerations in the use of ICT solutions.
- Older consumers have specific needs, a more comprehensive approach encompassing financial services, food, health, social, education, transport thus need to be adopted.

### Documents

- Public consultation on active and healthy ageing, [BEUC response](#) (x/2011/016)

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**AT** - Verein für Konsumenteninformation - VKI  
**AT** - Arbeiterkammer - AK  
**BE** - Test-Achats/Test-Aankoop  
**BG** - Bulgarian National Association Active Consumers- BNAAC  
**CH** - Fédération Romande des Consommateurs - FRC  
**CY** - Cyprus Consumers' 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** - Kuluttajaliitto – Konsumentförbundet 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  
**IT** - Consumatori Italiani per l'Europa - CIE  
**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



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