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EU liability rules to be modernised but contain AI services blind spot for consumers

The European Commission has today proposed to update civil liability rules for products and services to make them fit for purpose in the digital era [1]. BEUC has repeatedly called for their modernisation, and for a clear and enforceable legal framework, given that products are increasingly digitalised, complex, opaque and when powered with AI, can take autonomous decisions.

The new rules provide progress in some areas, do not go far enough in others, and are too weak for AI-driven services. Contrary to traditional product liability rules, if a consumer gets harmed by an AI service operator, they will need to prove the fault lies with the operator. Considering how opaque and complex AI systems are, these conditions will make it de facto impossible for consumers to use their right to compensation for damages.

Ursula Pachi, Deputy Director General of the European Consumer Organisation (BEUC), said: "It is essential that liability rules catch up with the fact we are increasingly surrounded by digital and AI-driven products and services like home assistants or insurance policies based on personalised pricing. However, consumers are going to be less well protected when it comes to AI services, because they will have to prove the operator was at fault or negligent in order to claim compensation for damages. Asking consumers to do this is a real let down. In a world of highly complex and obscure 'black box' AI systems, it will be practically impossible for the consumer to use the new rules. As a result, consumers will be better protected if a lawnmower shreds their shoes in the garden than if they are unfairly discriminated against through a credit scoring system."

The proposed rules issued today on product liability contain positive changes, such as including data loss as a type of damage manufacturers can be liable for, or that software can also be considered a product and therefore covered by EU product liability rules.

We welcome that the Commission has proposed to hold platforms liable when products sold on them are defective or illegal, but only under certain conditions which do not go far enough. We previously [called on](#) the Commission to include online marketplaces under the new EU product liability rules, following numerous pieces of research which [show](#) that consumers are subjected to unacceptably high numbers of unsafe goods on online marketplaces.

ENDS

Notes to editors



[1] The rules issued today are a revision of the 1985 Product Liability Directive and a new proposal specifically targeting liability for AI. The latter provides a lower level of protection for consumers than products covered by the Product Liability Directive.

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