



Maltese Presidency of the European Union

BEUC priorities
2017



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Introduction

The European Consumer Organisation (BEUC) is the umbrella organisation for 42 independent consumer organisations in 31 European countries. Our mission is to represent and promote consumers' interests to EU decision makers in all consumer-relevant areas that match our members' strategic priorities. Our member in Malta is Ghaqda tal-Konsumaturi, the Consumers' Association of Malta.

In this Memorandum for the Maltese Presidency of the Council of Ministers, BEUC highlights the most pressing consumer expectations for the European Union, makes concrete proposals for how the Maltese Presidency can work towards successful consumer policies, and finally urges the Council of Ministers and the European Parliament to legislate in favour of consumers. During the Maltese Presidency, several of the European Commission's flagship initiatives, notably the Digital Single Market strategy and the Energy Union, will move forward in the legislative process. The Presidency has a key role to play in ensuring that the Council consistently aims for high levels of consumer protection in its work.

In this Memorandum we draw attention in particular to the following initiatives:

Digital Single Market

The proposed legislative proposal for the supply of digital content and for online purchases of tangible goods, portability and geo-blocking in e-commerce should lead to real benefits for consumers in the digital age. However the proposed new rules on the purchase of tangible goods put important consumer rights at stake.

Telecommunications

The review of the EU's telecommunications legislation should strengthen competition and consumer rights in this market.

Energy Union

This comprehensive package encompassing legislative action on energy efficiency, renewables, design of the electricity market, and governance rules for the Energy Union must put consumers at the centre of Europe's energy transition.

Energy label

A simplified A-G label should be introduced quickly in order to help inform consumers about the energy efficiency of appliances.

Car testing

The proposal to reform type approval legislation and market surveillance of passenger cars needs

to be strengthened in order to restore consumer confidence in the automotive sector. This must include stronger EU oversight, more independence and greater transparency in the system.

Enforcement of consumer rights

The review of the Consumer Protection Cooperation Regulation should ensure that cross-border infringements of consumer rights can be speedily brought to an end, and should allow consumer associations to be involved in the cooperation mechanism.

Product safety and market surveillance

The deadlock of the review of this legislative package is detrimental to consumers in light of limiting their exposure to unsafe products and improving market surveillance.

Antibiotic resistance

The proposed legislation on veterinary medicines and medicated feed should be adopted swiftly in order to tackle the misuse of antibiotics in live-stock.

Trade

CETA should be amended to incorporate the changes agreed upon by the Belgian federal and regional governments.

We hope that progress will be made on these and other initiatives mentioned in our Memorandum for the Maltese Presidency, with the aim of delivering clear benefits to European consumers.

We wish the Maltese Republic a most successful Presidency.

Monique Goyens
BEUC Director General

Örjan Brinkman
President



Digital Rights

1

Ending geo-blocking in the Digital Single Market

Why it matters to consumers

Despite the existence of the Single Market, citizens still face discriminatory practices by retailers that refuse to provide their services, sell their products, or apply different access conditions depending on the consumer's nationality or country of residence.

One of the fundamental principles of the Single Market, namely the freedom to provide goods and services across borders, should also be viewed from the other side: consumers should have the right to receive services and access products freely, without arbitrary discrimination due to unjustified business practices.

Territorial discrimination is also a recurrent problem for consumers who cannot watch their favourite television programme or film online, or who are blocked from the streaming of their favourite sport when abroad. It is important to highlight that geo-blocking, particularly in the audiovisual sector, is often caused by exclusive licensing practices. These practices lead to a limitation in choice, as consumers cannot legally access online content available to consumers in other Member States but not available in their own countries (please see our chapter on copyright, below).

State of play in legislative procedure



In May 2016, the **European Commission** published a legislative proposal to address geo-blocking in the e-commerce sector. The Slovakian Presidency aims to achieve a general approach by the end of 2016. The European Parliament's Internal Market and Consumer Protection Committee is preparing its draft report.

In September 2016, the **European Commission** released its proposal for a regulation on online transmissions of broadcasting organisations to address the problem of lack of cross-border availability of audiovisual content.

Recommendations for the Presidency



We request the Maltese Presidency to advance the discussions as much as possible in order to ensure the swift adoption of the geo-blocking proposal and the delivery of concrete results for all EU con-

sumers. In a true single market, the focus must not only be the facilitation of cross-border services for businesses, but also the provision of fair access to these services in other Member States and an end to arbitrary discrimination against European consumers.

What we need to succeed

- All aspects of the European Commission's suggested measures against discrimination based on the consumer's nationality or country of residence should be supported by legislators.
- At the same time, the legislator must avoid introducing any measure into the geo-blocking proposal that could undermine the application of consumer protection principles in private international law, in particular within the context of the Brussels I and Rome I regulations.
- We ask the European Parliament and the Council to consider extending certain elements of the geo-blocking proposal in order to tackle contractual restrictions in the cross-border access of audiovisual services.
- In relation to online content, rightholders should be allowed to keep territorial licenses but should not prohibit online distributors from serving unsolicited requests by consumers living in other Member States (also referred to as 'passive sales' under EU competition law).
- Furthermore, as experience with the Services Directive shows, efficient implementation and enforcement is key to ensuring that such practices finally come to an end. Member States must provide for enforcement and appropriate sanctions in the case of infringement.
- Unjustified geo-blocking should also be considered as an unfair commercial practice that national consumer authorities can stop and sanction.
- The obligation for business to provide information about potential restrictions in delivery prior to concluding a contract is crucial in order to avoid consumer disappointment. However, disclosure is not enough. Consumers must be able to benefit from the Single Market by shopping across Member States without unjustified restrictions.
- The European Commission should continue to enforce antitrust rules, in particular the Regulation on Vertical Restraints and its accompanying guidelines, to ensure that the special rules on selective distribution are not used to restrict the availability of products via online commerce channels and to prevent competition to the detriment of consumers.

Additional sources

European Commission:
it is time to
#STOPGEOBLOCKING!
Video
<http://bit.ly/1YbcQaV>

European consumers
ask to include
non-audiovisual content in
the geo-blocking proposal
Letter
[BEUC-X-2016-047](#)

BEUC response to the
public consultation on the
review of the EU Satellite
and Cable Directive
[BEUC-X-2015-116](#)

BEUC position paper on the
geo-blocking proposal
[BEUC-X-2016-090](#)

#StopGeoblocking
Factsheet
[BEUC-X-2016-024](#)

2

Reform of telecoms rules

Why it matters to consumers

Telecoms markets remain an important sector of concern for all European consumers, as general satisfaction with telecoms services remains low. In an ever more interconnected world, consumers spend increasing amounts of time and money on the internet, connecting with others at home and abroad, and leading more and more digital lives. Much remains to be done in order to establish a real single market that consumers can benefit from. Telecoms markets still fail to deliver on the most important issues to consumers: a high level of consumer protection; the right to access the open internet; and the elimination of geographical barriers.

State of play in legislative procedure



In September 2016, the **European Commission** published a far-reaching reform of the EU's telecommunications rules that brings together four Directives (Framework, Access, Authorisation and Universal Service) into one single European Electronic Communications Code (EECC). The proposed rules will determine whether there is true competition in fixed and mobile markets and whether consumers are adequately protected and empowered.

Recommendations for the Presidency



We urge the Maltese Presidency to ensure that the reform of the EU's telecoms rules strengthens and fosters competition across all telecoms markets, and guarantees that consumers are strongly protected with a legal framework that is adapted to current and future digital challenges. Importantly, we urge Member States and the Maltese Presidency to be open to including provisions that tackle the market failures impeding consumers from benefitting from a Telecoms Single Market.

What we need to succeed

- The EU's reformed telecoms rules must continue to guarantee competition as the driving force in both generating consumer welfare in the market and in pushing new infrastructure investments. However, trade-offs between incentives to invest, competition and consumer protection are not permissible.
- Although vibrant competition is essential in driving the market, this alone is not sufficient in a rapidly-evolving sector such as the digital economy. As consumer satisfaction remains low in the crucially important services market, maximising standards of consumer protection is imperative.
- The sector's consumer protection rules need an urgent update, and this includes covering new digital forms of communication. We need to make sure that consumers can reap the benefits of market competition by having clear and easily comparable information about contract conditions and tariffs, friendly rules for contract termination, and free and simple procedures for switching.
- It is time to build a single market in communications services for consumers. This requires tackling the current unacceptably high prices that consumers have to pay for cross-border calls and messages sent from home to another EU country. Competition in this market does not work, and the resulting prohibitive prices for consumers cannot be justified.

ADDITIONAL SOURCES

Letter to Vice-President Ansip and Commissioner Oettinger on the issue of intra-EU telecommunications services.

[BEUC-X-2016-074](#)

Preliminary summary response to the European Commission's proposal for a European Electronic Communications Code.

[BEUC-X-2016-115](#)

3

Roaming and the wholesale reform

Why it matters to consumers

As consumers embrace the possibilities generated by digital technologies and the online world, they increasingly rely on being able to stay connected, also when they travel. In a real Digital Single Market, artificial geographical barriers such as roaming surcharges should not exist. A single market for digital and telecommunication services is a win for Europe as a whole. Consumers win because they can stay connected while travelling within the EU, and the money saved could potentially be spent on other communications services. And it's also a win for mobile providers, as it generates increased consumer demand that they can monetise and use to increase their network investments.

State of play in legislative procedure



Regulation 2015/2120 sets a target date of 15 June 2017 for the abolition of retail roaming charges, on the condition that the wholesale roaming market reform proposed in June 2016 by the **European Commission** has been completed.

It is essential that the wholesale market reform is finalised before that date so that consumers get what they were promised. The reform should not however happen at any cost: it must be sufficiently ambitious in lowering wholesale prices as much as possible in order to enable a sustainable transition towards a Telecoms Single Market.

Recommendations for the Presidency



We urge the Maltese Presidency to ensure that the reform of the wholesale roaming market is ambitious enough to allow the real abolition of retail roaming fees by June 2017, as has been promised to European consumers. The wholesale market reform should also protect and incentivise competition in telecoms markets by lowering wholesale caps as much as possible and by setting a roadmap for further decreases over the years to come.

What we need to succeed

- The reform of the wholesale roaming market must lower wholesale caps as much as possible. This will enable the full abolition of retail roaming, ensure that competition is not crowded out, and prevent undesirable price hikes at the national level.
- A roadmap for further decreases of wholesale caps is essential for allowing the market to transition towards a true single market in telecommunications services.

ADDITIONAL SOURCES

Towards the complete
abolition of retail
roaming fees
Position paper
[BEUC-X-2016-085](#)

European consumers
demand ambition in the
transition towards the end
of roaming fees
Letter
[BEUC-X-2016-113](#)

4

Data protection and privacy

Why it matters to consumers

Although beneficial to consumers, digital information technologies and the emergence of new services also represent a major challenge to the fundamental rights of privacy and personal data protection. It is important to provide consumers with a secure digital environment that they can trust, including effective control of their personal data.

State of play in legislative procedure

After a long and complex legislative process, the General Data Protection Regulation (GDPR) was finally adopted in April 2016 and will be effectively applicable in May 2018.

In the meantime, the review process of the ePrivacy Directive has been launched, and the **European Commission** is expected to put forward a proposal in January 2017. The Commission will also present a proposal on the free flow of data in the EU.



Recommendations for the Presidency

We urge the Maltese Presidency to advance quickly on the proposal for the ePrivacy Directive, with the aim of ensuring that the review guarantees the protection of the confidentiality of communications in all functionally equivalent communications services. It must also protect consumers against online tracking and unsolicited commercial communications.



What we need to succeed

- Strong ePrivacy rules that safeguard consumers' fundamental rights are essential. The confidentiality of all electronic and online communications must be protected, and the use of online services without continuous and by default tracking must be allowed. Consumers must also be protected against any type of 'spam'.
- 'Privacy by design and by default' should become the guiding principle embedded at the core of the Digital Single Market.

ADDITIONAL SOURCES

Summary of BEUC
response to ePrivacy
public consultation
[BEUC-X-2016-073](#)

5

Copyright reform

Why it matters to consumers

A dynamic, fast-evolving market – such as the one for online content – requires a flexible legal framework that allows for new and socially valuable uses. The Copyright in the Information Society Directive dates back to 2001, preceding mass usage of the internet, and has thus not kept pace with technological developments. As a result, everyday domestic activities such as backing up files, copying legally bought music, films and e-books to play on different devices, or posting a family video with background music on a social network could be legal in one country and illegal in another. This is due to the discretion of Member States in defining exceptions and limitations to rightholders' exclusive rights (e.g. in the case of private copying for format shifting and 'back up'). Furthermore, any notion of consumer rights is absent from the existing copyright framework.

State of play in legislative procedure



In September 2016 the **European Commission** published its second copyright package. This package includes a Directive on Copyright in the Digital Single Market; a regulation laying down rules for the exercise of copyright and related rights in respect to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes; and a directive and regulation on the incorporation of the Marrakesh Treaty into national and EU law. Although the aim of this package is to modernise the legal framework and adapt it to the digital environment, it falls short in tackling key consumer concerns such as geo-blocking and legal uncertainty around online consumer copyright usages.

Recommendations for the Presidency



We ask the Presidency to ensure that the copyright reform and the future of the online distribution of content addresses consumers' expectations through the development of competitive and quality legal offers that allow them to access online services available in other Member States.

What we need to succeed

- With countless new opportunities emerging from the ways in which content is now accessed and distributed, the need has arisen to rethink the substantive European legal framework. This requires achieving a fair balance between the different stakeholders, as well as promoting innovation and cultural diversity.
- Copyright law must balance the incentive to create with the granting of access to works. From the consumer point of view, the current copyright framework is far from balanced. A number of permitted uses of copyright-protected material are only allowed as exceptions and limitations to the copyright owners' exclusive rights.
- Further harmonisation of copyright exceptions and limitations should be pursued in order to provide more legal clarity about what consumers are entitled to do online with copyrighted content.
- We urge legislators to look at the Commission's proposal that platforms should apply filtering technologies from the consumer's viewpoint. Such an obligation must not become an instrument for restricting the ability of consumers to create or share content online. Furthermore, the safeguards proposed by the European Commission to protect users' interests are insufficient, and the compatibility of this new obligation with the E-Commerce Directive and the rights granted under the European Charter of Fundamental Rights must be further assessed.
- A new exception for user-generated content is needed in order to allow consumers to share derivative works for non-commercial purposes without bearing the risk of a copyright infringement. This will in turn stimulate creativity.
- Copyright exceptions should be made mandatory, and it should not be possible to overrule them with contractual terms and conditions or technical protection measures (such as for example digital rights management systems).
- The current system of copyright levies should be reformed. Fees should be visible on receipts, on price tags in the shop, and on websites and electronic commerce platforms. Consumers have the undeniable right to know what they are paying for.

ADDITIONAL SOURCES

Consumer use of
copyrighted material
Infographic
[BEUC-X-2015-063](#)

BEUC preliminary
reactions to the European
Commission's copyright
proposals
[BEUC-X-2016-117](#)

6

Audiovisual services including portability of content

Why it matters to consumers

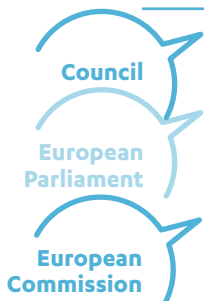
While the European Commission pushes for stronger enforcement mechanisms to tackle copyright infringements, it is crucial that consumers can easily benefit from legal offers, particularly in countries where local choices are restricted or even non-existent. Consumers in many Member States are frustrated that there are no legal online offers for audiovisual products (e.g. films or TV series) in their countries. Consumers should be able to choose their preferred suppliers when accessing online content without being limited by territorial boundaries.

Consumers should also enjoy a high level of protection no matter what audiovisual service they choose to enjoy, be it traditional television or online video on demand platforms. In particular, consumers should be protected against excessive and/or inappropriate advertising and other commercial practices.

State of play in legislative procedure

The **Council** and the **European Parliament** are about to finalise negotiations on the **European Commission**'s December 2015 proposal for the portability of online content.

In May 2016, the **European Commission** published its proposal for the revision of the Audiovisual Media Services Directive.



Recommendations for the Presidency

We urge the Maltese Presidency to conclude the negotiations with the European Parliament on the content portability proposal with the goal of ensuring that consumers' needs and expectations when travelling abroad are placed first.

Additionally, we ask the Presidency to make good progress on the Commission's proposal on online transmissions of broadcasting organisations and retransmissions of television and radio programmes, with the aim of facilitating cross-border access to online content.

In relation to the review of the Audiovisual Media Services Directive, we urge the Presidency to aim at a high level of consumer protection that avoids weakening the rules on advertising in any way.



What we need to succeed

- The proposal on portability of content must effectively address consumer consumption behaviours in the digital environment by ensuring that subscriptions can be accessed (e.g. music streaming services) across the EU without restrictive conditions (e.g. limited number of days).
- The problem of lack of cross-border access to content due to the acquisition of territorial rights should be tackled in the European Commission's proposal for a regulation on online transmissions of broadcasting organisations. Rightholders should be allowed to keep territorial licenses, but should not be able to prohibit online distributors from serving unsolicited requests from consumers living in other Member States (this is also referred as 'passive sales' under EU competition law).
- The revised rules on audiovisual media services must ensure that consumers enjoy a high level of protection across all types of services, be they linear or non-linear. A revision of the rules that apply to commercial communications should not create the risk that viewers are exposed to an excessive amount of advertising. In addition, particular attention is needed to protect vulnerable viewers.

ADDITIONAL SOURCES

Proposal for a regulation on ensuring cross-border portability of content services
Position paper
[BEUC-X-2016-022](#)

Response to the public consultation on the revision of the EU Satellite and Cable Directive
[BEUC-X-2015-116](#)

Extending the SatCab Model to the Internet - Study by Professor Hugenholtz
[BEUC-X-2016-005](#)

Review of the Audiovisual Media Services Directive
[BEUC-X-2015-096](#)

For more information: digital@beuc.eu



Consumer Rights

1

Online purchases of tangible and digital products

Why it matters to consumers

Consumers across the EU increasingly shop online, but they still face obstacles and legal uncertainties that are partially related to a lack of legal harmonisation. This is the case when it comes to the purchasing of digital goods such as online music, software, eBooks, films, and so forth. As most Member States have not yet modernised their sales laws in order to tackle the particularities of these goods, consumers are not adequately protected when problems arise, for example with non-conforming products.

As a result, the European Commission has published two legislative initiatives covering the purchase of digital content and the online sale of tangible goods. These proposals replace the 2011 proposal for a Common European Sales Law (CESL), which was not adopted.

While we fully support the Commission's new initiative to harmonise the rules for digital content products, we are sceptical about the proposal to buy tangible goods (e.g. clothes, books, electronic appliances) online. This proposal would result in a set of rules applicable only to this type of product. This fragmentation between the online and offline worlds will lead to confusion for consumers and businesses. Depending on the level of protection of the new initiative compared with the national rules applicable in the physical world, this approach could discriminate between consumers depending on method of purchase. In addition, a significant deviation between rules for tangible and digital goods will confuse consumers about their rights, particularly in relation to smart devices.

State of play in legislative procedure



Two proposals for directives were issued in December 2015. While the initiative on digital content advanced quickly under the Dutch and Slovakian Presidencies, the **Council** has sidelined the proposal on the online purchase of tangible goods.



By contrast, the relevant Committees in the **European Parliament** (Internal Market and Consumer Protection and Legal Affairs) have aligned their work on timelines for both proposals.



Recommendations for the Presidency

We hope that the Maltese Presidency will continue the debate in the Council on the proposed directive on digital content. For the sake of coherence and clarity in EU consumer contract law, we recommend that this directive be aligned with the proposed directive on the distance sales of goods in order to avoid significant differences between key consumer rights in the two initiatives.

What we need to succeed

- We strongly support a legislative instrument to harmonise contract laws for digital products. The scope of this instrument should include digital content and services, as well as contracts that are concluded on the basis of the exchange of consumers' personal data or any other data provided by the consumer as remuneration.
- In relation to the initiative around the purchase of tangible goods, we call on the European Commission to expand its scope to cover consumer rights for all sales channels, rather than splitting the market into offline and online purchases. We would also like to stress that full legislative harmonisation should be undertaken only at the highest level of consumer protection, and that this kind of legal measure should never preclude useful, well-established consumer rights at the national level.

ADDITIONAL SOURCES

The new initiative for online and digital purchases
Letter

BEUC-X-2015-031

The Digital Single Market Strategy:
Consumer organisations & e-commerce businesses'
joint call re: online purchases.
Joint letter BEUC/Ecommerce Europe

BEUC-X-2015-043

Proposal for a Directive on contracts for
the supply of digital content
Position paper

BEUC-X-2016-036

Response to the European Commissions' public
consultation on contract rules for online purchases of
digital content and tangible goods

BEUC-X-2015-077

Proposal for a directive on certain aspects concerning
contracts for distance sales of goods
Position paper

BEUC-X-2016-053

2

REFIT consumer law 2016-2017

Why it matters to consumers

The purpose of the European Commission's ongoing REFIT initiative (the Regulatory Fitness and Performance Programme) is to evaluate the 'fitness' of the consumer law acquis: whether the objectives of the relevant legal acts have been achieved, and whether market integration has been fulfilled. At the same time, the functioning of the 2011 Consumer Rights Directive is being evaluated by the European Commission, and the results of this evaluation will be combined with the REFIT exercise. The objectives of all of the directives falling within this evaluation process, including the Consumer Sales Directive and the Unfair Terms Directive, are to promote consumers' interests and safeguard a high level of consumer protection. It must accordingly be ensured that any assessment of consumer law puts consumers' interests foremost, avoids any weakening of consumers' protections, and ensures a solid and enforceable legal framework for all consumers.

State of play in legislative procedure



In 2016, the **European Commission** published a roadmap to inform stakeholders about the REFIT initiative, held a public consultation, and formed a stakeholder consultative group. The results of this stakeholder evaluation are expected in the spring of 2017. BEUC and several of our members are part of this expert group, and are contributing to the important work taking place within the REFIT initiative. In September 2016, the European Commission also consulted stakeholders about the functioning of the Consumer Rights Directive, which was implemented by Member States in 2014.

Recommendations for the Presidency



Initiatives in the context of the REFIT, as well as other evaluations of consumer rights legislation that affect consumers' interests, should aim to achieve a solid and modern framework for business-to-consumer transactions in the internal market based on a high level of protection. We hope that Member States will support BEUC's call for a solid legal framework adapted to new market developments that provides for a truly high level of consumer protection and the improved enforcement of consumer rights.

What we need to succeed

- We believe that any assessment should be based on robust evidence, focusing on areas where consumer detriment exists or could emerge due to new developments. We request that a good balance be struck between what should be further harmonised and to what degree, and what is better left to national consumer rights frameworks.
- A truly high and enforceable level of consumer protection should be the benchmark for the REFIT evaluation of consumer law.
- Any review of the Consumer Rights Directive should ensure that consumer rights across the EU are improved and modernised rather than weakened, particularly in light of the digital economy.
- No right without redress: We call for the development of a more ambitious strategy around the enforcement dimension. Questions on consumer redress and the availability of sanctions must be addressed. Injunctions alone are not an effective deterrent against law infringements by traders. In addition to the protection of collective consumer interests, individual consumers need to be enabled to successfully obtain redress when traders fail to fulfil their obligations.

ADDITIONAL SOURCES

Roadmap for the REFIT of the consumer law acquis 2016: Comments to the European Commission
BEUC-X-2016-033

Fitness Check of EU Consumer Law 2016
Position paper
BEUC-X-2016-081

Review of the Consumer Rights Directive
Position paper
BEUC-X-2016-093

3

Revision of the Air Passengers Rights Regulation

Why it matters to consumers

The existing Air Passenger Rights Regulation (No 261/2004) significantly improved the status of passengers through the granting of basic rights. However, enforcement of these rights has been toothless and inconsistent. Problems remain widespread, and consumer complaints of poor compliance have risen steadily.

Passengers are often left with the sole alternative of taking legal action against non-compliant airlines, although few are able to do so. The volume of cases before the Court of Justice of the European Union (CJEU) in recent years clearly shows the need to clarify fundamental aspects of the Regulation in order to ensure that passengers can more easily enforce their rights. However existing rights should not be weakened, and the CJEU rulings should be codified in EU law.

State of play in legislative procedure



BEUC gave a mixed welcome to the **European Commission's** spring 2013 proposal for the updating of the Air Passenger Rights Regulation. Our reservations centred on the weakening of some of the existing rights (mainly compensation and accommodation in 'extraordinary circumstances').



The **European Parliament's** first reading opinion adopted in February 2014 significantly improved the Commission's proposal on nearly every issue. The main achievements were the prohibition of 'no-show clauses' on all return flights and the exclusion of most 'technical problems' from the scope of 'extraordinary circumstances', as well as more re-routing options (for example following a delay and a subsequent missed connection).



The proposal has been stuck with the **Council of Ministers** for three years. The European Commission recently published its 'interpretative guidelines', which summarise the existing case law and should help better application and enforcement of the existing legal rules.

Recommendations for the Presidency




The negotiations in the Council have been deadlocked for three years. We thus urge the EU institutions and in particular the Maltese Presidency to make every possible effort to promptly advance the negotiations, and to work to ensure the best outcome for European consumers by drawing on the progress made by the European Parliament.

What we need to succeed

- Airlines should start compensating passengers when delayed arrivals exceed three hours, as per the Sturgeon CJEU ruling.
- The right to compensation should not depend upon a proactive request by the passenger, nor should this right be nullified when the passenger is informed of a delay or cancellation in advance.
- The new regulation should include an outright ban on the denied boarding of a connecting or return flight when a passenger has not taken or has missed the outbound leg (i.e. 'no-show clauses'). The majority of 'technical problems' should not qualify as 'extraordinary circumstances'.
- The general right to accommodation in extraordinary circumstances needs to be maintained, or reduced only in line with the European Parliament's first reading opinion (five days of accommodation).
- The right of passengers to file complaints with airlines should not be time limited.
- Re-routing should be granted as soon as possible, and must involve alternative means of transport. The right to re-route should also be granted to passengers subjected to long delays.
- The mandatory reimbursement and repatriation of passengers should be introduced in the case of airline insolvencies, as was demanded by a European Parliament resolution in 2014.
- Passengers should have the right to transfer their tickets to another person should they not travel (e.g. for package travellers).
- Advertised air ticket prices should include the following minimum services: check-in, provision of a boarding pass, and one item of checked luggage. In addition to one item of hand luggage, passengers should have the right to carry other essential items and any airport retail purchases.
- Airlines should be obliged to adhere to Alternative Dispute Resolution (ADR) systems.

ADDITIONAL SOURCES

 Air Passengers' Rights: Revision of Regulation 261/04 on the rights of air passengers in the event of denied boarding, cancellation and long delays
Position paper
BEUC-X-2013-056

 Air Passenger Rights: BEUC comments on Commission draft interpretative guidelines on Regulation 261/2004 on air passengers rights
BEUC-X-2016-034

 Air Passengers Rights: Revision of Regulation 261/04. Presentation to the European Parliament Transport Committee
Hearing
BEUC-X-2013-038

 For more information: consumer-rights@beuc.eu



Energy

1

Energy efficiency

Why it matters to consumers

EU households spend on average 6.4% of their disposable income on home-related energy use, and for many consumers energy bills are one of the main sources of financial concern. Measures to improve energy efficiency in buildings and stimulate the use of more energy efficient appliances can help consumers to save money.

While many European households are becoming more interested in energy efficiency measures, there are still significant barriers to increased uptake. For instance many consumers lack independent advice, and low income consumers cannot afford to pay the up-front costs of installation. While its role is often underestimated, energy efficiency provides a sustainable and cost effective solution in the face of rising energy costs and climate change.

State of play in legislative procedure



Energy efficiency is one of the key pillars of the **European Commission's** Energy Union strategy. At the end of 2016, the European Commission is expected to propose an extension of the measures of the 2012 Energy Efficiency Directive beyond 2020, as well as the continued improvement of energy performance for buildings to further boost energy efficiency.



Throughout 2016 the **European Parliament** intensified its work on energy efficiency, in particular through its own-initiative report adopted in June on the implementation of the Energy Efficiency Directive.



Recommendations for the Presidency

We urge the Maltese Presidency to make energy efficiency a top priority during its presidency term and to aim for ambitious changes that deliver real savings to consumers.

What we need to succeed

- The 'energy efficiency first' principle should be applied to all decisions related to energy: energy efficiency improvements should be prioritised when they are the most cost-effective option.
- An ambitious 2030 energy efficiency target and policy framework that delivers savings to consumers must be a priority for the EU. The legislation should make energy efficiency the easy option for consumers by providing clear information, independent advice and tailored incentives. It should ensure that consumers are well informed so that they can effectively exercise their rights and better control their energy consumption. In particular, the Energy Efficiency Directive and related provisions should be updated so as to require audits and reports demonstrating impacts on consumers. The absence of such reporting undermines the incentive for delivery. Loopholes, such as exemptions in the calculation of energy saving obligations, must be closed as these reduce the overall effectiveness of energy efficiency policies. Furthermore, energy efficiency measures must focus on improving and providing energy efficiency solutions for households.
- Consumers in vulnerable situations should not be left behind. Adequate financial schemes focusing on improving energy efficiency in buildings are needed to enable all European consumers to be more energy efficient.

ADDITIONAL SOURCES

Building a consumer-centric Energy Union
Position paper
[BEUC-X-2015-068](#)

BEUC recommendations on a new renewable energy directive: response to the European Commission's public consultation
[BEUC-X-2016-013](#)

Consumer rights in the energy sector
Position paper
[BEUC-X-2013-083](#)

2

Delivering the New Deal for energy consumers

Why it matters to consumers

Energy markets are changing. The current outdated model is being replaced with a decentralised market, with more small-scale and renewable energy supplies connected to the grid. National markets are opening up and becoming more integrated, especially at the wholesale level. A truly consumer-oriented Energy Union should represent a new era for consumers and requires a change of thinking. Smart, sustainable and inclusive consumer policies must be integral to the EU's approach, and consumers need guarantees that they will benefit from this energy transition.

State of play in legislative procedure



In late 2016, the **European Commission** is expected to launch a comprehensive package encompassing legislative action on energy efficiency, renewables, the design of the electricity market, and the governance of the Energy Union that puts consumers at the centre of Europe's energy transition.



The **European Parliament** has stepped up its work on energy throughout 2016, publishing an own-initiative report called 'Delivering a New Deal for Energy Consumers' and a Renewable Energy Progress Report. Progress was also made on an overall design for the energy market.

Recommendations for the Presidency



We hope that the Maltese Presidency will, in its political guidelines on the design of the future energy market, focus on building an Energy Union that is geared towards consumers and towards easily manageable energy markets. These markets should offer transparent prices, sustainable choices, better control over energy consumption and bills, and fair access for consumers willing to invest in domestic renewable energy generation.

In relation to the legislative proposals implementing the Energy Union strategy and modernising the market design, we hope that the Presidency will work towards putting consumers at the centre of the legislative package.

What we need to succeed

- The internal energy market must be completed to allow consumers to reap the benefits of a truly competitive, consumer-friendly energy marketplace that delivers real choices. Relevant EU legislation, especially the Third Energy Package, must be completely transformed and implemented urgently to make markets work better for consumers and ensure that they can effectively exercise their rights.
- Legislative proposals on the electricity market design, renewables, the governance of the Energy Union and the New Deal for Energy Consumers should guarantee all European consumers access to reliable, secure and sustainable energy at affordable prices. This framework must also allow sufficient supervision to ensure that energy markets are transparent, competitive and efficient.

- Consumers must be able to actively participate in the energy market. To develop trust, they need to have access to meaningful, accurate and understandable information on consumption and related costs, as well as on the types of energy sources. They need to be able to easily compare energy offers and smoothly switch to the best deal. Adequate protection must be put in place, especially for those in vulnerable situations to allow them to benefit from the market.
- Consumers need clear, comparable and credible information about 'green electricity' tariffs. Electricity tariffs with environmental claims should be transparent and deliver exactly what they claim. Consumers should get what they think they pay for, i.e. their money must lead to additional investments in renewable generation capacities. Simply selling Guarantees of Origin (GOs) does not necessarily result in increased capacity.
- European electricity markets need to deliver benefits to both consumers and to consumers producing their own electricity, individually or in groups such as cooperatives. While distributed generation should provide consumers with an opportunity to become active players in the market, further policy action is required on the most suitable technology for different kinds of households. Action on complicated permit procedures, the absence of reliable remuneration schemes for excess electricity fed into the grid, and access to capital must also be addressed. Renewable energy policies must not only target home owners but also allow tenants living in multi-storey dwellings to generate their own energy.
- Policy makers should ensure that consumers benefit from new, more flexible service models. These models should allow all consumers – and not only the tech savvy ones – to make easy energy choices. Participation should remain voluntary in order to ensure that those who are unable to participate or who are in vulnerable situations also have access to affordable electricity. Consumer rights will be adapted to keep up with the changes in the energy market, which could entail more complex cross-sectoral products. As these services will rely on information and communication technology as well as data collection, it is crucial that the new data protection rules are properly enforced everywhere.
- The Energy Union governance system should be transparent and based on robust monitoring processes that lead to consumer-friendly energy markets.

ADDITIONAL SOURCES

Building a consumer-centric Energy Union
Position paper
[BEUC-X-2015-068](#)

A welcome culture for consumers' solar self-generation
Policy recommendations
[BEUC-X-2016-001](#)

Trustworthy 'green electricity' tariffs
Policy recommendations
[BEUC-X-2016-002](#)

Current practices in consumer-driven renewable electricity markets
Mapping report
[BEUC-X-2016-003](#)

BEUC recommendations on a new Renewable Energy Directive – Response to the European Commission's public consultation
[BEUC-X-2016-013](#)

BEUC response to the CEER position paper on well-functioning retail energy markets
[BEUC-X-2016-006](#)

Position paper on consumer rights in the energy sector
[BEUC-X-2013-083](#)

BEUC and CEER Joint Vision for Europe's Energy Customers
[BEUC-X-2013-100](#)

Renewable Energy Factsheet
[BEUC-X-2015-007](#)

Where does the money from 'green' tariffs go?
Factsheet
[BEUC-X-2016-028](#)



Enforcement

1

Consumer rights enforcement across Europe and across borders

Why it matters to consumers

Consumers in one European Member State increasingly face problems that have also occurred to consumers in other Member States. Tackling unfair commercial practices via separate national strategies is therefore no longer an adequate option.

Giving European consumers new or improved rights is not worth much if these rights cannot be properly enforced. If the Single Market is to deliver for consumers, it must be possible to effectively tackle national, cross-border and pan-European infringements to guarantee coherent results.

State of play in legislative procedure



The **European Commission** is rightly seeking ways to improve enforcement throughout the EU. The 2006 Regulation on Consumer Protection Cooperation (CPC) created a network of national enforcement authorities and gave them powers to investigate cross-border infringements. In May 2016, the review of this regulation entered the legislative process as part of the Digital Single Market strategy.



The **Slovak Presidency** achieved significant progress in the negotiations of the regulation, and it is expected that a political agreement will be reached by the end of 2016.



The **European Parliament** has kicked off deliberations in its Committee on the Internal Market and Consumer Protection, and is aiming for an April 2017 vote.



Recommendations for the Presidency

We urge the Maltese Presidency to continue working on this proposal with the goal of wrapping up negotiations with the European Parliament during its term.

What we need to succeed

- Valuable, constructive, relationship-building and information-sharing measures between consumer organisations and national enforcers should be prioritised as a prerequisite for the development of a new European enforcement culture.
- Consumer organisations should be considered as genuine partners at the national level, and should be involved in co-ordination work at the EU level. More than simply providing one-way alerts about problems, they should be consulted on the solutions, especially with regards to widespread infringements.
- The operations and visibility of the CPC network should be improved. The law infringement alert system must be made more efficient, and should be open for consumer organisations to submit alerts. A feedback mechanism on reactions to alerts should also be introduced. National enforcers must have adequate resources in order to effectively combat cross-border infringements.
- The draft provisions in the CPC Regulation review enabling national enforcers to facilitate both individual and collective redress for consumers are crucial and must remain in the proposal. This is an essential step in completing the enforcement system. Consumer harm should be taken into account in investigations. Fines paid to authorities, if not re-distributed to victims, should be made available for the work of consumer organisations or projects that benefit consumer organisations.
- Additionally, EU legislation in the areas of retail banking, payments, insurance and investment should be covered by the revised CPC Regulation to ensure that the financial authorities in all Member States have a strong consumer protection mandate as well as sufficient resources and powers to fulfil this mandate.

ADDITIONAL SOURCES

Improving enforcement cooperation: BEUC response to the consultation on the review of Consumer Protection Cooperation (CPC) Regulation
BEUC-X-2014-005

Additional response to the consultation on the review of Consumer Protection Cooperation (CPC) Regulation
BEUC-X-2014-038

Strengthening enforcement: BEUC position paper on Consumer Protection Cooperation (CPC) Regulation review
BEUC-X-2016-087

For more information: consumer-redress@beuc.eu



Financial Services

1

Enforcement and supervision of consumer financial services law

Why it matters to consumers

Consumers expect the financial products on the market to respond to their needs and to meet legal standards. Financial supervisors must therefore deal with consumer protection effectively and independently. Over the past few years, several EU legislative texts have been adopted in the area of retail financial services. The current challenge is to ensure that this legislation is properly implemented and enforced at the national level. However, in many Member States, the quality of supervision is poor.

State of play in legislative procedure

We acknowledge that the oversight of businesses lies mainly within the competence of national supervisors. However, an appropriate level of enforcement requires EU-level convergence of national supervisory practices and increased co-operation between Member States. The European Supervisory Authorities (the European Banking Authority, the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority) have an important role to play in achieving this supervisory convergence.



Under its Capital Markets Union project, the **European Commission** plans to review the funding and governance structures of the European Supervisory Authorities (ESAs), which provides the opportunity to grant these bodies a stronger consumer financial protection mandate. The Commission is expected to come up with a White Paper. In its October 2016 resolution, the Economic Affairs Committee of the European Parliament called on the European Commission to ensure that the ESAs are granted more powers and resources for achieving better consumer protection.



Recommendations for the Presidency

We urge the Maltese Presidency to push for stronger consumer financial protection mandates for the ESAs in the context of the upcoming review of their funding and governance structures.

What we need to succeed

- A merger of the consumer protection divisions at the ESAs in order to give more prominence to the issues of conduct-of-business supervision and consumer protection.
- The provision of a clear mandate to the ESAs to lead the work on the convergence of conduct-of-business supervision practices across Member States. This entails having financial supervisors with strong consumer protection mandates, sufficient resources, and the power to fulfil their mandates in all Member States.
- Support for the ESAs in using their power to ban unsuitable and dangerous financial products. Such powers have been granted by the regulations establishing the ESAs and reinforced by a specific mandate provided by the MiFID Regulation.

ADDITIONAL SOURCES

Protecting consumer interests in
the retail financial services area
Position paper
BEUC-X-2011-111

Green Paper on retail financial services: BEUC
response to the Commission consultation
BEUC-X-2016-027

2

Review of the Prospectus Directive

Why it matters to consumers

Consumers buying shares or bonds must rely on information disclosed in the prospectus for an overview of the key features of these financial products. However, the current prospectus does not manage to fulfil its objective of providing consumers with clear and understandable information. Even the summary of the prospectus, which explicitly targets individual investors, is lengthy and written in complicated legal language, making it useless for most consumers.

As a result, many consumers have bought financial products unaware of the inherent risks, resulting in substantial consumer detriment.

In its proposal to review the Prospectus Directive, the Commission is clearly striving for the improved disclosure of key information to consumers via the summary prospectus.

State of play in legislative procedure



The **European Commission** adopted a proposal in November 2015 to review the Prospectus Directive.

The **European Parliament** adopted its position on the review in September 2016, paving the way for the start of the inter-institutional negotiations. The Parliament asked that the summary of these documents be made available in the consumer's preferred language, which should help investors to make more informed decisions.

Recommendations for the Presidency



We urge the Maltese Presidency to adopt a consumer-friendly stance during the trilogue negotiations.

What we need to succeed

- In order for the Prospectus Directive to serve consumers' interests, the summary prospectus must be well-aligned with the key information documents for Packaged Retail and Insurance-based Investment Products (PRIIPs), for example giving the necessary powers to the supervisory authorities for detailing the content of the prospectus summary and attaching liability to it.
- Consumers must have access to the prospectus summary in their own languages. Under the current regime, the only documentation they have detailing the key features – and risks – of their bonds or shares is often in a foreign language.
- Current thresholds for exempting issuances from the requirement to publish a prospectus should not be increased. Upping the lower bandwidth from €100,000 to €500,000 means that businesses can raise large amounts of money amongst the general public without any form of (simplified) prospectus. Raising exemption thresholds could leave consumers increasingly unprotected, which is especially undesirable in light of the steady growth and potential of crowdfunding platforms.

ADDITIONAL SOURCES

Consumers should receive information
related to the Prospectus Directive
in own language
Letter

BEUC-X-2016-072

3

Security requirements for electronic payments

Why it matters to consumers

The revised Payment Services Directive (PSD2) imposes new security requirements for electronic payments, the so-called Strong Customer Authentication. The European Banking Authority (EBA) is currently developing the technical details for these new security standards (the Regulatory Technical Standards, or RTS). Once implemented, these standards are expected to improve the security of payment services as well as the way consumers make payments, in particular via internet and mobile phones.

State of play in legislative procedure



The EBA's draft technical standards will be submitted to the **European Commission** in January 2017. The Commission will then consult the Parliament and the Council, which have the power to approve or reject the draft.

Recommendations for the Presidency




We urge the Maltese Presidency to ensure that high levels of security and convenience for consumers are taken into account when the Council delivers its opinion on the draft technical standards.

What we need to succeed

- The new Payment Services Directive (PSD2) contains important provisions on consumer protection. It is crucial that none of these measures are weakened through a delegated act. A preparatory draft of the technical standards stipulates that the rules on liability in the case of fraudulent payments, which currently favour consumers, would no longer apply in the absence of strong customer authentication. Such an interpretation of the PSD2 is not acceptable and should be rejected¹.
- The protection of confidentiality and integrity in relation to payment instruments should be coherently applied, without differentiation between the various instruments.

ADDITIONAL SOURCES


Draft delegated regulation on strong
customer authentication and secure
communication
BEUC response to EBA consultation
BEUC-X-2016-098


BEUC response to European Banking
Authority discussion paper
BEUC-X-2016-012

 For more information: financialservices@beuc.eu

¹ Art 74(2), 97, and 98 of the PSD2



Food

1

Food safety: antibiotic resistance

Why it matters to consumers

Antibiotic resistance is a major public health threat triggered by the inappropriate use of antibiotics in both human and veterinary medicines. Without antibiotics, common infections could once again become deadly, and complex interventions such as surgery or chemotherapy could become increasingly hazardous.

We need antibiotics that work, and it is thus critical that they are used in a responsible way. The misuse and overuse of antibiotics in livestock must be addressed, especially as they are often given to healthy animals. Alarming, BEUC members have found a high prevalence of antibiotic-resistant bacteria in raw meat products. But food is only one pathway: antibiotic resistance spreads via many routes, as bacteria can travel by air, water, and soil. Authorities at the EU and national levels have recently highlighted the link between the use of antimicrobials in livestock and overall antimicrobial resistance in several publications.

State of play in legislative procedure



In September 2014, the **European Commission** published two legislative proposals addressing antibiotic resistance: one on veterinary medicines and another covering medicated feed. The publication of the two texts is part of the European Action Plan against Antimicrobial Resistance launched in 2011. While the primary objective of this revision is to increase the availability of veterinary medicinal products and to reduce administrative burdens, it also aims to assess the possibilities for improving the EU's response to antimicrobial resistance.



The **European Parliament** committee responsible for the proposal on veterinary medicines is ENVI (Environment, Public Health and Food Safety), while the AGRI committee (Agriculture) is in charge of the proposal on medicated feed. Both reports were adopted in early 2016, and MEPs agreed to start negotiations with Member States in order to reach an agreement with the Council before the Parliament's plenary vote.



Recommendations for the Presidency

We urge the Maltese Presidency to steer Council discussions with a view to reaching a political agreement among Member States on the revision of the veterinary medicines and medicated feed proposals, and to promptly engage into trilogue negotiations with the European Parliament. Public health and consumer safety should always prevail over economic interests and trade issues.

What we need to succeed

- As antibiotic resistance knows no borders, we need strong EU-wide rules limiting the use of antibiotics to sick animals, and, when treating livestock, restricting the use of antibiotics that are critically important for treating people. National measures are not enough to address this global issue, as meat products are traded across the EU and bacteria can travel via living animals as well as via direct contact between animals and humans. We want all European consumers to be reassured that antibiotic use in livestock is strictly regulated.
- We urge the Council to support the European Parliament's proposal to ban the prophylactic use of antibiotics. MEPs have proposed adequate rules that permit the use of prophylaxis in certain well-defined cases. This will allow the limited use of prophylaxis while ensuring this practice is no longer routinely used. The European Commission's proposals include a requirement to restrict the use of antimicrobials that are critically important for humans in the veterinary sector. This requirement has been endorsed by the Parliament, and we urge the Council to ensure that it is also included in the final proposal.
- The European Commission's proposals also mention the setting up of a consumption database to monitor usage of antibiotics in animal production, in addition to the existing database on antibiotic sales in the veterinary sector. We find this a very positive move in facilitating the monitoring of the use of antimicrobials on the ground. The European Parliament has improved the draft proposal by requiring more complete information about why and how antibiotics are used. We urge the Council to support the Parliament's proposal, which will assist in the identification of inappropriate practices.

ADDITIONAL SOURCES

Antibiotic use in livestock: Time to act
Position Paper
[BEUC-X-2014-043](#)

European Commission's proposals to tackle
antibiotic resistance in veterinary medicines
and medicated feed laws
Position paper
[BEUC-X-2015-052](#)

Can we trust our meat? Part 2:
Antibiotic Resistance
www.beuc.eu/can-we-trust-our-meat

For more information: food@beuc.eu



Sustainability

1

Testing of passenger cars, type approval and market surveillance

Why it matters to consumers

Long before the Volkswagen emissions and fuel consumption scandal came to light, there were already major problems associated with the testing of the air pollutant emissions, fuel consumption and carbon footprint of passenger cars. Consumers are in essence being misled, and subjected to increased health risks and steeper fuel prices due to the hidden emissions.

State of play in legislative procedure



In January 2016 the **Commission** made a legislative proposal to reform the existing type approval and market surveillance of passenger cars. This proposal is now being assessed by both the Council and the European Parliament. Negotiations between the Council, the Parliament and the Commission are expected to take place during the Maltese Presidency.

In June 2016, the **Commission's** technical committee agreed on a new emissions and fuel consumption test known as the Worldwide harmonised Light vehicles Test Procedure (WLTP). It is expected that the proposal (a delegated regulation) will be presented to the Council during the Maltese Presidency.

Recommendations for the Presidency



We recommend that the Maltese Presidency makes the proposal for passenger car type approval and market surveillance regulation a top priority. Given the impacts of the car emissions scandal throughout Europe, this regulation needs to be strengthened in order to increase consumer confidence in vehicle testing and compliance procedures.

What we need to succeed

- The EU must play a stronger oversight role with passenger cars, for example through conducting market surveillance activities and by evaluating the harmonisation of rules implemented across Europe.
- There should be quantifiable targets for the number of compliance tests conducted across the EU for both production and in-use vehicles.
- If the results of conformity tests differ significantly from the type approval vehicles, the manufacturers should revise their claims accordingly.
- A greater level of independence in the type approval process must be ensured, and any potential conflict of interest eliminated.
- Greater transparency of type approval and market surveillance practices must be ensured through providing access to vehicle test results and by reporting activities and decision making surrounding recalls. Effective penalties must apply for all forms of non-compliance, including the provision of misleading fuel consumption figures to consumers and the use of defeat devices that lower emission values for test purposes.
- The new WLTP emissions and fuel consumption test must be accepted by Member States as agreed in the Commission's Technical Committee.

ADDITIONAL SOURCES

The Great Fuel Consumption Scam:
BEUC position paper on improving fuel
consumption testing of cars in the EU
[BEUC-X-2015-016](#)

Car Fuel Consumption Testing
Factsheet
[BEUC-X-2015-042](#)

A consumer view on the Commission
proposal on type approval
and market surveillance
Position paper
[BEUC-X-2016-052](#)

The great vehicle testing maze
www.cartestingmaze.eu

2

Energy label

Why it matters to consumers

The EU Energy Label enables consumers to opt for the most energy-efficient products, thus helping them to lower their energy bills and at the same time put less strain on the environment.

Initially, the label rated the energy efficiency of appliances in an energy class scale ranging from A to G, with class A comprising the most efficient products. Research has shown that the clarity and straightforwardness of this scheme made it very popular among consumers, spurring a rapid market transformation as manufacturers rushed to provide consumers with top-rated products. The label therefore fulfilled its aim of incentivising both consumers and retailers to adopt more energy-efficient appliances.

Many products met and exceeded the original A scale over the years, and three new categories were added on top of energy class A: A+, A++ and A+++. However, research shows that the loss of the simple 'buy A' message has resulted in consumers that are less motivated to purchase more energy-efficient appliances.

State of play in legislative procedure



In July 2015, the **European Commission**, as part of the implementation of the Energy Union strategy, proposed a revision of the EU Energy Labelling Directive that includes a return to a closed A to G scale.



The Council's General Approach was agreed in November 2015 and the **European Parliament** voted on the proposal in July 2016. Trilogue negotiations continued in the second half of 2016 and are expected to be finalised during the Maltese presidency.

Recommendations for the Presidency




We urge the Maltese Presidency to ensure a high level of ambition in the revision of the EU Energy Label during the co-decision process.

What we need to succeed

- An EU Energy Label based on the simple, well-recognised, closed A to G scheme.
- The rescaling of energy labels based on technological progress. The revised legal text must establish a detailed set of rules for when and how this rescaling will be carried out.
- Existing Energy Labels need to be quickly rescaled and adapted to the A-G scheme following the adoption of the revised framework legislation. The Council's general approach is problematic, as a delayed adjustment will prolong consumer confusion and postpone the benefits of the new scheme.
- A product registration database for the purposes of consumer information, policy making, and market surveillance should be developed.
- The effect of labelling measures in 'promoting' larger appliances must be reversed. For certain product groups like washing machines, bigger appliances can easily reach the highest energy efficiency classes in the current scheme. These appliances, although efficient for their size, might consume more energy than smaller ones and may not be the best choice for consumers with smaller households. We consider the current revision of the scheme as an opportunity to address this phenomenon.
- The current rethinking of the EU Energy Label provides an opportunity to consider informing consumers about the lifetime expectancy of products through the EU Energy Label. Therefore, the revision should refer explicitly to the possibility of providing durability information on the label as supplementary information.

ADDITIONAL SOURCES


Simplifying the EU Energy Label:
Restoring the successful and
well-understood closed A to G scheme
Position paper
BEUC-X-2015-065


For more information: sustainability@beuc.eu



Safety

1

Revision of product safety and market surveillance legislation

Why it matters to consumers

Unsafe consumer products that require recall, including products bearing the CE marking, are often found on the European market. They pose an avoidable risk to the health and safety of consumers. An update of the current EU product safety rules is therefore overdue in order to ensure consumers' wellbeing.

State of play in legislative procedure



In February 2013, the **European Commission** proposed a Consumer Product Safety Regulation (CPSR) and a Market Surveillance Regulation (MSR). This package contains important innovations to enhance product safety in the internal market, such as rules on more effective product traceability throughout the supply chain. As part of its 2015 strategy for 'Upgrading the Single Market', the Commission sought public feedback between June and October 2016 on possible options to enhance enforcement and compliance in the Single Market.



In April 2014, the **European Parliament** adopted its first reading opinion on the package of both proposals, which included several positive elements such as the setting up of an EU-wide incident and injury database, stronger sanctions, and penalties against liable traders and producers. Parliamentarians also strengthened the precautionary principle, which ensures the withdrawal of potentially unsafe products from the market based on a justified assumption that a product is dangerous. The European Parliament maintained the controversial obligation for mandatory country of origin labelling.

Recommendations for the Presidency



In the Council of Ministers, negotiations have been at an unacceptable stalemate for more than three years due to Member States' divergent opinions on country of origin labelling for products, which is neither a safety-related topic nor a priority for consumers and could safely be taken out of the proposal. Despite the spring 2015 publication of a new study on the impact of country of origin labelling of products, ministers were unable to agree on a way forward. A discussion at the Competi-

tiveness Council in May 2016 also had no clear results. The Maltese Presidency will therefore have a crucial role to play in working towards a solution.

What we need to succeed

- BEUC calls for the use of the precautionary principle as a cornerstone for the Regulations on Consumer Product Safety and Market Surveillance. Policymakers need to be able to act to prevent danger, even in the absence of absolute scientific proof. We insist that in risk management, the final call for what constitutes an 'acceptable' level of risk must remain a political responsibility. This principle should be clearly reintroduced in the Regulations.
- The focus of the revision should be on the most effective traceability instruments, such as indicating a batch, type or serial number; indicating the full address of the manufacturer and importer on the product or packaging; implementing the 'one up, one down principle' as exists with food; and empowering the Commission to adopt additional traceability requirements in certain justified cases.
- Equipment and machines on which consumers ride or travel, e.g. amusement park rides, should be included within the scope of the Consumer Product Safety Regulation (CPSR).
- Product-specific legislation that addresses environmental issues such as the EU Ecolabel Regulation, the EU Ecodesign Directive and the EU Energy Labelling Directive should be included in the scope of the Market Surveillance Regulation (MSR).
- Business secrets cannot prevail over the immediate need to inform consumers about serious risks. Market surveillance authorities need to adequately warn consumers without delay, and publish all of the relevant information needed to identify a product and the risks involved.
- Penalties need to be proportionate to the infringement, not to the size of the company.
- An EU-funded accident statistics system and a European complaint handling/reporting point should be established.
- Products with characteristics appealing to children must be safe for children to use or touch under all conditions.

ADDITIONAL SOURCES

European Commission proposal for a Regulation on market surveillance of products
ANEC and BEUC position paper
[BEUC-X-2013-033](#)

European Commission Proposal for a Consumer Product Safety Regulation
ANEC and BEUC position paper
[BEUC-X-2013-034](#)

2

Hormone disrupting chemicals

Why it matters to consumers

Every day we come into close contact with an enormous range of human-made chemicals. We use skin creams containing parabens, computers containing brominated flame retardants, and plastic kitchen tools containing Bisphenol A.

Many of the chemicals found in consumer products are known to disrupt the hormonal system (known as 'endocrine disrupting chemicals' or EDCs), in particular when exposure takes place during crucial stages of development such as pregnancy. This exposure to a multiplicity of chemicals in everyday life is of particular concern as the EU regulatory framework assesses safety on a chemical-by-chemical basis and largely neglects the 'chemical cocktail effect'. As there are currently no legislative criteria that define an 'endocrine disrupter', these chemicals are unregulated despite the urgent need to restrict their use.

State of play in legislative procedure



In June 2016, following a delay of almost three years, the **European Commission** proposed a set of criteria to identify EDCs. According to the Commission's proposal, only substances known to cause adverse effects on human health should be considered as endocrine disruptors. Substances presumed or suspected of being EDCs will neither be identified or regulated, even when there is compelling scientific evidence of harm. BEUC is concerned that this overly restrictive definition will fail to adequately protect consumers.

Following extensive criticism from several Member States and MEPs as well as independent scientists and NGOs, the Commission has presented a revised proposal in November 2016.

Recommendations for the Presidency



We call upon the Maltese Presidency to facilitate an agreement on an EU definition of endocrine disruptors as soon as possible, taking the European Parliament report on how consumers can effectively be protected from these harmful substances into account. This topic also has huge economic relevance for all Member States, as the diseases linked to environmental exposure to endocrine disrupting chemicals put a considerable burden on public health budgets.

What we need to succeed

- Endocrine disrupting chemicals must be regulated in order to reduce exposure. Safer alternatives must be used where they exist.
- A science-based definition for 'endocrine disruptors' is needed that is coherent and applicable to all existing and future EU legislation. EDCs should be classified and regulated in the same way as chemicals that are carcinogenic, mutagenic or toxic to reproduction (CMRs).
- A number of EU laws, such as the Cosmetics Regulations, already incorporate specific provisions on EDCs. Once adopted, EDC criteria must be implemented in the relevant laws without further delay.
- EDCs that have been identified as Substances of Very High Concern (SVHCs) should be included in Annex XIV of the REACH regulation. As a result, the use of these substances would require authorisation.
- The Cosmetics Regulation must be amended to ensure that consumers are protected against EDCs used as ingredients in cosmetic products. The burden of proof must be placed on the economic operator, and not on public authorities. Companies should be made responsible for demonstrating the safety of their products. The evidence they provide should be assessed by scientific committees. The presence of EDCs in consumer products must be made more visible. Better information about the use of known and suspected EDCs in products would allow consumers to make informed choices about how to protect their health.
- Risk assessment and risk management methods must be updated to take into account low-dosage effects of EDCs as well as the combined effect of different chemicals.
- As part of the EU strategy on endocrine disruptors, the European Commission identified a priority list of substances that require further evaluation regarding their role in hormone disruption. However, this list was established several years ago and therefore needs to be updated in the light of REACH registration dossiers and other newly available data.
- More EU-funded research is needed in order to better understand the complexity of the endocrine system, as well as the effects of endocrine disrupting chemicals on human health and the environment registration dossiers and other newly available data.

ADDITIONAL SOURCES

Endocrine Disrupting Chemicals
Factsheet
[BEUC-X-2011-039](#)

BPA Should be Phased Out
from Consumer Products
Position paper
[BEUC-X-2011-038](#)

Top 10 Actions MEPs can
undertake to lower the
exposure of consumers and of
the environment to Endocrine
Disrupting Chemicals
[BEUC-X-2011-040](#)

Hormone-Disrupting Chemicals: When Will the EU Act against
These Everyday Toxicants?
Position paper
[BEUC-X-2016-077](#)

For more information: safety@beuc.eu



Trade

1

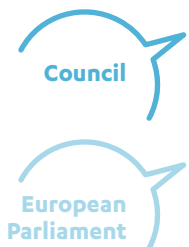
Comprehensive Economic and Trade Agreement (CETA)

Why it matters to consumers

The aim of CETA, the Comprehensive Economic and Trade Agreement between the EU and Canada, is to create jobs and growth. If it had been better designed, CETA could have significantly benefited consumers.

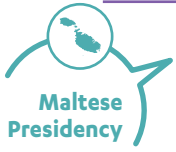
The concluded agreement does not meet the criteria for a trade agreement with a focus on consumer welfare. Despite positive components, such as voluntary co-operation on future regulatory initiatives, the agreement still contains provisions that could undermine current and future levels of consumer protection. Under CETA, foreign investors will be able to claim compensation for public policy measures that interfere with their expectations for investment, including consumer protection. Although the European Commission secured last-minute changes to the investment protection chapter, the risk remains that the right of the EU and Member States to regulate will be negatively impacted.

State of play in legislative procedure



Negotiators concluded the talks in August 2014, and the legal scrubbing was finalised in February 2016. However the **Council** was only able to give a green light to the agreement in October 2016, after the addition of a specific declaration by Belgium. This declaration stresses that the Belgian regional parliaments will only agree to ratify CETA if the investment protection chapter is improved.

The fate of the agreement is now in the hands of the **European Parliament** and national parliaments. The provisional application of CETA is expected to take place throughout the course of 2017, following the vote of the European Parliament. To fully enter into force, CETA will still have to obtain the consent of national and in some cases regional parliaments.



Recommendations for the Presidency

The resistance of the Wallonian Parliament has demonstrated that despite the interpretative instruments there are still concerns regarding CETA. We call on the Maltese Presidency to facilitate the incorporation of the Belgian declaration into the CETA text.

What we need to succeed

- The declaration of the Belgian government should be formalised by amending the treaty's investment protection chapter.
- CETA should be amended to better secure the right to regulate. In particular, investor claims should not be admissible by the tribunal when they relate to public policy measures such as consumer protection.

ADDITIONAL SOURCES

CETA fails the consumer crash test: BEUC position paper on the EU-Canada Comprehensive Economic and Trade Agreement
[BEUC-X-2016-045](#)

2

Transatlantic Trade and Investment Partnership (TTIP)

Why it matters to consumers

The aim of the TTIP, a transatlantic trade deal between the EU and the US, is to boost growth and to create new jobs by removing tariffs and non-tariff barriers, thus facilitating trade in goods and services and increasing investment flows.

Increased trade with the US market could bring several advantages for European consumers. However, differences in EU and US regulations in areas as diverse as food, chemicals and the protection of personal data have prompted concerns that a reduction of non-tariff barriers could be to the detriment of European consumers.

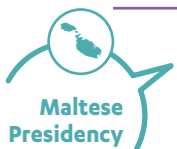
State of play in legislative procedure



In June 2013, the Council of the European Union granted negotiating directives to the **European Commission** to formally start trade negotiations with the United States. Since then, 15 rounds of negotiations have taken place between the parties. The Commission also set up an Advisory Group in 2014 to facilitate a dialogue with civil society organisations.



The **European Parliament** adopted a resolution in July 2015 calling upon EU negotiators to secure a balanced deal for EU citizens that will respect their interests and values.



Recommendations for the Presidency

During the Maltese Presidency, the idea of a 'fresh start' for TTIP could emerge following the change of US administration. We call on the Maltese Presidency to use this momentum to make sure the direction of the negotiations changes drastically. We also count on the Maltese Presidency to ensure improved transparency in the negotiations and the safeguarding of EU consumer, health, environmental, labour and safety standards and fundamental rights.

What we need to succeed

- More openness and public accountability is necessary in order to ensure trust in trade policy. We welcome the efforts of the Council and the European Commission to improve transparency. This should be supplemented by granting access to consolidated negotiating texts.
- Whereas investments deserve proper protection, the proposed Investment Court System (ICS) is flawed and not the appropriate way forward. The right to regulate is not adequately protected; conflicts of interest of arbitrators have not been resolved; and the cost and impact of the establishment of the ICS has not been evaluated. In addition, the necessity of having a parallel judicial system between the two most developed legal systems in the world has not yet been proven. Existing levels of protection in the EU and the US fully suffice in guaranteeing legal security for investors.

- EU negotiators intend to establish a regulatory co-operation mechanism in TTIP. The goal of such a system would be to create a dialogue between regulators in order to avoid unnecessary duplications. We are in favour of co-operation between regulators, but not on regulations. It is of the utmost importance that Member States convince the Commission to keep the system voluntary and to reject US demands to introduce elements of their 'notice and comment' system, notably through the good regulatory practices chapter. US consumer organisations that belong to our transatlantic network can attest to the regulatory chill risks associated with this system.
- The European Commission and the Member States should aim for an ambitious deal that ensures the protection of consumer, environmental, labour, health and safety standards, and should refuse compromises that will lead to the lowering of these standards or create future obstacles to improving them. Specific rules should be included in the agreement to substantiate assurances that standards will not be lowered. We request that Member States and the European Parliament closely monitor the progress of the negotiations in order to raise timely objections to any provision in the agreement that would lead to consumer detriment. For instance, we urge the Maltese Presidency to make sure that the data protection safeguards in TTIP will be improved to effectively protect EU citizens' privacy. Moreover, TTIP should deliver concrete benefits to consumers beyond reduced prices and increased choice: for example, a friendlier telecoms market, decreased geo-blocking practices, and information and solutions in case something goes wrong following a transatlantic purchase.

ADDITIONAL SOURCES

Consumers at the heart of the Transatlantic Trade and Investment Partnership (TTIP)
Position statement
[BEUC-X-2014-031](#)

Food and the Transatlantic Trade and Investment Partnership (TTIP)
Position paper
[BEUC-X-2014-030](#)

BEUC's key concerns about the Investment Court System proposal
[BEUC-X-2015-103](#)

The incompatible chemistry between the EU and the US: BEUC Position on Chemicals in TTIP
[BEUC-X-2016-007](#)

Transparency & engagement in the TTIP
[BEUC-X-2014-080](#)

Food and TTIP
Factsheet
[BEUC-X-2014-057](#)

Consumers at the heart of trade policy: BEUC position on the Future Trade and Investment Strategy
[BEUC-X-2015-060](#)

Optimising regulatory coherence in TTIP: Need to focus on regulators, not regulations
Position paper
[BEUC-X-2015-060](#)

3

Trade in Services Agreement (TiSA)

Why it matters to consumers

The aim of the Trade in Services Agreement (TiSA), currently being negotiated between the EU and 22 members of the World Trade Organisation (WTO), is to further facilitate trade in services. TiSA could benefit consumers if it is well designed, consumer oriented, and adapts international trade in services to today's public interest needs.

However, leaks of negotiation texts have raised our concern, as the proposals risk limiting the right of the EU and its Member States to regulate in the future. We are equally concerned about the lack of transparency in the negotiations: this is unacceptable in a modern age trade agreement. Moreover, we fail to see ambitions to secure concrete benefits for consumers (apart from indirect ones such as the potential of lower prices, greater choice, and a boost to innovation).

State of play in legislative procedure



In March 2013, the Council of the European Union granted a mandate to the **European Commission** to start trade negotiations. Since then, 21 rounds of negotiations have taken place between the parties. The pace of the talks has accelerated this year, with some parties wishing to conclude by December 2016 or early 2017.



The **European Parliament** adopted a resolution in February 2016 calling on EU negotiators to protect consumers while providing them with tangible benefits.



Recommendations for the Presidency

Through the Trade Policy Committee of the Council of the European Union, Member States have the power to give input throughout the course of the negotiations and to shape the final outcome. We call on the Maltese Presidency to ensure that TiSA will be negotiated with the same level of transparency and engagement with stakeholders as TTIP. So far however only the TiSA mandate and a few negotiating texts have been published, which is not sufficient to ensure an informed debate.

What we need to succeed

- More openness and public accountability around the TiSA negotiations is required. The Commission needs to publish all negotiating texts, including consolidated texts and concept papers. This is particularly critical considering the accelerated pace of the negotiations. In addition, the Commission should encourage other TiSA parties to join the EU's transparency efforts and to organise systematic stakeholder events during the rounds.
- EU negotiators must seek to deliver concrete benefits to consumers, such as a consumer-friendly tel-eoms market, a reduction in geo-blocking practices, and the promotion of EU data protection rules. Most importantly, increased trade in services between the TiSA parties will give rise to more dispute cases between consumers and service providers. Negotiators need to secure easy access to dispute resolution mechanisms and other effective solutions. EU consumer rights will not be automatically ensured in the case of cross-border trade in services if the necessary provisions are not included in the TiSA text.
- Beyond preserving consumers' rights, TiSA must guarantee the rights of its signatory parties to regulate in the future. In fact, in order for consumers to support TiSA, these future levels of protection must be guaranteed. Thus, TiSA should include solid safeguards for public interest needs. One key demand is to improve the current data protection safeguard in TiSA, both in the core text and in the relevant annexes.

ADDITIONAL SOURCES

How to make TiSA a good deal for consumers
Position paper
[BEUC-X-2015-095](#)

Trade in Services Agreement
Factsheet
[BEUC-X-2016-017](#)

Trade and privacy: complicated bedfellows?
Factsheet
[BEUC-X-2015-095](#)

4

Multilateral Investment Court for investment dispute resolution

Why it matters to consumers

In 2017, the Commission will propose to establish a Multilateral Investment Court for investment dispute resolution. BEUC has consistently denounced the flaws in the old Investor-to-State Dispute Settlement mechanism (ISDS), and therefore welcomes the fact that the Commission proposes to step away from private arbitration. In a context of widespread public mistrust over secretly negotiated trade deals, it is positive that the Commission intends to address citizens' legitimate concerns by proposing to establish a multilateral Investment Court System (ICS).

However, such a court must be carefully established. The current ICS models proposed in CETA and TTIP do not address the core flaw of the ISDS, and create the risk that consumer, health, labour and environmental regulations could be challenged as violations of 'investor rights'.

State of play in legislative procedure



In 2017, the **European Commission** will propose the establishment of a permanent Multilateral Investment Court to adjudicate international disputes between investors and foreign governments. This initiative follows the EU proposal for an Investment Court System in TTIP in 2015 and the modification of the investment protection chapter in CETA in early 2016.



The **European Parliament** adopted a TTIP resolution in July 2015 calling on the EU to replace ISDS with a new system that would be "subject to democratic principles and scrutiny, (...), and where private interests cannot undermine public policy objectives".

Recommendations for the Presidency



We call on the Maltese Presidency to ensure that any Council decision authorising the Commission to negotiate a convention establishing a multilateral ICS on behalf of the EU takes into account the concerns raised by the European Parliament in relation to existing ISDS systems.

What we need to succeed

- A legal safeguard of the right to regulate: it is essential that the article on the right to regulate in each free trade agreement that will be subject to ICS be modified in such a way that claims against measures designed to meet public policy objectives will not be admissible by the Court. It is crucial that the current merely interpretative provisions are expanded to include legally enforceable tools to protect the right to regulate.
- To ensure that judges are truly independent and to prevent conflict of interests from arising, the code of conduct and the ethics provisions must be reinforced. For example, it is not acceptable for a judge to be linked directly or indirectly to one of the parties in a dispute for a certain period of time prior to or following the dispute.
- The costs and the impact of establishing a multilateral court must be evaluated. The Commission alarmingly proposed a brand new bilateral court system in TTIP and CETA without carrying out a proper impact assessment. It is therefore positive to see in that an evaluation is envisaged for the establishment of the multilateral court. The same must be done for the bilateral investment courts that will be established in the meantime.
- The compatibility of the multilateral court with EU law must be verified. We urge the Maltese Presidency to facilitate a request for the opinion of the European Court of Justice prior to the establishment of the Court. This is key in order to ensure legal certainty and predictability in trade policy.

ADDITIONAL SOURCES

BEUC's key concerns about the Investment Court System proposal
[BEUC-X-2015-103](#)

International Investment Arbitration Factsheet
[BEUC-X-2016-096](#)

For more information: trade@beuc.eu

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The European Consumer Organisation
Bureau Européen des Unions de Consommateurs
Europäischer Verbraucherverband

Rue d'Arlon, 80 Bte 1, B - 1040 Bruxelles

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- AT - Verein für Konsumenteninformation – VKI
- AT - Arbeiterkammer
- BE - Test-Achats/Test-Aankoop
- BG - Bulgarian National Consumers Association – BNAAC
- CH - Fédération Romande des Consommateurs – FRC
- CY - Cyprus Consumers' Association
- CZ - dTest
- DE - Verbraucherzentrale Bundesverband – vzbv
- DE - Stiftung Warentest
- DK - Forbrugerrådet Tænk
- EE - Estonian Consumers Union – ETL
- EL - Association for the Quality of Life – E.K.PI.ZO
- EL - Consumers' Protection Center – KEPKA
- ES - Confederación de Consumidores y Usuarios – CECU
- ES - Organización de Consumidores y Usuarios – OCU
- FI - Kuluttajaliitto – Konsumentförbundet ry
- FI - Finnish Competition and Consumer Authority – KKV
- FR - Consommation, Logement et Cadre de Vie – CLCV
- FR - UFC - Que Choisir
- HU - National Federation of Associations for Consumer Protection – FEOSZ
- IE - Consumers' Association of Ireland – CAI
- IS - Neytendasamtökin – NS
- IT - Altroconsumo
- IT - Consumatori Italiani per l'Europa – CIE
- LT - Alliance of Lithuanian consumers' organisations
- LU - Union Luxembourgeoise des Consommateurs – ULC
- LV - Latvia Consumer Association – PIAA
- MK - Consumers' Organisation of Macedonia – OPM
- MT - Għaqda tal-Konsumaturi – Consumers' Association Malta
- NL - Consumentenbond
- NO - Forbrukerrådet
- PL - Association of Polish Consumers – SKP
- PL - Federacja Konsumentów
- PT - Associação Portuguesa para a Defesa do Consumidor – DECO
- RO - APC Romania
- SE - The Swedish Consumers' Association
- SK - Association of Slovak Consumers – ZSS
- SL - Zveza Potrošnikov Slovenije – ZPS
- UK - Citizens Advice
- UK - Financial Services Consumer Panel
- UK - Legal Services Consumer Panel
- UK - Which?



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