

The Consumer Voice in Europe

## BREXIT: SECURING A POSITIVE OUTCOME FOR CONSUMERS



**Contact: Monique Goyens – [directorsoffice@beuc.eu](mailto:directorsoffice@beuc.eu)**

**BUREAU EUROPÉEN DES UNIONS DE CONSOMMATEURS AISBL | DER EUROPÄISCHE VERBRAUCHERVERBAND**  
Rue d'Arlon 80, B-1040 Brussels • Tel. +32 (0)2 743 15 90 • [www.twitter.com/beuc](http://www.twitter.com/beuc) • [consumers@beuc.eu](mailto:consumers@beuc.eu) • [www.beuc.eu](http://www.beuc.eu)  
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## WHY THESE GUIDELINES

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Consumers from across the EU benefit from rights and protections that have been established at a European level, whether on food, air passenger rights, toy safety, protection against unfair contract terms to cooling off periods for online sales. The enforcement of these rights often involves European authorities or networks of national authorities that cooperate to provide a strong framework to supervise markets.

There is a risk that consumers in the UK and in the EU see vital rights and protections watered down if the UK's negotiations for exiting the EU – as well as the subsequent trade negotiations – do not grant specific attention to consumers. It is essential that a good outcome for consumers is secured on both sides of the Channel.

This paper sets out the guiding principles that negotiators should follow in order to ensure that consumers both in the EU and the United Kingdom do not lose out as a result of the negotiations. These principles should guide the discussions at all stages of the negotiations that are to be held by the EU and the UK, be they the strict exit negotiations or the subsequent trade deal talks.

## KEY PRINCIPLES TO GUIDE THE NEGOTIATIONS

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The following principles should guide the negotiations to ensure that a good outcome is secured for consumers as the UK leaves the EU:

### **Governance of negotiations: consumers must be at the heart of the negotiations**

Consumer confidence is fundamental for thriving markets and for economic growth. Therefore, consumer interests must be understood and addressed from the outset of the negotiations. This implies the following actions on behalf of the negotiators:

- Include a specific consumer analysis in any impact assessment, especially related to retail prices, exchange rates, safety and quality standards. This analysis should detail the distributional impact on different consumer groups, particularly more vulnerable consumers, both in the UK and in the EU.
- Involve consumer representatives in any advisory groups that are established around the negotiations, ensuring a balanced view.
- Implement strong transparency principles related to availability of negotiation positions.

#### 4 over-arching principles to guide negotiation: focus on ensuring consumer trust

Across the different sectors to be negotiated between the UK and the EU, implementation of the following over-arching principles will contribute to safeguarding consumer trust both in the EU and in the UK market:

- Consumers must have continued and affordable access to goods and services from an open market place: negotiations must aim at minimising consumer detriment. Possible tariffs and quotas on products and services sold between the EU and UK after Brexit would restrict competition and harm consumers.
- **Ensure essential consumer rights are maintained:** many of the rights that consumers have come to expect (e.g. food safety, chemical safety, toy safety, product and contract information, and data protection) are currently shaped and determined at an EU level. These standards were designed with a strong and pragmatic contribution of the UK. Consumers need to be confident that they still will have access to goods and services from EU/UK without their rights being dismantled.
- **Safeguard consumer protection and safety:** it will be vital that a robust system for product safety and standards is maintained and that key principles, such as the precautionary principle, are not undermined.
- **A robust and ambitious system of consumer enforcement:** global markets need co-ordinated enforcement and systematic dialogue between regulators, so it is key that while UK regulators might not be part of the EU wide enforcement/supervision framework anymore, the effectiveness of the enforcement system must not be watered down. This will be important at both a domestic and crossborder level, as markets will continue to remain global and will need a coordinated enforcement response. Cooperation will continue to be critical.

The negotiations must include provisions related to dialogue between national regulators and market surveillance authorities. They should also ensure that cooperation mechanisms are established between the EU and EU Member State agencies and enforcement bodies and the equivalent UK bodies and agencies.

#### A snapshot of consumer-related commitments that should be championed in the negotiations:

- **Parties should commit to respecting their mutual right to adopt consumer protection rules:** the right to regulate domestically in the public interest should be a pillar of the EU/UK agreement.
- **Investment protection provisions should not allow for private arbitration courts to handle disputes between investors and the public authorities.** And in any case, compensation claims by investors challenging consumer protection legislation should never be admissible.
- **Data protection safeguards must be provided,** so that flow of data between the EU and the UK is in line with the data protection legislation in force at EU level.
- **Access of consumers to redress mechanisms must be safeguarded:** Consumers' access to justice is key to grant any significance to their rights. The EU have set up a framework for ADR mechanisms that have been put into practice. It is key that UK and EU consumers continue to have access to redress mechanisms in cross-border situations.

## WHAT COULD BREXIT MEAN FOR UK AND EU CONSUMERS IN PRACTICE?

The UK's future exit from the EU could have significant implications for consumers on both sides of the Channel.

Below, we provide *examples* to illustrate how consumers can be affected:

	<b>UK consumers</b>	<b>EU consumers</b>
Roaming	When travelling to an EU country, consumers may be exposed to high roaming charges, especially on data roaming.	When travelling to the UK, consumers may be exposed to high roaming charges, especially on data roaming.
Crossborder health-care	When on holidays or on a business or school trip in an EU country, consumers who fall ill or have an accident can no longer use the <a href="#">European Health Insurance Card</a> , which provides them easy access to the local health system.	When on holidays or on a business or school trip in the UK, consumers who fall ill or have an accident can no longer use the <a href="#">European Health Insurance Card</a> , which provides them easy access to the UK health system.
Air passenger rights	Consumers travelling by plane, flying with a UK company and departing from the UK may no longer be entitled to assistance or compensation in case of cancellation or delay of flights	Consumers travelling by plane and departing from an EU country may no longer be entitled to assistance or compensation for cancellation or delay of their return flight, if they book with a UK company
Buying online from an e-trader located abroad	The UK consumer will not be able to invoke the protection of strong UK consumer protection rights (return of faulty goods, refund in the first 30 days after purchase), if the e-commerce trader from one of the EU-27 countries has opted for the application of the law of their country (very frequent)	EU consumers will continue to be protected by their home law regardless of choice of law clauses imposed by the UK traders as long as these traders have targeted the consumer's country in their marketing strategy.
Payments	UK consumers might face high surcharges for the use of certain payment methods (eg credit cards)	EU consumers are protected by the ban on surcharges for all payments made within the EU. They might be exposed to increased charges for payments made in the UK
Food safety	UK consumers might be exposed to watering down of rules related to food safety and might no longer benefit from the regulatory	EU consumers continue to benefit from a consolidated system of market surveillance and official controls. UK imports are

	cooperation of other EU agencies in terms of control and rapid alert systems	covered by this framework and UK food must comply with EU rules. EU consumers travelling to the UK must be aware that the food standards might not be identical to those in the EU.
Dangerous products	The UK market surveillance authorities may no longer form part of the RAPEX system anymore and UK consumers might be more exposed to dangerous products that have been recalled within the EU	The rapid alert system (RAPEX) will continue to function within the EU and will allow exchange of data between the EU supervision authorities for quick recall of dangerous products. Products imported from the UK would also be covered by the framework
Chemicals	UK consumers might be exposed to watering down of the standards set in the REACH regulation, and might be confronted with dangerous chemicals contained in numerous consumer products	EU consumers continue to benefit from the protection offered by the REACH regulation. UK imports must comply with EU rules. EU consumers travelling to the UK must be aware that their exposure to dangerous chemicals might be higher in the UK
Investments	EU banks might lose their passport to act on the UK market. UK consumers who have invested with EU banks might face unexpected disruptions	UK banks might lose their passport to act on the EU market. EU consumers who have invested with UK banks might face unexpected disruptions

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