

Subject: COVID-19 – implications for consumers and BEUC recommendations for policy responses concerning the Single Market, tourism and digitalisation.

Dear Commissioner Breton,

I am writing on behalf of BEUC, The European Consumer Organisation. COVID-19 is not only a serious health risk for European consumers but many will also be faced with significant economic harm. Many households are suffering from a loss of income and other financial predicaments and do not know how to pay for their bills. Obviously, the priorities for the EU and Member States' governments must be to take the best possible care of the health of European people and to ensure that the enormous economic impact of the crisis is bearable. Yet we would like to stress that responding to European consumers' needs and upholding their existing EU rights is essential to maintaining consumer trust in the management of the crisis and the economic recovery afterwards.

In your capacity as Commissioner for the Single Market, we urge you to make sure that the measures taken at EU and national level to mitigate the effects of COVID-19 on the economy take full account of consumers' interests. This is indeed a requirement under the horizontal consumer protection clause set out in Article 12 of the Treaty on the Functioning of the European Union (TFEU), according to which "consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities".

This is why below we detail some particularly important points and recommendations from a consumer perspective on topics in your portfolio. We ask you to ensure that whenever consumers are affected, that your services take the consumer perspective into account. Please be assured that BEUC and our members stand ready to provide input on all relevant policy areas.

COVID-19 Apps and the use of data: protecting consumers' privacy and public health must go hand in hand

Measures affecting the confidentiality of communications or involving personal data processing must be necessary, proportionate, limited for the duration of the crisis, voluntary, non-discriminatory, supervised and aim at being effective to mitigate COVID-19. Any outsourcing to private companies must be transparent, appropriately documented, subject to public scrutiny and respect current EU and national rules. In any case, no data collected to mitigate the COVID-19 should be shared or used for commercial purposes. Both the General Data Protection Regulation (GDPR) and the ePrivacy Directive are [flexible enough](#) to adapt to the situation, ensuring appropriate safeguards.

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We generally welcome the European Commission's [recommendation](#), [guidance](#) and the eHealth Network's [toolbox](#) to ensure a coordinated pan-European approach for COVID-19 apps. We particularly welcome the clear advice against using location tracking because "[l]ocation data is not necessary nor recommended for the purpose of contact tracing apps, as their goal is not to follow the movements of individuals or to enforce prescriptions". We commend the Commission for working with the European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS) to ensure full respect and consistent application and enforcement of EU rules.

Securing full and non-discriminate access to the internet

Connectivity has become even more essential during this pandemic. Any national measure, such as temporarily reducing content services quality, or other preventive measures to protect the net from overload, should be evidence-based and respect consumers' rights and freedoms. In addition, Member States must guarantee non-discriminatory, affordable broadband internet access for all consumers, particularly those in vulnerable situations. No one should be left behind. We urge the Commission to continue to monitor the situation and guide Member States where necessary.

Partly due to [our members' work](#), some Member States and electronic communication companies have adopted consumer-friendly measures, such as providing unlimited offers. However, the Body of European Regulators for Electronic Communications (BEREC) [highlighted](#) that some operators are expanding zero-rating offers because of the current situation. BEUC considers zero-rating to be against the principle of net neutrality and therefore urges the Commission and National Regulatory Authorities (NRAs) to promote the elimination of data caps instead.

In cooperation with BEREC and NRAs, we ask the European Commission to ensure that EU rules on electronic communications, including on the open internet, are fully respected and enforced consistently.

Travel and tourism sector

Since the outbreak of the COVID-19 pandemic, consumers from across the EU have experienced challenges to their right to reimbursement for cancelled travel packages or travel (particularly flights). For package travel, several Member States have unfortunately already taken national action to oblige consumers to accept vouchers instead of a monetary refund. Forcing consumers to provide cheap loans to the travel industry is not the way forward: we need other solutions.

We very much appreciate that all relevant Commissioners, namely Commissioners Reynders, Vălean and yourself have repeatedly stated the importance to respect EU legislation, which entitles consumers to a refund in case of a cancellation due to extraordinary circumstances. We welcomed your confirmation of this approach again in your address this week to the members of the European Parliament's Transport Committee.

As Commissioner in charge of tourism, we recommend that you set up a European fund to ensure the tourism industry has sufficient liquidity or that national funding initiatives, such as the Danish package travel fund, are expanded. A specific [letter](#) on this topic has been sent to you already.

We hope that at the meeting of **tourism ministers next week Monday 27 April**, a fair approach that helps both, business and consumers in this direction will be agreed.

E-commerce: acting on the safety and compliance of products sold online

Market surveillance authorities have already been coordinating efforts to seize counterfeit facemasks, sub-standard hand sanitisers and unauthorised anti-viral medication in a collective action against the illicit online sale of medicines and medical devices. Unfortunately, our member organisations have witnessed serious problems related to the sale and promotion of unsafe products online. This involves COVID-19-related scams ⁵, such as using unsubstantiated safety claims or disinformation on products, selling sub-standard products and demanding unjustifiably high prices (see below). There are also many other consumer products such as toys, textiles, cosmetics and electric appliances which flow into the EU internal market via online marketplaces that are unsafe for consumers.

This pandemic has illustrated the power, influence and control online platforms have on our society and economy. BEUC urges the European Commission to reinforce the obligations and liability of online marketplaces to protect consumers and legitimate businesses alike during the upcoming reviews of the General Product Safety Directive, the Product Liability Directive and the eCommerce Directive via the Digital Services Act.

Enforcement in the Single Market

In this crisis, consumers are more vulnerable than ever and need to be protected against unfair practices and fraud. For example, since the outbreak of the crisis, more and more cases of excessive pricing can be observed. At first, they concerned mainly masks, disinfectant gels and similar items. Now, excessive prices appear in many different sectors: food, hygiene products or even high-tech products such as printers (as reported by our French member organisation, UFC-Que Choisir).¹ In the UK, our member Which? conducted several investigations and found widespread evidence that marketplaces like Amazon or eBay are still failing to get to grips with blatant price-gouging on their websites.²

These practices are often cross-border or Europe-wide infringements of legislation. Consumer associations are working tirelessly as market watchdogs to warn consumers against such practices. We ask the European Commission to encourage the authorities to watch over price developments in all sectors.

In this context, BEUC welcomed the recent and very timely CPC's (Consumer Protection Co-operation network) coordinated action on unfair commercial practices during the crisis. It is reassuring that consumer protection authorities are acting rapidly and have requested online platforms to take a much more active role in ensuring that unfair commercial practices and fraud do not proliferate on their websites. We are looking forward to seeing the results of this action and will continue to monitor the online space to be able to report unfair activities towards consumers.

Furthermore, we also welcomed your recent communication on the need to improve enforcement in the single market. During the crisis, the new Single Market Enforcement Taskforce ("SMET") can be a useful tool to ensure better cooperation between the different national enforcement bodies and to enhance coordination and exchanges between existing enforcement networks. The EU should build on the latter to fight COVID19-related fraud. The voice of consumer organisations is important here and should be represented at SMET: they have direct contact with consumers and can bring evidence of illegal market behaviour helping enforcement bodies in their investigations.

Finally, we ask the European Commission to urge and support the Member States to either maintain or build up the **necessary resources for enforcement activities**. The economic crisis that might follow the COVID-19 pandemic will put heavy financial constraints on public purses. Making sure that consumer and market surveillance authorities can live up to the challenge will be a key success factor for the economic recovery.

Sticking to the European Green Deal's ambition

When the worst of the health crisis is behind us, we will need to focus on rebuilding our economies. It is important that this happens while being mindful of another crisis affecting people and the planet: the climate crisis. This is why the Green Deal action plan, published last December, has become more important than ever. It should serve as the guiding principles to steer Europe's economic recovery.

It is crucial that the current crisis does lead to the weakening of existing legislation or delaying urgent initiatives. This is particularly important for sustainable finance, the renovation of buildings, mobility and food where the Green Deal policies will be vital to putting our society onto a more sustainable track.

¹ www.quechoisir.org/actualite-coronavirus-hausse-du-prix-des-imprimantes-n77775/

² www.which.co.uk/news/2020/04/price-gouging-still-rife-on-marketplaces-amidst-coronavirus/ and www.which.co.uk/news/2020/03/online-marketplaces-coronavirus-update-ebay-and-amazon/

We appreciate your public statements supporting the Green Deal and count on the European Commission to take this crisis as an opportunity to re-orient our economy towards a more sustainable and greener future. COVID-19 is also a wake-up call that should inspire the EU to build a more resilient economy and prevent, as well as mitigate, future global or European crises – the climate crisis being one of these³.

To conclude, the European Commission has a huge role to play to ensure consumers can best overcome the difficulties caused by this pandemic and to initiate measures that are both balanced and fair, for business and consumers alike. We trust that you and your fellow Commissioners will do your utmost and work collaboratively to achieve this goal.

We are at the disposal of your services should you require any further information.

Yours sincerely,

Monique Goyens
Director General

C/C: Members of cabinet: Ms Filomena Chirico, Mr Fabrice Comptour & Ms Pauline Weinzierl.

³ https://www.beuc.eu/publications/beuc-x-2020-016_letter_to_evp_timmermans_consumer_recommendations_to_make_the_european_green_deal_a_success.pdf