

The Consumer Voice in Europe

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Brussels, 13 May 2020

RE: COVID-19 exposes the systemic vulnerabilities in our supply of medicines

Dear Commissioner Hogan,

On behalf of BEUC, I am writing to you to share our views on the ongoing disruptions of global pharmaceutical supply-chains in the wake of governments' responses to COVID-19. While we welcome the EU's efforts to tackle these disruptions, we are concerned that these may be insufficient to prevent shortages of critical medicines.

Solidarity is a prerequisite to solving this crisis. Since the start of the pandemic, some Member States have nonetheless resorted to protectionist measures, such as export bans for countries within the EU and export authorisations for those outside of the EU on certain essential medicines, face masks or medical devices. While we understand that emergency measures may be needed during a public health crisis, the EU must ensure these do not limit the availability of medicines or increase their prices.

That is why we urgently call on the European Commission to mitigate the impact of the current crisis on the availability of medicines to treat COVID-19 and other diseases. In addition, we invite the Commission to provide regular updates about COVID-19 related measures discussed with the pharmaceutical industry, and to extend this dialogue to BEUC.

Build bridges with global trading partners

The Chinese shutdown has fractured the industry's supply chain while India restricted exports on dozens of pharmaceutical ingredients and medicines, such as paracetamol. This has led to fears of global shortages of essential medicines.

Trade restrictions are understandable during a crisis, but the EU and other countries need to keep in mind that such measures are likely to disrupt the global supply chain. This **can increase prices, reduce choice for consumers and result in shortages**. To prevent this from happening, we call on the EU to:

- Make it possible **to import medicines under compulsory licenses**. We refer to article 31bis of the World Trade Organization agreement on trade related aspects of intellectual property rights (TRIPS).¹ During a pandemic, the EU ought to make it possible to import patented medicines in order to ensure affordable treatment and avoid shortages.
- **Factor in the consumer interest** should further measures impacting trade flows, such as export authorisation schemes be envisaged. It is important to **prevent a backlash from our trading partners**, for instance in the form of export bans on essential medicines. Moreover, the idea of a **plurilateral trade negotiation on medical goods** is being explored. Such an initiative could be positive as long as it includes the consumer interest and is conducted transparently. It should focus on ensuring the availability and affordability of medicines and treatments, beyond the needs of the current crisis. Should this idea materialise, the Commission must **involve stakeholders** in its reflection.
- Plan for the future, as other pandemics will arise. The EU should seek to **build bridges with trading partners**. For instance, there should be a mechanism in place to coordinate export

¹ See joint civil society letter of 7 April 2020 on this matter, including BEUC and the Transatlantic Consumer dialogue as signatories: <https://www.keionline.org/32707>

curbs between countries. This crisis highlights the need to improve international cooperation to protect consumers. The WHO and WTO have a central role to play in this context, the EU should support their cooperation.

The EU must act to prevent shortages and ensure equitable access to medicines

The COVID-19 outbreak accentuates existing concerns on the shortage of medicines in Europe,^{2, 3} and the lack of preparedness to respond effectively to this problem.

We welcome the Commission's commitment to ensuring the availability of medicines affected by the response to COVID-19. The Commission's Guidelines addressed to Member States to avoid shortages during the outbreak include several welcome recommendations. Effective action at the national level is necessary, and stronger EU cooperation essential. Building on ongoing efforts, we call on the Commission to strengthen cooperation and ensure:

- **Rapid information-sharing among Member States** on both current or foreseen shortages and available stocks of essential medicines. The fast-track monitoring system that has been put in place by the EU Executive Steering Group is a welcome initiative. Given that it is limited to COVID-19-related medicines, BEUC asks that the SPOC system is also adequately resourced to ensure it is an effective monitoring tool for other drug shortages, during and after the pandemic. In addition, timely public communication about drug shortages and full transparency about their causes must be ensured.
- **Even distribution of stocks across the EU**, in line with the principle of European solidarity. The RescEU stockpiling mechanism should be favoured over national stockpiling approaches to ensure the rapid availability of critical medicines needed to tackle the pandemic. It is important that the Commission ensures transparency around the RescEU mechanism and the criteria to distribute supplies among Member States.
- **Equitable access through the EU Joint Procurement Agreement (JPA)**. Joint procurement increases the bargaining power of Member States, enabling them to buy medicines at lower prices. Ensuring the affordability of vaccines and treatments for COVID-19 is essential to safeguard equitable access. The Commission should promote the JPA and ensure that it is used effectively, so it becomes the number one option for Member States to buy the medicines we need to tackle the outbreak.⁴

Looking beyond COVID-19, the EU needs to step up action to address the underlying causes of drug shortages and move towards a proactive, rather than reactive, policy approach. Given the industry's dependence on global pharmaceutical supply chains, we particularly urge the Commission to explore how our security of supply can be enhanced in the medium-term to ensure Europe has the supply of affordable medicines to meet patients' and consumers' needs.

We look forward to following up with your services on these concerns and recommendations. In the meantime, let us stress again our support in these difficult times.

For your information, we have also sent a copy of this letter to Commissioner Kyriakides.

Yours sincerely,

Monique Goyens
Director General

² Organización de Consumidores y Usuarios. [Desabastecimiento de medicamentos ¿por qué?](#) 27 November 2018.

³ Test-Achats. [Pénuries de médicaments: la position de Test-Achats](#). 7 October 2019.

⁴ Diversifying as much as possible the number of suppliers (e.g. for generic medicines) should be considered to help ensure supply security.