



German Presidency of the European Union

BEUC priorities
2020





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Introduction

The European Consumer Organisation (BEUC) is the umbrella organisation for 44 independent consumer organisations in 32 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 German member organisations are Verbraucherzentrale Bundesverband (vzbv) and Stiftung Warentest.

The German Presidency will be marked by the economic and societal consequences of the ongoing COVID-19 pandemic and the ensuing process of recovery. As we highlighted in a recent letter to Commissioner Reynders¹, consumers have been and will continue to be faced with numerous issues triggered by COVID-19. We encourage the German Presidency to pay special attention to the needs of consumers as it takes the leading role in guiding the EU through this crisis.

Under the German Presidency, the European Commission is expected to adopt its new Consumer Agenda. We recommend that the German Presidency sets up an annual Council meeting with ministers responsible for consumer policy which takes stock and discusses the implementation of the New Consumer Agenda.

Beyond COVID-19, numerous legislative and non-legislative files that are of relevance to consumers remain on the Presidency's agenda. In this Memorandum we make concrete proposals for how the Council of Ministers and the European Parliament can legislate to achieve a high level of consumer protection and empowerment.

In addition to the priority of recovering from COVID-19 and the need to swiftly adopt proposals to further the implementation of the EU's flagship European Green Deal initiative, the New Consumer Agenda and the future EU-UK relationship, we draw attention in particular to the following initiatives:

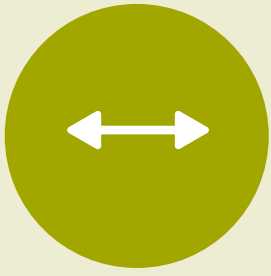
- A European approach to artificial intelligence: Consumers should benefit from artificial intelligence rather than be exposed to new risks.
- ePrivacy: The finalisation of work on a legislative proposal for ePrivacy is overdue and urgently needed. This legislation should lead to a higher level of privacy protection for consumers in the digital age and should complement the General Data Protection Regulation (GDPR).
- Access to innovative medicines: The legislative proposal on Health Technology Assessment (HTA) has the potential to help governments save money as well as to reward health technology, but *only* if it benefits consumers.
- Financial services: Legislation on non-performing loans and the review of the Motor Insurance Directive should all lead to better outcomes for financial services consumers. The MiFID II (Markets in Financial Instruments Directive) review should ensure that consumers are given independent and trustworthy advice when making investment decisions.
- Rail passenger rights: The review of the EU's law on rail passenger rights should send a forceful political message that promotes alternative modes of transport coupled with strong rights for travellers.
- The Digital Services Act: The EU's initiative on the platform economy should enhance the liability and obligations of platforms, particularly online marketplaces.
- The Farm to Fork Strategy: The EU should propose ambitious goals to enable consumers to choose low-carbon diets and to clear the path for a transition towards sustainable food systems.

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

We wish Germany a most successful Presidency.

Monique Goyens
Director General

Örjan Brinkman
President



Horizontal

1

A European Green Deal

Why it matters to consumers

Consumers are affected by and will increasingly suffer from the impacts of a changing climate in their daily lives, with negative consequences such as health threats due to increased exhaust gases in the atmosphere, higher living costs related to increasing prices for food, energy and transport, and endangered food security.

To turn the tide, systemic changes are needed in how we produce and consume. Currently, however, multiple market failures prevent consumers from playing a role in this change. Consumers who would like to live more sustainably must often pay more to do so. They do not receive relevant information about sustainable products and services or opportunities to purchase them. They may also be frustrated by the prevalent misleading information about the sustainability of products.

The COVID-19 pandemic has hit our countries hard. In the EU, now that the worst of the health crisis seems to be behind us, efforts are focused on rebuilding our economy. It is important that this economic recovery happens while being mindful of the climate crisis. Failing this, we risk 'solving' the imminent economic recession by sacrificing our preparatory plans for the many new shocks that will arrive with climate change.

State of play in legislative procedure

In December 2019, the **European Commission** unveiled its European Green Deal (EGD). Its Communication on the subject announced a number of policies and measures to tackle challenges related to climate change and the environment in general. Since the publication of the EGD, the European Commission has started to translate its objectives into policy initiatives. For starters, it published a proposal for a European Climate Law that will enact the objective for Europe to become climate neutral by 2050. The Commission also published a new Action Plan for the Circular Economy, as well as a Farm to Fork Strategy to create an environment-friendly food system. The Commission is expected to launch its Strategy for Smart Sector Integration in June. Several other initiatives are under preparation, notably a Strategy on Sustainable and Smart Mobility, a Chemicals Strategy for a toxic-free EU environment, and a Communication on the Renovation Wave.



Recommendations for the Presidency



We call on the German Presidency to address the Commission's EGD proposals as a priority and to make sure that the EGD is the guiding principle in steering the recovery of the European economy. The German Presidency should ensure that discussions move forward quickly on the European Climate Law, with the objective of significantly stepping up our ambitions for 2030 as well as for 2050. The German Presidency should also organise discussions on ongoing and upcoming European Commission strategies, such as the Circular Economy Action Plan and the Farm to Fork Strategy², and facilitate well-designed sustainable development policies that will promote both consumer interests and sustainable development. We hope that the German Presidency will show great ambition as it steers the Council discussion on achieving the EU's climate and energy objectives.

What we need to succeed

- **European Climate Law:** We need to step up the fight against climate change. BEUC therefore welcomes the Climate Law's goal to increase the EU's greenhouse gas reduction objectives to reach net zero by 2050. BEUC is also in favour of increasing the level of ambition of the EU's 2030 greenhouse gas reduction target to at least 55%.
- **New Circular Economy Action Plan:** BEUC welcomed the publication of the new Circular Economy Action Plan. The main objectives of this new strategy should be to provide consumers with products that last longer and are easily repairable, upgradeable and recyclable, as well as to keep environmentally harmful products off the market. Consumers should be provided with strong rights, such as the 'right to repair', and longer guarantee periods. They should also receive clear and accurate information that allows them to make sustainable choices, for example about the life expectancy of a product and/or its environmental footprint. In this regard, measures should be taken to fight unfair business practices that mislead consumers about the environmental features of products and services and the proliferation of green claims and non-certified labels on the market. This should be done by establishing a pre-approval procedure for all green claims and labels (with some very strict exceptions for products holding an EU Ecolabel or its equivalent), as is currently the case for health and nutrition claims on food.
- **Sustainable financial services:** The Commission's Sustainable Finance Strategy expected in the fourth quarter of this year should set out ambitious proposals for how to green the financial sector and how to nudge consumers towards sustainable financial institutions and products. We urgently need to increase transparency and consumer awareness around the climate impacts of financial products. More and better value offers for green savings and investments must be made available to consumers. Access to well-designed and responsible financial solutions for energy efficient investments (e.g. house renovations or the installation of heat pumps) must be facilitated. We also need to reduce investments in 'brown' activities, and ensure that consumers can rely on trustworthy financial advice that takes environmental, social and governance criteria into account.
- **Sustainable mobility:** We urgently need to strengthen public and intermodal transport, and a consumer-friendly roll-out of fully electric vehicles is also imperative. The reduction of CO₂ emissions from road transport must be accelerated, and consumers should be better informed about the environmental impact of their cars. Kerosene should be taxed to reflect the true environmental and climate costs of aviation, and revenues should be reinvested in rail and public transport in order to create a level playing field for train transport. Better passenger rights help to make rail transport more attractive for consumers.

2 | See our dedicated chapter on the Farm to Fork Strategy.

- Sustainable housing:** The more efficient use of energy is at the heart of the energy transition, and accelerating building renovations is essential in order for the EU to become climate neutral by 2050. EU buildings are responsible for 40% of our energy consumption, and roughly 75% of the existing building stock is energy inefficient. Still worse, approximately 80% of domestic energy demand comes from space and water heating, and 75% of heating supply is based on fossil fuels. Yet despite the scale of the problem, less than 1% of national building stock is being renovated each year. Home renovation can deliver significant benefits for consumers. Clear policies, a variety of financing options, and easy access to impartial and trustworthy advice are needed to help consumers understand the benefits of renovating their homes.
- Sustainable food:** We see great potential for engaging consumers in low-carbon diets and for a transition towards sustainable food systems. In order to enable consumers to buy healthy food on a healthy planet, we urgently need to increase transparency about the impacts of food on climate and sustainability. Information is not enough, however, as shown by our recently published survey of European consumers on their attitudes towards sustainable food. The consumer food environment must also change. This includes getting the prices right.
- Chemicals strategy for sustainability:** A strong EU chemicals policy that includes the sustainable use of resources and the protection of human health will be essential in achieving the goals of the European Green Deal. Severe and chronic diseases such as cancer, infertility and allergies are on the rise in the EU, and it is believed that chemicals play a causal role in this trend. To protect the health of current and future populations, the EU needs to radically scale up actions to minimise consumers' cumulative exposures to harmful chemicals. This would include an integrated policy on chemicals in products, better protection of vulnerable groups, and a response to known policy gaps such as combination effects and endocrine disruptors.
- Smart Sector Integration Strategy:** We need a fully integrated, decarbonised, digitalised and flexible energy system that is built on affordability and transparency. Further actions to decarbonise the energy system should not put an extra burden on consumers' bills. To this end, we need a thorough analysis of the role and cost efficiency of different technologies and the impact of sector coupling (integrating the energy consumption sector with the power production sector) on consumers. For instance, sector coupling by the direct use of electricity for heating in consumers' homes in combination with energy efficiency measures is not only economically attractive for consumers but is also a climate-friendly solution. While the decarbonisation of the gas sector is necessary, green gases will be scarce and expensive and hence better designated for end-use sectors such as industry, aviation and shipping.

Additional sources

Consumers at the center of the drive to sustainability:
BEUC's views on the European Green Deal
Position paper [BEUC-X-2020-012](#)

Proposal for a European Year of Rail 2021:
BEUC's proposals to move towards a consumer-oriented rail system
Position paper [BEUC-X-2020-041](#)

The European Green Deal must address consumers concerns about harmful chemicals
Letter [BEUC-X-2019-064](#)

What CLEAR 2.0 project taught us:
Results and recommendations
Position paper [BEUC-X-2020-009](#)

Joint BEUC-ETUC-EEB recommendations for chemicals policy and the European Green Deal
Letter [BEUC-X-2019-088](#)

The future of energy consumers: Bright or burdensome?
Position paper [BEUC-X-2019-055](#)

One bite at a time: Consumers and the transition to sustainable food
Survey [BEUC-X-2020-042](#)

Towards greener and healthier food for European consumers: BEUC's take on the Farm to Fork strategy [BEUC-X-2020-057](#)

2

Brexit and the future EU-UK partnership

Why it matters to consumers

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 or cooling-off periods for online sales. The enforcement of these rights often involves European authorities or networks of national authorities that co-operate to provide a strong framework for the supervision of markets. There is a risk that consumers in both the UK and the EU will see vital rights and protections watered down if the negotiations for the future relationship do not grant specific attention to consumers. It is essential that a good outcome for consumers is secured on both sides of the Channel.

State of play in legislative procedure

After the full ratification of the Withdrawal Agreement, the United Kingdom left the European Union on 31 January 2020. This agreement established a transition period until 31 December 2020, which will prevent abrupt changes for consumers. Since March 2020, the EU and the UK have been negotiating a partnership agreement that will define their new relationship. The goal is to conclude and ratify this agreement by 31 December 2020, the end of the transition period.

Recommendations for the Presidency

We call on the German Presidency to ensure that the consumer interest remains central in the implementation of the Withdrawal Agreement and in the EU negotiations on the future relationship with the UK. Member States will have a key role to play in ensuring that their customs, market surveillance, enforcement and competition authorities continue to co-operate with their UK counterparts. We urge the German Presidency to facilitate this process and to ensure that the future relationship paves the way towards continued co-operation in order to keep consumers safe. The German Presidency should also call on the Commission to keep the negotiations transparent and to involve consumer organisations.



What we need to succeed

When implementing the withdrawal agreement

- Inform consumers about what Brexit means for them by means of communication campaigns coordinated by both the Commission and Member States.
- Protect consumers when implementing the Withdrawal Agreement: UK and EU customs authorities should have sufficient resources to perform sound checks.

When negotiating the future relationship

- Make consumer protection a key objective of the future relationship: a dedicated consumer chapter should promote regulatory alignment and enhancement of consumer protection in the future.
- Ensure consumer access and choice in the area of goods and services: the future agreement should maintain a zero tariff/zero quota trade framework while ensuring sound import checks.
- Maintain regulatory dialogues to keep consumers safe: both sides should define mechanisms to enable the continuation of the existing co-operation between authorities and agencies in the future. Arrangements should be operational by the end of the year to prevent gaps in the case of a 'no-deal' situation.
- Assess the impacts on consumers: the impact assessment should notably look into the value of preserving consumer protection rules as far as possible in order to enable trade flows.
- Involve consumer organisations and prioritise transparency: negotiations on the future relationship should be as transparent as those on the Withdrawal Agreement.

ADDITIONAL SOURCES

Seven recommendations to secure positive outcomes for consumers after Brexit

[BEUC-X-2019-094](#)

3

Consumer Agenda

Why it matters to consumers

EU consumer policy has been an EU success story over the past 40 years and has greatly benefited Europeans. One of the reasons for this positive development is that policy makers are obliged to integrate the consumer interest into all relevant EU policy measures, based on a high level of protection. A holistic and strategic approach on how to fulfil these EU Treaty objectives is essential to meeting today's big challenges of the digital and green transition in the post-COVID economy. The consumer spending in the EU's planned 2021-2027 budget represents only circa 6 cents per year per capita. Putting consumers at the heart of the Single Market policies whilst providing strong protection of their health, safety, privacy and access to justice should indeed be a strategic priority for the European Commission and a central element of the 'New Generation EU'.

State of play

The current Consumer Agenda, that the **European Commission** adopted in 2012, expires this year. The European Commission has announced a New Agenda for mid-November 2020. The roadmap for this initiative was published on 23 June 2020 and a public consultation has been launched before the summer break. The New Agenda will be presented to the Competitiveness Council in November 2020.



Recommendations for the German Presidency

We call on the Presidency to support the European Commission's endeavour to put consumers at the heart of the post-COVID-19 recovery economy. Member States should be encouraged to pro-actively contribute to the Agenda, particularly with regards to aligning EU and national consumer policies and to support a stronger enforcement culture to make EU consumer law more effective.

We also recommend that the German Presidency sets up an annual Council meeting with ministers responsible for consumer policy (as part of a Competitiveness Council) which takes stock and discusses the implementation of the New Consumer Agenda.



What we need to succeed

We support the European Commission's proposals for the New Agenda as outlined in the Roadmap of 23 June 2020. Below we list a few of the key elements that the new strategy should embrace:

Consumers in the “green transition” – circular economy and sustainable production and consumption

Consumer policy is an essential tool to bring about the systemic changes we need in how we produce and consume. Prices for consumer products should be adapted so that the most sustainable choices become the most affordable. Consumers should be provided with products which last longer, are easily repairable, upgradeable, and recyclable and environmentally harmful products should be kept off the market. Consumers should have clear rights, such as the ‘right to repair’ and longer guarantee periods. Consumers also need much more reliable information about sustainable products and services and must be protected against misleading green claims.

The COVID-19 crisis further highlights the need for a revitalised chemicals policy to reduce the impact of future pandemics and to support socio-economic recovery by incentivising the production of safer, sustainable chemicals.

A fair, beneficial and safe digital transition

Due to the effects of new technologies and market dynamics, the power and tools that companies have is unprecedented. Consumer behaviour is and will increasingly be influenced in ways beyond their knowledge, understanding and control. AI-powered products and services and IoT (Internet of Things) devices are becoming more and more prominent in consumers' lives. In this context, every consumer is a vulnerable consumer by default and those consumers that were already particularly vulnerable (such as young consumers) are even more at risk. Consumers should be able to enjoy the innovations and benefits that digital technology can offer without compromising their rights.

The new Consumer Agenda should thus safeguard consumer choice, freedom, autonomy and self-determination in the digital age. This strategy should include specific measures to protect young consumers and children. It should support ambitious measures to ensure consumers are adequately protected when dealing with AI powered and/or connected products and services, that must be secure and safe, when buying goods and using services online (e.g. the fight against fraudulent, and abusive business practices, establishing a clear liability regime for online marketplaces) and ensuring better privacy protection via GDPR enforcement and a strong ePrivacy Regulation. It should also support the removal of remaining barriers for consumers in the Digital Single Market (e.g. geo-blocking of audiovisual services) and that consumers are able to use digital products and services in an open and non-discriminatory manner in practice (e.g. ensuring net neutrality and device neutrality). The new Consumer Agenda should also support measures to guarantee healthy competition and consumer choice in the Digital Single Market.

Effective enforcement

Enforcement has been for too long the Achilles heel of EU consumer policy. The New Consumer Agenda should make enforcement, and thus EU law, much more effective and coherent. Public authorities should more actively investigate both national and cross-border infringements, reinforcing each-other's activities and closely cooperating with consumer associations. They should develop an interdisciplinary approach to issues involving consumer protection in the data economy, which often entails consumer, data protection, competition and also sectoral fields of law.

With the new Representative Actions Directive in place in all European countries, consumer associations should be supported by governments to become strong private enforcers, both with regards to injunctions

and collective redress actions. This will deliver better access to justice and more equality for all European consumers, as well as ensuring that consumer markets will be fair and transparent for competitors too.

Finally, solutions are needed to ensure that traders from non-EU countries do not get away with breaking EU consumer law.

Integrating the consumer interest into sectoral policy areas

With the New Consumer Agenda, the College should give clear guidance and objectives to all services in the European Commission on how to strategically integrate the consumer interest into sectoral policies and how strong consumer protection should be accounted for. Sectoral policies like food and food safety, product safety and market surveillance, financial services and energy markets as well as transport policy and passenger rights should be clearly identified and objectives set with the most relevant measures also listed in the Agenda.

We provide specific recommendations on the pending and future initiatives in the respective sectoral chapters of this Memorandum as below.

Global world – trade as a consumer policy

EU trade policy must bring benefits to consumers while preserving the ability of the EU to regulate in the consumer interest. We call on the Commission to ensure that trade is also seen as a policy with a big impact on consumers and to propose ways to deliver both benefits and protection to consumers in global markets. The review of EU trade policy in 2020 and any new trade agreements such as WTO e-commerce, must ensure strong consumer protection and increase consumer choice at competitive prices. By making trade agreements, regulatory dialogues and investment disputes friendlier to consumers, the Commission could restore public trust in trade and guarantee a more consensual ratification process.

The UK will fully exit the EU at the end of 2020. The EU must secure a positive outcome for consumers after Brexit. This should be done in the future partnership but also by urgently finding arrangements to maintain the cooperation between EU and UK authorities.

A strong consumer movement

Strong consumer organisations who are active on a national level, or as part of a network at EU level, are essential for consumer trust in the Single Market as well as in our democracies and societies. They are also vital to ensure well informed and democratic EU decision making, counter-balancing the overwhelming resources of the private business sectors to make their voices heard. The New Consumer Agenda should set up new structures and processes for constant dialogue and cooperation between EU and national decision makers and EU and national consumer organisations. Such enhanced cooperation – that should expand to the authorities in charge of the enforcement of consumer rights – will lead to more consumer-friendly legislation and policy making, as well as the practical enforcement of consumer rights. This will bring the EU closer to its citizens.

4

The EU's recovery budget

Why it matters to consumers

The COVID-19 crisis has disrupted everybody's lives. The first priority for the EU and national governments was to strengthen health care systems and take emergency measures in light of a plummeting economy. In order to support Member States in their efforts to rebuild the economy and help businesses and citizens in need, the European Commission proposed a recovery plan for Europe.

Consumers have also been severely hit by the pandemic and will further suffer from the economic downturn. Many have lost their income, are struggling to repay credit or worry about how to cope with their energy bills. At the same time, their emotional vulnerability is being exploited by rogue traders, they are witnessing disruption in the supply of important medicines and governments are discussing crisis responses which may put their privacy at risk. Consumers should be at the forefront of considerations when assessing the impact of relevant emergency and economic measures.

EU consumer policies have positively impacted people's daily lives. Through its Consumer Programme, the EU funds for example a product safety rapid alert system, coordinated enforcement actions, an online dispute resolution platform, and the representation of consumer interests at EU level. Not only does the EU influence consumer policy through its legislative initiatives, it also financially supports European consumer organisations, thus enabling them to bring the consumer perspective to the EU policy debate. These policies and actions require corresponding financial support.

State of play in legislative procedure



To help repair the economic and social damage brought by the COVID-19 pandemic and to ensure a quick European recovery, the **European Commission** proposed a major recovery plan and an increase of the EU budget. Many EU policies will now be adapted to the economic recovery needs. The updated proposal for the EU's next long-term budget (the so-called Multiannual Financial Framework, including the Single Market Program and consumer policy program) will be negotiated with a different perspective.



The proposed changes to the draft budget have led to several welcome enhancements in the funding of consumer relevant policies, such as the European Health Programme or the funding of the building renovation wave. The **Council**, after obtaining consent from the European Parliament, will adopt the MFF regulation.

Recommendations for the Presidency



We call on the German Presidency to ensure that the needs and expectations of European consumers are a central consideration when discussing the recovery package and the new long-term EU budget. We expect the German Presidency to help deliver a budget that allows the EU to demonstrate to its citizens the added value of belonging to a strong political and economic union; a union which delivers in times of a health crisis, economic recession and sustainable and digital transformation. Regaining people's trust in EU politics and institutions should be an important objective for the next Multiannual Financial Framework and a strengthened consumer policy envelope is an essential part in reaching this objective.

What we need to succeed

- Guarantee EU level funding for consumer protection organisations in the EU's consumer policies to ensure EU and national decision making informed by and focussed on public-interest considerations.
- Introduce initiatives to support the financial sustainability of national consumer organisations, such as requiring their meaningful and remunerated participation in consumer-relevant research and innovation programmes.
- Continue European capacity-building projects, which have enabled the training of consumer professionals in countries with less affluent consumer movements.
- Strengthen public and private enforcement to ensure real impact for consumer rights. This could partly be financed through redirecting EU competition fines to fund consumer projects.
- Increase activities that ensure strong human health protection. We support the ambitious agenda for the funding of European health policy activities beyond 2020. There has never been a stronger case or a more vital moment for the EU to step up its work on health protection. The COVID-19 crisis has taught us about the vulnerabilities of the EU health system, but also about the potential to prevent the consequences of such pandemics by strong and ambitious preventative public health policy (i.e. prevention of chronic diseases).
- Use the funding allocated in the amended MFF for different health initiatives or the sustainable and digital transformation to support EU measures that meet public interest objectives.

ADDITIONAL SOURCES

COVID-19 – implications for consumers and BEUC recommendations for policy responses

[BEUC-X-2020-018](#)



FINANCIAL SERVICES

1

EU secondary market for non-performing loans

Why it matters to consumers

The European Commission has proposed the creation of a single – secondary – market for non-performing loans (NPL). This would enable banks to easily sell soured loans to third party investors, including so-called ‘vulture funds’,³ established in any EU country or outside the EU.

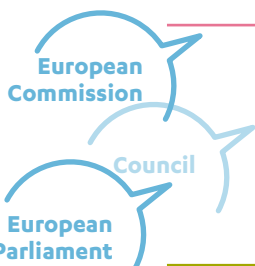
This initiative is against the interests of borrowers who are in financial difficulty, as they would be exposed to credit purchasers and credit servicers (debt collectors) located in other countries. And these risks will become even more substantial, as consumer over-indebtedness is expected to rise as a result of COVID-19. Furthermore, it is unlikely that a supervisory authority would monitor the practices of a passported debt collector registered in their country but operating in another one.

State of play in legislative procedure

The **Commission’s** proposals for the NPL directive were published in March 2018. The **Council’s** general approach was adopted in March 2019, while the **European Parliament’s** Committee on Economic and Monetary Affairs is still to adopt its position.

Recommendations for the Presidency

We urge the German Presidency to ensure that the interests of individual borrowers are protected under the NPL Directive. NPLs in Europe are a legacy of the recent financial crisis and irresponsible lending practices by some financial institutions. Higher NPL volumes are expected in the light of the COVID-19 pandemic. Therefore, the solution to the problem of non-performing loans must not be borne by distressed borrowers alone. Exposing these borrowers to debt investors and collectors is not an adequate and sustainable way to tackle NPLs.



3 | Vulture funds are various forms of private equity firms and pension funds that invest across a series of asset classes, one of which is debt.

What we need to succeed

- The scope of the Directive should be limited to non-performing loans, while forbidding credit institutions from selling performing credit agreements to third parties. We welcome the Council's position that limits the scope of the instrument to NPLs alone.
- Whenever the borrower is in financial difficulty, the lender should exercise forbearance measures in line with Article 28 of the Mortgage Credit Directive and the European Banking Authority Guidelines on arrears and foreclosure.
- Credit servicers dealing with distressed borrowers should be required to obtain an authorisation from and to establish a branch or a subsidiary in the Member State where they intend to operate. Furthermore, they should be supervised by that same country's authority. The Council's position improves the directive by granting stronger supervisory power to host state authorities.
- When a credit institution intends to transfer a credit agreement to a credit purchaser at a specified price, the credit institution should allow the debtors (individual households) to buy back their debt at the same discounted price or with a small mark-up.
- Distressed borrowers should have strong protection from unfair behaviour by credit servicers and credit purchasers. This requires subjecting credit servicers and credit purchasers to strict conduct rules.
- Distressed borrowers should have the right to receive free or affordable legal support when in court. This ensures equal representation of the borrower and the lender or a third party.
- Member States should be able to maintain existing national measures aimed at protecting distressed borrowers, as well to adopt stricter measures.

ADDITIONAL SOURCES



Secondary market for non-performing loans: The European Commission's proposal is a bad deal for distressed borrowers
BEUC position paper

BEUC-X-2018-068

2

Review of the Markets in Financial Instruments Directive (MiFID II)

Why it matters to consumers

Consumers must be able to rely on impartial, competent and trustworthy financial advice when taking investment decisions, such as saving for a rainy day or investing for their retirement.

Unfortunately, BEUC and our member organisations have long-held concerns about the quality and fairness of the financial advice given to consumers. The payment of inducements (or ‘kickbacks’) to financial advisers continues to lead to conflicts of interest; in other words, advisers tend to recommend products in their own interest, and not necessarily that of the consumer.

Under MiFID II, the payment of inducements to independent financial advisers was banned. However, non-independent advisers can continue to receive inducements as long as they meet certain conditions. BEUC is strongly concerned that the payment of inducements unduly influences the advice given to consumers.

In countries where full bans on inducements have already been implemented, like in the UK and the Netherlands, studies show a reduction in conflicts of interest for advisers. Furthermore, simpler and more cost-effective investment products were sold to consumers. For instance, a UK study showed that while as much as 60% of British fund savings were injected into the most expensive investment funds prior to the UK ban, the proportion had fallen to 20% almost two-and-a-half years after the ban came into place.

State of play in legislative procedure



In 2020, the **European Commission** launched a public consultation on the review of the Markets in Financial Instruments Directive (MiFID II). The consultation addresses several questions related to the investor protections afforded under this legislation for consumers when taking financial advice, including whether an outright ban on the payment of inducements to financial advisers should be implemented in order to improve access to independent investment advice for European consumers. The European Commission is expected to submit a legislative proposal to review MiFID II legislation during the German Presidency.

Recommendations for the Presidency



We urge the German Presidency to ensure that consumers are given independent and trustworthy advice when making investment decisions. Consumers need to be able to rely on qualified advisers who have their clients’ best interest at heart when making investment recommendations.

What we need to succeed

- A ban on the payment of inducements to financial advisers. This generates a conflict of interest that leads to biased financial advice for consumers. Financial advisers should be banned from receiving inducements and should be required to charge a separate fee to their clients for the cost of advice so as to ensure that their interests are aligned.
- A requirement that all financial advisers are adequately qualified to provide investment advice to consumers. Increased training and qualification of financial advisers would translate into better financial outcomes for consumers and would more generally enhance confidence and trust in the financial advice industry. Financial advisers should be required to follow continuing professional development courses to ensure that they are adequately qualified to provide investment advice.

ADDITIONAL SOURCES

The case for independent advice
Factsheet

[BEUC-X-2019-049](#)

Review of MIFID II
BEUC consultation response

[BEUC-X-2020-047](#)

The case for banning commissions
in financial advice
Position paper

[BEUC-X-2019-046](#)

3

A new digital finance strategy for Europe

Why it matters to consumers

The digitalisation of the financial sector is transforming the way financial markets work for consumers. New digital players in financial services could spur innovation, improve competition with traditional financial services providers, and lead to the development of new services for consumers. Yet while digitalisation and innovation-based competition in the financial industry can bring new benefits to consumers, there is also a potential for new risks to emerge. It is thus important that all digital financial services providers and products are properly regulated and supervised, and that the access to and use of consumer data takes place in a safe and ethical environment and with the full control of the consumer.

State of play in legislative procedure

As announced in its work plan, the **European Commission** will unveil a new digital finance strategy for Europe in the third quarter of 2020. To develop this new strategy, which will build on the 2018 FinTech Action Plan, the Commission held a public consultation between April and June of this year.



Recommendations for the Presidency

While digitalisation and innovation-based competition in the financial industry can bring new benefits to consumers, there are also new risks that could emerge. The following must be carefully monitored: new digital providers and products that fall outside the existing regulatory and supervisory regime; the increased use of sensitive data without the true or informed consent of the consumer; threats to data protection and user privacy; consumer detriment resulting from the inappropriate use of artificial intelligence tools and new cybersecurity; and operational risks related to digital services.

We urge the German Presidency to ensure that the new digital finance strategy contains policy proposals and safeguards that will enable financial consumers to reap the full benefits of digitalisation and the data economy.



What we need to succeed

- Access to consumer data by third parties must take place in a safe environment and under full control of consumers. Consent must be informed and explicit and its withdrawal made easy. Clear liability rules are needed in case of security breaches and data misuse.
- A horizontal legal framework should be adopted that sets out the main principles for regulating artificial intelligence and automatic decision-making systems and that ensures fairness, transparency, accountability and control. In the area of financial services, especially in insurance and lending, the risks for consumers could be especially high. To this end, specific new rules on artificial intelligence (AI) need to be adopted to ensure that insurance consumers and borrowers do not face discrimination or potential harm. (See the dedicated chapter on AI.)
- All currently unregulated market actors and services should be brought within the relevant regulatory scope (e.g. peer-to-peer lending, cryptoassets), and all consumer protection provisions should be applicable irrespective of the way that financial services are provided to consumers.
- Passported financial institutions should not escape the supervisory radar. It is important to clearly set out and allocate responsibilities between competent authorities in the home and host countries with regard to the application of consumer protection and the conduct of business provisions.

ADDITIONAL SOURCES

Consumer-friendly open banking: Access to consumers' financial data by third parties
BEUC-X-2018-082

Digital finance
Response to consultation
BEUC-X-2020-061

For more information: financialservices@beuc.eu



Consumer Rights

1

Revision of the Rail Passenger Rights Regulation

Why it matters to consumers

There is growing interest amongst passengers in more sustainable ways of transport. As rail will undoubtedly play a central role in the way Europeans travel in the future, it is essential that consumer-friendly rail policies lend the necessary support to this trend.

Levels of consumer protection differ significantly across Member States, as national legislatures have implemented exemptions to the protections included in the current EU Regulation. In order to fully enjoy travelling by rail, passengers need more legal certainty, strong and enforceable rights, and equal treatment no matter where they travel in the EU.

State of play in legislative procedure



In September 2017 the **Commission** published a legislative proposal for a recast of the current Regulation, which dates from 2007.

The **European Parliament** adopted an ambitious position on this proposal in November 2018. This position calls for the deletion of the clause on force majeure, for the mandatory provision of through tickets, and for higher compensation levels.

The **Council** reached a common position at the Transport Council in December 2019. The inter-institutional negotiations were launched in January 2020, but due to the COVID-19 crisis were suspended and restarted in June.

Recommendations for the Presidency



We ask the German Presidency to ensure that the ongoing discussions on the rail passenger rights proposal move forward quickly. The current reform is a great opportunity for the German Presidency to send a strong political message to European passengers and to promote alternative modes of transport. The promotion of rail must be coupled with the introduction of strong rights for travellers, so that passengers' rights are strengthened and not reduced in the ongoing negotiations.

What we need to succeed

- The new proposal for the revision of rail passenger rights is a positive step forward. It reduces the number of national exemptions from the scope of application, increases the transparency of rail services, and facilitates national complaint handling mechanisms. However, it unjustifiably reduces consumer protection in the case of ‘force majeure’ incidents. and does not provide easy access for consumers to so-called ‘through tickets’. Such tickets, which allow passengers to buy several railway services in one ticket, would enable easier booking for consumers as well as coverage by rail passenger rights for the entire journey.
- The possibility to use national exceptions should be further removed, both in time and in scope.
- The provision of through tickets should be mandatory.
- Passengers should be able to rely on fair compensation.
- The new proposal should not allow for an exception linked to extraordinary circumstances.
- The implementation of a comprehensive system for dealing with consumer claims is key for effective consumer protection.
- Increased powers should be granted to the National Enforcement Bodies (NEBs) so that they can efficiently monitor compliance with rail passenger rights legislation.
- All operators should be obliged to adhere to an Alternative Dispute Resolution (ADR) scheme, without prejudice to the right of the parties to seek legal action in court.
- Complaint handling procedures should be implemented by all rail operators, and should include deadlines to be respected when dealing with complaints.
- Automatic compensation schemes should be available to passengers where technology allows it.

ADDITIONAL SOURCES

Rail Passenger Rights Regulation Recast
Position paper
BEUC-X-2018-014

European Year of rail 2021: BEUC’s proposals
to move towards a consumer-oriented
rail system
BEUC-X-2020-041

Rail Passenger Rights Regulation Recast: Consumer
recommendations for trilogue negotiations
Position paper
BEUC-X-2019-101

2

Revision of the Air Passenger Rights Regulation

Why it matters to consumers

The existing Air Passenger Rights Regulation (No 261/2004) has significantly improved the situation of passengers through the granting of basic rights. However, enforcement of these rights has been defective and inconsistent. Problems remain widespread, and consumer complaints of poor compliance have risen steadily. Unclear and incomplete information from airlines – including information on the right to compensation – has caused a great deal of consumer frustration and chaos. Over the past years, this was demonstrated by Ryanair’s mass cancellation practices: passengers were often left in the dark, not knowing whether their flight would be cancelled and whether they would reach their planned destination on time.

These and other examples are evidence that passengers are often left with the sole alternative of taking legal action against non-compliant airlines, although few are in the position to actually 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 in the process, and the CJEU rulings should be codified in EU law. The COVID-19 crisis has further demonstrated how important it is for European consumers to be able to rely on clear and enforceable passenger rights, and how enforcement against unfair practices in the sector needs to be strengthened.

State of play in legislative procedure



European Commission

BEUC gave a lukewarm welcome to the **European Commission’s** spring 2013 proposal to update the Air Passenger Rights Regulation. Our reservations focused mainly on the weakening of some of the existing rights (notably with regard to how to establish the delay that triggers compensation, and requests for assistance and compensation in ‘extraordinary circumstances’).



European Parliament

The **European Parliament’s** position adopted in February 2014 considerably improved the Commission’s proposal on many issues, but negotiations in the **Council of Ministers** soon became deadlocked. Only during the Croatian Presidency did the Council recommence the negotiations on the key elements of the proposal and chart the way forward.



Council

In January 2020, the **Commission** published a study on the protection of EU passenger rights that highlights the great number of issues encountered by European passengers in enforcing their rights.⁴ The recent COVID-19 crisis has further underlined these shortcomings, with many airlines refusing to respect or enforce consumer rights.⁵

Recommendations for the Presidency



German Presidency

In the case that the German Presidency will continue discussions on EU passenger rights, we call for a focus on improving the protection and the enforcement of air passenger rights.

4 | https://ec.europa.eu/transport/themes/passengers/news/2020-01-13-air-passenger-rights-study_en

5 | https://www.beuc.eu/publications/beuc-x-2020-015_letter_to_commissioner_valean_on_apr_in_the_covid.pdf

What we need to succeed

- Airlines should compensate passengers when delayed arrivals exceed three hours, as per the CJEU Sturgeon ruling.
- The right to compensation should not depend upon a proactive request by the passenger. To the contrary, innovative schemes should be considered to strengthen the enforcement of the Regulation. These could include automatic compensation schemes; binding decisions of Alternative Dispute Resolution (ADR) bodies; or an expansion of the applicability of individual enforcement decisions to all passengers travelling on the same flight and thus having the same cause for compensation.
- 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 (so-called 'no-show clauses').
- The majority of 'technical problems' should not qualify as 'extraordinary circumstances'; staff strikes should never be considered as 'extraordinary circumstances'.
- The general right to accommodation in extraordinary circumstances must be maintained.
- 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 the European Parliament position in 2014 and confirmed by its resolution following the bankruptcy of Thomas Cook in 2019.
- 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

EU Air Passenger Rights and Enforcement: Real improvements are needed
BEUC updated position paper
BEUC-X-2019-083

Enforcement of air passenger rights in the COVID-19 context
Letter
BEUC X-2020-015

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

The consumer mission letter for transport
Letter to Commissioner Vălean
BEUC X-2019-087

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

Enforcement of air passenger rights in the COVID-19 context: BEUC comments, concerns and recommendations
Letter to Commissioner Vălean
BEUC X-2020-015/MGO/UPA/rs

Protection of passengers in case of insolvency of airlines
BEUC Position
BEUC X-2011-105

For more information: consumer-rights@beuc.eu



DIGITAL RIGHTS

1

Digital Services Act

Why it matters to consumers

Shopping, connecting with friends and family, sharing experiences, watching a movie, planning a night out, moving around a city and searching for information on the web: these are just some of the activities that millions of consumers carry out every day. And for each of these activities there exist multiple online platforms to facilitate and deliver these services.

Consumers have embraced the surge of the platform economy, which presents numerous benefits but also brings major challenges in the areas of competition, consumer protection and safety. Over the years, BEUC member organisations have conducted extensive research and testing on unsafe and illegal products sold online. These products range from dangerous chargers to dysfunctional child car seats, illegal cosmetics, unsafe toys and more. Although the Digital Services Act offers an opportunity to maximise the benefits of the online economy, it must address some of the increasingly serious problems that accompany these platforms.

State of play in legislative procedure



The **European Commission** has proposed a Digital Services Act to upgrade the EU's liability and safety rules, and proposes to explore the establishment of ex-ante measures for gatekeeping platforms. In June, the Commission launched three public consultations to feed into the forthcoming package proposal, which is expected by the end of 2020.

Recommendations for the Presidency



BEUC urges the German Presidency to support an ambitious Digital Services Act that will bring a change in the status quo by improving safety and consumer protection and by strengthening the Single Market. We encourage the German Presidency to promptly kick off the negotiations and to take into account the calls of consumer organisations to enhance the liability and obligations of platforms, and particularly online marketplaces.

What we need to succeed

The EU needs a positive liability framework, complemented by an obligation toolbox and strong and coordinated enforcement. BEUC also recommends ex-ante measures for gatekeeping platforms in order to contribute to a more competitive market that benefits and protects consumers.

When upgrading liability and safety rules for digital content, services and products:

- Consumer protection and online safety must feature prominently as guiding objectives of the reform of the e-Commerce Directive. The Digital Services Act (DSA) must complement and establish a consistent legal framework with other relevant legislation. And as self-regulation has proven to be ineffective and insufficient, additional regulatory obligations for platforms are needed.
- The rules of the DSA should apply to all service providers, irrespective of whether they are established in the EU or in a third country.
- The DSA should set up a toolbox of obligations for all platforms, as appropriate, comprising at least:
 - A robust business user authentication and verification process for services and products offered or facilitated on platforms, which at the same time preserves consumer anonymity.
 - Principles for notice and action procedures.
 - Meaningful transparency and information requirements, also for advertising.
- The DSA should create a special liability regime for online marketplaces so that they
 - are liable upon obtaining credible evidence of illegal activities, without incurring a general duty to monitor the activity of platform users.
 - are liable for damages, contract performance and guarantees. Consumers must be able to exercise the same rights and remedies against the supplier or producer:
 - for failure to inform about the supplier of the goods or services.
 - for providing misleading information, guarantees or statements.
 - in the case that the platform has a predominant influence over suppliers.
 - enjoy the right to redress towards the party at fault.
- The DSA must preserve the consumer contracts derogation to the country of origin principle.
- As digital markets evolve quickly and the relevant authorities do not seem to have the required expertise or resources to monitor and tackle the problems of the market, it is important that the DSA establishes a solid oversight and enforcement mechanism.

When adopting ex-ante rules for gatekeeping undertakings:

- Experience shows that the immense market power of some platforms can be detrimental to consumers when these platforms engage in practices that prevent companies from competing on the merits of their products and services. Ex-ante regulation aimed at promoting competition thus has the potential to open up markets to serve consumer choice and to drive innovation beyond what can be achieved by competition law enforcement alone. In this regard, targeted prohibitions on self-preferencing or other forms of discrimination by undertakings with significant market power and in strategic market positions, as well as the elimination of other anticompetitive barriers to entry, may be beneficial in guaranteeing a balanced and competitive digital ecosystem

ADDITIONAL SOURCES

Making the Digital Services Act work for consumers: BEUC's recommendations
Position paper
[BEUC-X-2020-031](#)

Two-thirds of 250 products bought from online marketplaces fail safety tests, consumer groups find
[BEUC-PR-2020-006](#)

2

Artificial intelligence

Why it matters to consumers

Artificial intelligence (AI) and Algorithmic Decision Making (ADM) are changing the way in which consumer markets and our societies function. AI holds out big promises to make our lives easier and our societies better. It is powering a whole range of new products and services, from digital assistants to autonomous cars as well as all sorts of ‘smart’ devices. All of this can bring benefits for consumers, but the widespread use of AI also raises many concerns. Consumers are at risk of being manipulated and subjected to discriminatory treatment and arbitrary, non-transparent decisions. It is essential to ensure that consumers have strong and tangible rights that allow them to defend themselves when necessary and that empower them to reap the benefits of the digital transformation of our societies.

State of play in legislative procedure



The President of the new **European Commission**, Ursula Von Der Leyen, announced in her political priorities that the Commission will prepare legislation for a coordinated European approach on the human and ethical implications of AI within the first 100 days of her mandate. In February 2020, the Commission presented a White Paper that outlines the main elements of a possible new regulatory framework for AI. The paper was open for consultation until mid-June. The Commission is expected to present its proposal for a new AI framework during the first quarter of 2021.

Recommendations for the Presidency



Artificial intelligence is set to change everything as we know it. In its policy discussions on new technologies and the Digital Single Market, we urge the German Presidency to support the creation of a solid legal framework in order to ensure that AI develops in a way that respects fundamental and consumer rights and values and makes our lives better. The EU can be a global standard setter in this area, much like it has been with the General Data Protection Regulation.

What we need to succeed

- Strong, enforceable rules to ensure the fair and safe use of AI technology: Europe needs a horizontal legal framework that sets out the main principles for the regulation of AI and algorithm-based decision making.
- The new framework should be built on the basis of a risk-based approach but should not be limited in its scope to those AI and ADM applications considered as high risk. Legal obligations should gradually increase in parallel to the identified level of risk, starting from the principle that some basic obligations (e.g. regarding transparency) should be applicable to all AI/ADM applications. Thereon, the greater the potential of algorithmic systems to have adverse impacts the more stringent the legal requirements should be.
- New rules should also encompass provisions on the admissibility and design of algorithmic systems and organisational and technical safeguards, and they should establish an effective supervision and enforcement system. A high level of consumer protection must be ensured via a combination of independent ex-ante verification mechanisms and continued ex-post compliance checks.
- Consumers must have a strong set of rights enshrined in law, including:
 - the right to transparency, explanation and objection
 - the right to accountability and control
 - the right to fairness
 - the right to non-discrimination
 - the right to safety and security
 - the right to access to justice
 - the right to reliability and robustness
- In addition to the new rules to regulate AI/ADM, relevant existing legislation such as the General Product Safety Directive and the Product Liability Directive should be reviewed and updated to ensure that consumers are adequately protected against the risks posed by AI/ADM in all areas. The consumer law acquis should be examined and adapted so that it is fit for meeting its objectives, also with regard to the use of AI technology.

ADDITIONAL SOURCES

Automated Decision Making and Artificial Intelligence: A Consumer Perspective
Position paper

[BEUC-X-2018-058](#)

BEUC's response to the Commission's White Paper on AI
Position paper

[BEUC-X-2020-049](#)

AI rights for consumers
Position paper

[BEUC-X-2019-063](#)

Telecoms Council meeting 3 December: Informal discussion on artificial intelligence and automation
Letter

[BEUC-X-2019-076](#)

AI must be smart about our health
Position paper

[BEUC-X-2019-078](#)

3

Cybersecurity

Why it matters to consumers

The number of connected devices and digital services is skyrocketing, and interconnectivity between products and services is reaching all sectors of society including transport, health, banking and energy. While digitalisation provides many benefits for consumers and society, the risks and challenges it brings are equally if not more important. There were several cybersecurity threats against critical infrastructure including hospitals during the peak of the COVID-19 pandemic. If they had materialised, hospitals would have become paralysed and the impact on society would have been devastating. Ensuring cybersecurity is one of the most fundamental challenges we face in the digital age.

State of play in legislative procedure



The **European Commission** Revised Work Programme for 2020 announced a European Cybersecurity Strategy. This Strategy includes the revision of the Network and Information Systems (NIS) Directive during the fourth quarter of 2020.

Recommendations for the Presidency



We urge the German Presidency to support an ambitious Cybersecurity Strategy that ultimately takes full account of the needs of consumers and the importance of a secure Internet of Things (IoT). This should include a new horizontal cybersecurity law that establishes mandatory minimum security requirements for all connected products. During the review, we call on the German Presidency to focus on ensuring a consistent application of the NIS Directive across the entire EU as well as on establishing a broader scope of application.

What we need to succeed

For a horizontal cybersecurity law:

- The law should establish mandatory minimum security requirements that are horizontally applicable to all consumer products and their associated services, including inter alia:
 - Security by design and provision of security updates. When put on the market, IoT products should be protected against any known vulnerabilities. Security updates must be made available for the duration of the expected lifespan of the product and must be in line with consumers' expectations.
 - Strong authentication requirements. Unique and complex passwords should be the default setting of connected products, and consumers should be required to choose strong passwords in case they want to change the default one.
 - Encryption requirements. Companies must encrypt the data that is transmitted and stored by their products and services.
- The law should also have strong enforcement provisions that enable national authorities to remove insecure products from the market and allow consumers to benefit from effective remedies if something goes wrong (e.g. compensation).

For the review of the NIS Directive:

- The application of the Directive, in particular the selection of 'operators of essential services', must be consistent all across the EU.
- The Directive should not enable Member States to exclude any key sectors of society – such as those mentioned in Annex II of the Directive – from its scope.
- The review must include social media platforms in the definition of 'Digital Service Providers'.
- The provisions on incident reporting should be aligned with the rules established in other EU legislation such as the General Data Protection Regulation (GDPR) and the Payment Services Directive.

ADDITIONAL SOURCES



Keeping Consumers Secure – How to tackle cybersecurity threats through EU Law
Position paper
[BEUC-X-2019-066](#)

4

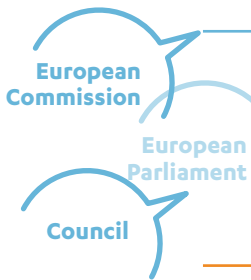
ePrivacy

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 ensure that consumers can benefit from innovative online services without having to give up their privacy rights.

State of play in legislative procedure

In January 2017 the **European Commission** put forward a proposal for a regulation on ePrivacy. In October 2017 the **European Parliament** adopted a very strong and consumer-friendly position as its mandate for trilogue negotiations. The negotiations for a general approach are still ongoing in the **Council**.



Recommendations for the Presidency

We urge the German Presidency to swiftly reach a general approach in Council and to start trilogue negotiations on the proposal for the ePrivacy Regulation as soon as possible. The review must not lead to a lower level of protection when compared to the existing ePrivacy Directive. It must guarantee the protection of confidentiality in all electronic communications services, and must protect consumers against unwanted online tracking and unsolicited commercial communications. Hardware and software used by consumers must by default provide the highest level of privacy protection. The ePrivacy reform is essential for strengthening individuals' right to privacy and the confidentiality of communications, as well as for rebuilding and reinforcing public trust and security in the digital economy.



What we need to succeed

- As a principle, electronic communications must be confidential. Over-the-top services (OTTs) must be duly covered by the Regulation. In line with the European Parliament's position, it should not be possible to process electronic communications data under broad legal grounds such as for 'legitimate interests' or 'compatible purposes'. Whereas the processing of metadata without prior user consent for statistical counting could be envisaged, this must be subject to strong safeguards and strictly limited to purposes of public interest.
- Default settings in devices and software should be configured to provide the highest level of privacy protection, in line with the European Parliament's position. An obligation to simply provide information about the privacy settings would not be sufficient from a consumer privacy protection perspective, and would undermine the 'data protection by design and by default' principle enshrined in Article 25 of the General Data Protection Regulation (GDPR).
- The behaviour and activities of users should not be monitored without their consent, and they should have access to digital services without being forced to accept unnecessary invasions of their privacy, as stated in the Parliament's position. In particular, making access to a service conditional on the acceptance of cookies that process personal data that are not necessary for the provision of that service should not be allowed. This would go against Article 7.4 of the GDPR.
- Users should be able to mandate NGOs to represent their interests, and NGOs must be able to take initiative whenever users' rights have been breached, in line with the European Parliament's position.
- Council must introduce specific provisions to protect the privacy of children, as Parliament ultimately neglected to do so.

ADDITIONAL SOURCES

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

BEUC's views on Austrian Presidency proposed Amendments
[BEUC-X-2018-070](#)

Proposal for a regulation on privacy and electronic communications (ePrivacy)
 Position paper
[BEUC-X-2017-059](#)

Open letter to EU member states from consumer groups, NGOs and industry representatives in support of the ePrivacy Regulation
[BEUC-X-2019-056](#)

Factsheet on ePrivacy
[BEUC-X-2017-090](#)

COREPER 22 November: Improvements needed in Presidency compromise text
 Letter to Finnish Presidency
[BEUC-X-2019-071](#)

Infographic: Consumers caught in a tracking web
[BEUC-X-2017-102](#)

For more information: digital@beuc.eu



FOOD

1

Farm to fork: A fair, healthy and environmentally-friendly food system

Why it matters to consumers

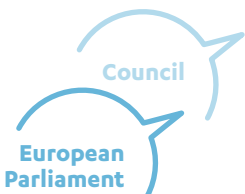
Food production and consumption in the EU is currently not sustainable from the environmental, economic or social points of view. Of all of the activities linked to household consumption, food consumption has the largest environmental impact. Furthermore, what consumers put on their plates is not in line with healthy eating guidelines: on average, Europeans eat too much energy-dense food (high in fat, sugars and salt). The consumption of red and processed meat is also too high, while that of fruit, vegetables, pulses, nuts and wholegrains is insufficient. COVID-19 brought a stark reminder of the importance of good health, which is generally defined by what and how much we eat.

A survey recently published by BEUC shows some encouraging trends regarding consumer willingness to adopt more sustainable food habits. But these trends are not commensurate with the shift that experts say is needed. Price, lack of information and the challenge of identifying sustainable food options, as well as their limited availability, are the main perceived barriers to sustainable eating for consumers.

State of play in legislative procedure



On 20 May the **European Commission** published the Farm to Fork Strategy, which should shift EU food production and consumption onto a more sustainable path. A major component of the overarching European Green Deal, the strategy comes together with an action plan listing 27 measures (many still subject to consultations and impact assessments) that pave the way for greener food production, healthier and more sustainable diets, and less food waste.



The Farm to Fork Strategy has been communicated to the **Council** and the **European Parliament**, who are expected to react to the Commission's proposals.

Recommendations for the Presidency



Given the significance and relevance of the Farm to Fork Strategy to European consumers, we urge the German Presidency to foster discussion on its contents among the Member States. We would welcome the development of Council Conclusions as a sign of the political importance attached to this strategy by the Council.

What we need to succeed

- Food production must become more sustainable all along the supply chain. BEUC welcomes the ambitious targets set by the Farm to Fork Strategy, e.g. for reducing the use of pesticides and antimicrobials in farming.
- In order for consumers to make better informed choices, food labelling must be improved. This must include:
 - A mandatory EU-wide front-of-pack nutritional label to make the healthy choice easier for consumers. Evidence to date shows that Nutri-Score is the best-performing labelling scheme in aiding consumers to compare the nutritional value of foodstuffs.
 - Mandatory country-of-origin labelling for milk, as well as for meat and milk used as ingredients in processed foods. Indication of the origin of fresh meat should also become compulsory in restaurants and in the food service sector.
 - Nutrient profiles to prevent food that is high in fat, sugars and/or salt from claiming nutritional or health benefits.
- However, a focus on consumer choice and individual responsibility alone will not be sufficient to bring about the significant changes in food habits that are required. The food environment (i.e. all factors that shape consumer choices, such as pricing, availability and marketing) must change in a way that makes it easy for consumers to adopt healthy and sustainable diets. Specifically:
 - More than a 'code of conduct', we need binding restrictions on the marketing of food that is high in fat, sugars and/or salt to children.
 - BEUC welcomes the Farm to Fork Strategy ambition to ensure that the most sustainable food also becomes the most affordable.
 - There must be greater coherence between the various EU policies (agriculture, health, environment, trade, etc.) that affect food. All forms of agricultural subsidies and promotion policies should be better aligned with recommendations for healthy and sustainable diets. Likewise, the EU's trade policy needs to be an enabler rather than a creator of obstacles on the journey towards food sustainability.

ADDITIONAL SOURCES

One bite at a time: consumers and the transition to sustainable food
BEUC survey [BEUC-X-2020-042](#)

Joint letter to the European Commission regarding mandatory Nutri-Score
[BEUC-X-2020-029](#)

Front-of-pack nutrition labelling
Beuc Position
[BEUC-X-2019-033](#)

Towards greener and healthier food for European consumers
BEUC's take on the Farm to Fork strategy
[BEUC-X-2020-057](#)

For more information: food@beuc.eu



HEALTH

1

EU Health Programme and lessons learnt from COVID-19

Why it matters to consumers

The COVID-19 crisis represents an unprecedented challenge for our healthcare systems. It has brought to light significant shortcomings in EU and national public health policies. The pandemic and the ensuing response have disrupted medicine supplies in the European Union, while the cost of some basic drugs has jumped (by as much as 30% for some painkillers) due to raw material shortages. And although vast sums of public money have rightly been allocated to the development of vaccines and treatments, little attention has been paid to ensuring the affordability for consumers and governments of the healthcare products developed via this funding.

The crisis has also provided new momentum to the digitalisation of health and care, for example through the deployment of COVID-19 tracing apps. Although digitalisation holds the potential to significantly advance our knowledge about disease prevention and treatment, health data also contains the most sensitive details about individuals' medical histories and well-being. As such, guaranteeing data privacy, security, accuracy and the inclusion of consumer needs is imperative in order for consumers to benefit from the advantages offered by digital health.

State of play in legislative procedure

On 27 May, the **European Commission** presented a recovery package that included a proposal to establish a new standalone EU Health Programme to strengthen health security and prepare for future health crises. With a proposed budget of €9.4 billion for the 2021-2027 period, the new Health Programme would entail a 23-fold increase in funds invested into disease prevention, diagnosis, treatment and improved access to healthcare. In parallel, the Commission proposed to strengthen the EU's health regulatory framework and to increase the use of joint procurements for health supplies, starting with vaccines in the immediate term. Finally, the Commission intends to create a European Health Data Space to promote the exchange of health data and to support research



Recommendations for the Presidency



BEUC urges the German Presidency to draw the necessary learnings from the COVID-19 crisis and to focus on building stronger EU coordination around public health and enhanced crisis management. Member States face significant common challenges that undermine efforts to improve the health of European citizens. The COVID crisis highlights that it is high time for a stronger EU health policy. We therefore call on the German Presidency to facilitate an agreement on the proposed EU Health Programme by the end of 2020, while setting out clear political guidelines on how to equip the Union to prepare for and respond to future crises.

What we need to succeed

- EU action is needed to ensure that unmet medical needs are covered, and that consumers have access to affordable medicines and medical supplies when they need them. Healthcare digitalisation must be user centred and must respect fundamental human rights and medical ethics. It is essential that the EU invests more in supporting national health systems so they can be more resilient and deliver better services.
- European consumers need an EU Health Programme that is better equipped to help them live longer and better lives. The future Health Programme should support actions that promote consumers' access to medicines and healthcare, for example through joint procurement and information sharing on the (net) prices of medicines. It should also invest in improving health and quality of life, and strengthen the resilience of public health systems, for example by funding a permanent framework of co-operation on health technology assessment (see the next section).
- The EU must step up action to address drug shortages, building on the initiatives put in place during the COVID-19 pandemic. This requires strengthening the European Medicine Agency's role and adopting a comprehensive, proactive policy approach. In particular, the EU needs:
 1. an institutionalised system for rapid information sharing on drug shortages and stocks;
 2. equitable and transparent stock distribution across the EU;
 3. effective joint procurement of medicines and medical supplies during cross-border health threat situations and beyond;
 4. common terminology for drug shortages;
 5. the submission of prevention plans by pharmaceutical companies;
 6. strong enforcement of industry's supply obligations and early notification on shortages; and
 7. effective public communication.
- Given the vulnerability of global pharmaceutical supply chains as exposed by the crisis, the EU must look to diversify drug supply chains, to strengthen global co-operation for the availability of medicines and medical goods, and to support alternative (public) production models.
- Developing effective treatments, vaccines and diagnostic tools is urgently needed in order to tackle the corona virus outbreak. However, the EU should promote R&D models that contribute not only to the identification of pharmaceutical responses to COVID-19, but also to their affordability for the European population and its healthcare systems. This could be achieved by attaching conditionalities to public research funding for example, including specific commitments on affordability in grant agreements.

- When deploying digital technologies to mitigate the spread of COVID-19, the EU must promote the right balance between public health and fundamental human rights. 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 in COVID-19 mitigation. The future European Health Data Space must be developed and operated with full respect to data protection rules, while guaranteeing security, accuracy and the inclusion of consumer needs.
- Due to the crisis, the EU decided to delay the implementation of the new Medical Devices Regulation (MDR) to May 2021. The EU must ensure that this delay does not compromise the safety and well-being of patients and consumers. At the same time, the Commission in co-operation with governments must ensure that the MDR can be diligently implemented and enforced by the new deadline and that further delay is avoided.

ADDITIONAL SOURCES

COVID-19 – implications for consumers and BEUC recommendations for policy responses
Letter to Commissioner Reynders
BEUC-X-2020-018

Addressing medicines shortages during the COVID-19 pandemic and beyond: The consumer check list
Position paper
BEUC-X-2020-034

Concerns over lack of attention to affordability in EU research funding for COVID-19 treatments and the Medical Devices Regulation delay
Letter to Commissioner Kyriakides and Commissioner Gabriel
BEUC X-2020-013

AI must be smart about our health:
BEUC position on artificial intelligence in healthcare
BEUC-X-2019-078

2

Access to medicines and health technology assessment

Why it matters to consumers

Confronted with skyrocketing prices for medicines and limited public budgets, governments are forced to make very hard choices about which treatments to reimburse. Consumers must increasingly make 'out-of-pocket' payments in order to receive timely treatment, and they run the risk of not being reimbursed. This deepens existing health inequalities in the EU.

While some new medicines offer consumers additional value in comparison with existing treatments, others don't. Superfluous drugs waste taxpayers' money and, when reimbursed by healthcare systems, eat up budgets that could otherwise be spent on innovative treatments for consumers. Better management of public healthcare budgets can lead to better access to needed medicines.

State of play in legislative procedure



In January 2018, the **Commission** presented a legislative proposal on Health Technology Assessment (HTA). This proposal aims to foster collaboration between national HTA bodies at EU level in order to avoid duplication in the current assessments. The added value will be efficiency gains in the assessment of new drugs and medical devices, and the facilitation of decisions by national authorities on which treatments to reimburse.



The **European Parliament** adopted its position at first reading in February 2019, and agreed on a text that would significantly improve the Commission's proposal. Progress in **Council** has been much slower, with efforts to find common ground ongoing through successive Council Presidencies. The COVID-19 pandemic and the urgent response it has required have shifted the agenda at Council, putting the HTA discussions on hold.



Recommendations for the Presidency



Whilst acknowledging the need for urgent action to address the COVID-19 pandemic, we urge the German Presidency to resume the negotiations for the HTA proposal as soon as possible. We call on the German government to promote common ground where divergencies persist and to facilitate an agreement that benefits consumers across the EU.

What we need to succeed

- Pricing and reimbursement decisions should reward truly innovative products that offer added therapeutic value in comparison with existing alternatives. The proposal for a Regulation on HTA can make this happen and will ensure that consumers get value for their money.
- To this end, the new Regulation must result in high-quality assessments for all evaluated medicines and medical devices. It is important to ensure good governance in the new HTA system, with transparent decision making and strict rules on conflicts of interest. Consumers must be given a voice and provided opportunities to contribute to the EU HTA, for example during the drafting of the work programme and during joint clinical assessments.
- To ensure impact, the Regulation must include guarantees that the joint reports will be used at the national level. At the same time, the system should ensure that countries have enough flexibility to adapt the HTA reports to the needs of their national healthcare systems.

ADDITIONAL SOURCES



Making sure consumers access treatments that work at a fair price
Position paper
BEUC-X-2019-004



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Trade

1

EU trade policy review

Why it matters to consumers

Trade is part of consumers' lives. Many of our clothes, TVs, smartphones, food and services – for instance holiday bookings – would be unthinkable without it. The COVID-19 crisis has also highlighted the importance of trade; people in many countries are experiencing shortages, for instance in the essential medical equipment produced in other parts of the world. Open trade between countries can be positive, as it enhances consumer choice and can lead to cheaper prices. But consumers are becoming more conscious about the impact of their shopping choices on the environment.

Furthermore, some trade rules set conditions for how countries can regulate. For instance, current rules mean that countries wanting to enable consumers in making healthy and sustainable choices have to make sure that this won't negatively affect trade. The new EU trade strategy must find a way for trade to serve and protect consumers while at the same time becoming more sustainable.

State of play in legislative procedure

The **European Commission** announced in May 2020 that it plans to review EU trade policy, with the objective of adapting it to the past years' developments and to the reality of the post COVID-19 crisis. A public consultation will be held during the summer of 2020, and the Commission plans to publish a communication in the fall. In reaction, the **Council** is expected to adopt conclusions and the Parliament should adopt its own initiative report.



Recommendations for the Presidency

We call on the German Presidency to ensure that the consumer interest will be taken into account in the Council conclusions. It should also recommend a consistent approach between trade and other EU policy areas. For instance, trade policy should be fully aligned with the Green Deal and the Farm to Fork Strategy, and should also contribute to ensuring access to and affordability of medicines.



What we need to succeed

The EU trade policy review should aim at achieving the following objectives:

- To serve and protect consumers. Trade policy should deliver tangible benefits to consumers while preserving current and future levels of protection.
- To break the silos between EU policy areas. EU trade policy should be consistent with other EU policies, such as in the areas of sustainability, health, food safety and digital matters.
- To develop global synergies. The EU should promote more coordination between international organisations such as the WTO, the UN and the WHO.
- To prevent obstacles to healthy and sustainable consumer choice. Trade should be a tool to achieve the sustainable development goals, not a barrier.
- To be transparent and involve consumer organisations. A new advisory group that includes consumer organisations should be set up as soon as possible to guide negotiators.

ADDITIONAL SOURCES



5 keys to make EU trade strategy work for consumers
BEUC recommendations
[BEUC-X-2019-070](#)

2

World Trade Organization e-commerce negotiations

Why it matters to consumers

E-commerce would not be the success it is without consumers: its continued growth depends on their trust in the market. This is why consumers must be at the heart of the e-commerce initiative by the World Trade Organization (WTO). Any agreement, be it multilateral or plurilateral, must protect and deliver benefits to consumers.

State of play in legislative procedure



In January 2019, 76 countries – including the EU 28 – announced the launch of plurilateral negotiations on e-commerce. The **Commission** 's first engagement in the negotiations was in April 2019, with the submission of a proposal covering a large range of issues from online consumer trust to telecoms, net neutrality and cross-border data flows.



In May 2019, the **Council** adopted complementary negotiating guidelines for these e-commerce negotiations, supplementing the existing WTO Doha Round mandate. Since then, several rounds of negotiations have taken place in Geneva. The COVID-19 crisis has put the discussions on hold, but they are likely to resume in the second semester of 2020.

Recommendations for the Presidency



We call on the German Presidency to ensure that the outcome of the WTO e-commerce negotiations will protect and benefit consumers. As the scope is likely to go beyond e-commerce, for example covering larger digital trade issues, we call on the Presidency to exercise caution. For instance, the EU should not put citizens' fundamental rights at risk. Sensitive issues for consumers – such as cybersecurity and artificial intelligence – must first be addressed in EU law. Otherwise there is a risk that weak levels of protection will be locked into the trade agreement. This would limit the ability of the EU to enhance consumer protection in the future.

What we need to succeed

- The negotiations should bring tangible benefits to consumers. Such benefits could notably come from voluntary provisions on online consumer trust, mirroring what the EU proposed to Australia and New Zealand. The agreement could go even further by calling for transparent and affordable telecoms prices for consumers. There should also be political will for stronger co-operation between regulators dealing with consumer protection, from enforcement to product safety authorities.
- The EU must fully preserve its ability to protect citizens' personal data and privacy. It must not compromise on its horizontal position on cross-border data flows, data protection and privacy in trade agreements.
- On net neutrality, we call on the German Presidency to prevent any flexibility that would result in limiting access to the internet for EU citizens.
- The EU should prevent the inclusion of rules related to cybersecurity in this plurilateral context. It should not limit its ability to regulate on cybersecurity nor promote self-regulation as an alternative. This is key to ensuring that connected products can become safer for people.
- The EU should ensure that WTO e-commerce does not prevent authorities from auditing automated decision-making processes by banning their access to the algorithms expressed in the source code of self-learning algorithms (i.e. artificial intelligence). This is key to preventing bias and discrimination, as well as to protecting people's fundamental rights.
- Negotiations about e-commerce should be transparent and should meaningfully engage civil society. Negotiating proposals and consolidated texts should be made public so that consumers know what is being negotiated on their behalf. The EU should encourage the co-conveners of the initiative to organise public briefings in Geneva.

ADDITIONAL SOURCES

WTO e-commerce negotiations
BEUC recommendations
[BEUC-X-2019-014](#)

International negotiations on e-commerce (digital trade) at the WTO
BEUC factsheet
[BEUC-X-2019-015](#)

3

Trade agreements with Australia and New Zealand

Why it matters to consumers

The goal of the ongoing negotiations with Australia and New Zealand is to “help to deliver jobs, growth and investment, benefitting EU businesses and citizens alike”. The agreement could benefit consumers if it is well designed, consumer oriented, and adapted to today’s public interest needs.

However, current trade agreements fail to fully achieve these objectives. Specific consumer issues often play only a minor role during the negotiation phase. Tariff reductions are often the only actual outcomes that could benefit consumers, but these reductions are usually not automatically passed on to them. Furthermore, tangible benefits – such as reduced telecoms prices and geo-blocking practices and easy access to redress – are absent from current trade agreements. Consumer protection is not always guaranteed, and it can be undermined by tools like regulatory co-operation and investment protection if the agreement is not carefully designed.

State of play in legislative procedure



In 2017, the Commission recommended that the **Council** approve the launch of the negotiations with both Australia and New Zealand. The **European Parliament** adopted resolutions in 2017 that supported the opening of trade negotiations with both countries under the condition that the highest level of consumer protection would be guaranteed. The Council authorised the Commission to open formal negotiations with both countries in May 2018, and the negotiations were officially launched in July 2018. Seven rounds of negotiations have taken place so far with both countries. The EU has proposed ambitious rules for consumers, notably to enhance their online trust. Some proposals have already been merged into consolidated texts.

Recommendations for the Presidency



We call on the German Presidency to ensure that the talks with Australia and New Zealand contain safeguards to protect consumers, and tools to bring them tangible benefits.

What we need to succeed

- The EU needs to convince its Pacific partners of the value of its positive proposals for consumers. For instance, the EU needs to remain firm on its willingness to enhance consumer trust online in the digital trade chapter. It should also insist on its approach to protect human health first and to co-operate on antimicrobial resistance in the sanitary and phytosanitary chapter.
- The EU should ensure that its horizontal position on cross-border data flows, data protection and privacy in trade agreements remains non-negotiable. This is key to ensuring consumer trust in trade and preserving fundamental rights.

ADDITIONAL SOURCES

Australia
The consumer checklist for a positive
EU-Australia trade agreement
Factsheet
[BEUC-X-2018-051](#)

The consumer checklist for a positive
EU-Australia trade agreement
Position paper
[BEUC-X-2018-053](#)

New Zealand
The consumer checklist for a positive
EU-New Zealand trade agreement
Factsheet
[BEUC-X-2018-050](#)

The consumer checklist for a positive
EU-New Zealand trade agreement
Position paper
[BEUC-X-2018-052](#)

BEUC model for a consumer chapter in trade agreements
[BEUC-X-2017-096](#)

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- AT Arbeiterkammer
- AT Verein für Konsumenteninformation (VKI)
- BE Test Achats/Test Aankoop
- BG Асоциация Активни потребители
- CH Fédération Romande des Consommateurs
- CY Kypriakos Sundesmos Katanaloton
- CZ dTest
- DE Verbraucherzentrale Bundesverband (vzbv)
- DE Stiftung Warentest
- DK Forbrugerrådet Tænk
- EE Eesti tarbijakaitse Liit
- EL ΕΚΠΙΖΟ
- EL ΚΕΡΚΑ
- ES Asufin
- ES Confederación de consumidores y usuarios (CECU)
- ES Organización de consumidores y usuarios (OCU)
- FI Kuluttajaliitto – Konsumentförbundet ry
- FR Consommation, logement et cadre de vie (CLCV)
- FR UFC-Que Choisir
- HR Unija potrosaca Hrvatske
- HU Fogyasztóvédelmi Egyesületek Országos Szövetsége (FEOSZ)
- HU Tudatos Vásárlók Egyesülete
- IE Consumers' Association of Ireland (CAI)
- IS Neytendasamtökin (NS)
- IT Adiconsum
- IT Altroconsumo
- IT Consumatori Italiani per l'Europa
- LT Lietuvos vartotojų organizacijų aljansas (LVOA)
- LV Latvijas Patērētāju interešu aizstāvības asociācija (LPIAA)
- LU Union Luxembourgeoise des Consommateurs (ULC)
- MK Organizacija na potrosuvacite na Makedonija (OPM)
- MT Għaqda tal-Konsumaturi
- NL Consumentenbond
- NO Forbrukerrådet
- PL Federacja Konsumentów
- PT DECO
- RO Asociația Pro Consumatori
- SK Združenie slovenských spotrebiteľov (ZSS)
- SK Spoločnosti ochrany spotrebiteľov (S.O.S.)
- SE Sveriges Konsumenter
- SI Zveza Potrošnikov Slovenije (ZPS)
- UK Citizens Advice
- UK Legal Services Consumer Panel
- UK Which?



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