

Ref.: BEUC-X-2022-077

7 July 2022

Subject: Nintendo continues to sell products that fail prematurely - one year and a half after BEUC external alert was filled.

Dear Ms Benassi,

Dear members of the CPC Network,

In January 2021, BEUC submitted an external alert¹ to the European Commission and the CPC Network against Nintendo for several infringements of the Unfair Commercial Practices Directive. This alert was backed up by nearly 25,000 testimonials that our members collected from European consumers. Regrettably, more than a year and half year later, the company keeps selling games consoles failing prematurely to the detriment of consumers.

Since the launch of the alert, our members have continued to collect consumer complaints and evidence with a view to further supporting our claims.

Results of a new consumer survey on Nintendo Joy-Cons in the UK

BEUC member Which? conducted a survey among 919 adults (based in the UK) who own a Nintendo Switch console with detachable Joy-Con controllers. The results of this survey published recently² confirm once again that 'Joy-Con drift'³ is an issue affecting a large number of consumers:

- **Two out of five Nintendo Switch owners have suffered persistent Joy-Con drift problems,**
- **More than half (57%) of these problems have appeared during the first year of using the controllers,**
- **Only 26% of owners with problems contacted Nintendo for a replacement or repair, out of which 19% did not receive a free repair or replacement and another 18% had to cover the postage costs.**

Which? asked those consumers who did not contact Nintendo nor attempt to repair the product themselves (73% of consumers surveyed), whether they bought a new controller – and half of them said that they had. It should be noted that a new pair of Joy-Con controllers' costs roughly €70, which constitutes a considerable additional cost for consumers to continue using their games console.

¹<https://www.beuc.eu/publications/beuc-launches-europe-wide-complaint-against-nintendo-premature-obsolescence/html>

² See the following article published on 15th June on the website of Which?: <https://www.which.co.uk/news/article/two-in-five-uk-nintendo-switch-classic-consoles-blighted-by-joy-con-drift-aVaRY2j5RoO8>

³ This default causes the games' characters to move without touching the controller, making the console unusable

For more detailed information about the results of this survey, please see the document attached to this letter.

Current state of play within the CPC Network

The CPC Network has so far not communicated about any steps it intends to take or already took in response to BEUC's external alert. We would therefore like to ask you to share with us more information about the latest state of play regarding this case. We would for example appreciate a **virtual meeting** between BEUC, its relevant members, the European Commission, and the consumer authorities in the lead on this case.

We would also welcome an opportunity to be consulted about any commitments that Nintendo may propose to address the issues raised in our complaint before these are accepted by the CPC Network.

We urge the European Commission and the CPC Network to agree on a joint position quickly. Where necessary, we call on the CPC authorities to use enforcement measures in order to stop the company's ongoing practices and send a strong signal to the entire industry that premature obsolescence practices are not acceptable.

Yours faithfully,

Ursula Pachl
Deputy Director General