



BEUC's Memorandum for the Polish Presidency



Who we are

BEUC, the European Consumers' Organisation, is the umbrella organisation for 42 independent consumer organisations in 31 European countries. It is our objective to represent and promote consumer interests among EU decision makers in all consumer relevant areas which match our members' strategic priorities.

Our Polish members are Stowarzyszenie Konsumentów Polskich and Federacja Konsumentów.

BEUC's other members are:

Austria: Verein für Konsumenten-Information – VKI ; Arbeitskammer – AK -
Belgium: Association Belge des Consommateurs - Test Achats/Test Aankoop –
Bulgaria: Bulgarian National Association Active Consumers – BNAAC – **Croatia:** -
Croatian Union of the Consumer Protection Associations – Potrosac - **Cyprus:** Cyprus
Consumers' Association - **Czech Republic:** Czech Association of Consumers – TEST -
Denmark: Forbrugerrådet - FR - **Estonia:** Estonian Consumers' Union - ETL -
Finland: Kuluttajaliitto – Konsumentförbundet ry; Kuluttajavirasto - **France:** UFC -
Que Choisir; Consommation, Logement et Cadre de Vie – CLCV; Organisation
Générale des Consommateurs - OR.GE.CO - **Germany:** Verbraucherzentrale
Bundesverband – VZBV; Stiftung Warentest - **Greece:** Association for the Quality of
Life - E.K.PI.ZO; Consumers' Protection Centre – KEPKA; General Consumers'
Federation of Greece – INKA - **Hungary:** National Association for Consumer
Protection in Hungary - NACPH – OFE - **Iceland:** Neytendasamtökin - NS - **Ireland:**
Consumers' Association of Ireland - CAI - **Italy:** Altroconsumo; Consumatori Italiani
per l'Europa - CIE – **Latvia:** Latvia Consumer Association – LPIAA - **Luxembourg:**
Union Luxembourgeoise des Consommateurs – ULC - **Former Yugoslav Republic of
Macedonia:** Consumers' Organisation of Macedonia – OPM - **Malta:** Għaqda tal-
Konsumaturi - CA Malta - **Netherlands:** Consumentenbond – CB - **Norway:**
Forbrukerrådet - FR – **Portugal:** Associação Portuguesa para a Defesa do Consumidor
– DECO - **Poland:** Polish Consumer Federation National Council – FK; Association of
Polish Consumers – SKP - **Romania:** Association for Consumers' Protection – APC -
Slovakia: ZSS - Association of Slovak Consumers - **Slovenia:** Zveza Potrošnikov
Slovenije – ZPS - **Spain:** Confederación de Consumidores y Usuarios – CECU ;
Organización de Consumidores y Usuarios – OCU - **Sweden:** The Swedish Consumers'
Association - **Switzerland:** Fédération Romande des Consommateurs – FRC - **United
Kingdom:** Which?; Consumer Focus

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BEUC calls on the Polish Presidency to bring forward consumer-friendly EU policies

When Poland takes over the Presidency of the European Union in July 2011, a number of highly important initiatives will be pending in the Institutions or soon landing on the agenda of the Council of the European Union.

We hope that the Polish Presidency will put consumer protection and consumer interests high up on its political agenda and be guided by the intention to enact legislation which responds to consumers' needs. Confident consumers are the fuel for Europe's economy to grow and prosper. They prompt growth and reward good business practices.

In this context, BEUC welcomed the Commission's relaunch of the Single Market to stimulate growth and increase citizens' welfare. The final **Single Market Act** contains valuable initiatives for consumers including Alternative Dispute Resolution measures and more effective standardisation procedures. Overall however, it does not live up to our expectations. Greater emphasis on safer products, consumer-oriented copyright and solutions for online shoppers' daily worries need Europe's keenest attention to respond to the needs of consumers in the Single Market. We therefore call on the Polish Presidency to ensure that the flagship initiatives of the Single Market Act which are most relevant to European consumers are given the highest priority during its term of office.

The envisaged improvement of European consumers' access to **Alternative Dispute Resolution** (ADR) mechanisms is welcomed by consumer organisations as they offer cheap and effective solutions to individual consumer disputes. Only when effective and inexpensive systems of redress are provided can consumers actually make use of the rights granted to them.

Conversely, BEUC deeply regrets the fact that **Collective Redress** at European level remains unavailable for consumers, thus leaving them empty-handed in many group claim situations and allowing businesses to retain illegal profits. Such situations cannot be remedied by improving the ADR system. Much work on Collective Redress has been done already and we call on the Council to support a legislative proposal on Collective Redress for the benefit of European citizens.

Another highly important consumer dossier is the proposed **Consumer Rights Directive** which is currently pending in informal tripartite negotiations between the European Parliament, Commission and Council. If negotiations are not terminated under the Hungarian Presidency, the Polish Presidency will have the key task of finally ensuring that, after many years, this initiative will be converted to legislation which clearly benefits European consumers. We hope that the Presidency will be guided by the intention of delivering a modern piece of consumer protection legislation, living up to the challenges of a true Single Market for consumers.

In parallel to the Consumer Rights Directive, the Commission is now pushing for an additional and much further reaching measure for standardising business to consumer

contracts: a legislative proposal on **European contract law** in the form of an '**Optional Instrument**', announced for autumn 2011. BEUC is not in favour of such an instrument, as neither are many business stakeholders. BEUC asked the European Commission not to rush to any decisions on the adoption of a legislative proposal. An "optional" instrument to be agreed upon by the contracting parties is, by its nature, not an appropriate tool for consumer protection legislation. In our opinion, the risks are very high that any optional European contract law initiative would be imposed on consumers by the trader, potentially involving a lower level of protection.

We therefore call on the Polish Presidency to start the debate with the aim of very carefully assessing if there is any need at all for this instrument, given that the proposed Directive on consumer rights will be implemented soon and considering the potential negative impact of the introduction of such an instrument for European consumers and consumer legislation.

During the second semester of 2011, several legislative proposals on financial services will be debated and possibly adopted. We have put high expectations in the coming major files: deposit guarantee schemes, investor compensation schemes, access to basic payment accounts and we will pay particular attention to the protection of consumers in the **Mortgage Credit Directive**. Borrowing money to buy or build a house is often the most important financial decision in most people's lives. The Polish Presidency will have the opportunity to help build a system which provides adequate and strong protection for European borrowers, fundamental to start restoring consumers' confidence in banks.

As regards the Digital Agenda, BEUC has welcomed the European Commission's communication 'A Comprehensive Approach to Personal Data Protection in the EU'. It reflects our key demands, namely the need to strengthen the rights of data subjects' privacy by design, the introduction of a general data breach notification obligation and the need for stronger enforcement of existing legislation. The proposal for the review of the **Data Protection Directive**, expected in July 2011, should hopefully provide for a high level of protection of personal data and privacy. We hope the work of the Polish Presidency will contribute to meeting the challenge of ensuring privacy in the digital world.

Apart from these key consumer dossiers we have in the current memorandum identified further important initiatives according to BEUC's 8 priorities areas. In the second semester of 2011, when the Polish government will be responsible for conducting negotiations and debates on these dossiers we hope that progress will be made on all these initiatives with the aim of delivering clear benefits to European consumers.

We wish Poland a successful Presidency.

Horizontal Issues

I. Single Market Relaunch

Background

The European Commission published its Communication on the Single Market Act in April 2011 providing 12 key actions for the Single Market to “boost growth and strengthen confidence”. Despite the fact the Single Market Act contains valuable initiatives for consumers including Alternative Dispute Resolution measures and more effective standardisation procedures, BEUC was disappointed by the lack of a more consumer-focused approach, in particular as regards the digital single market. Consumer-oriented copyright and solutions for online shoppers’ daily worries need Europe’s sharpest attention to respond to the needs of consumers in the Single Market. The Commission intends to present the respective legislative proposals in 2011. The aim is for the Parliament and Council to adopt a first series of these priority measures by the end of 2012.

Our demands

- From a consumer perspective, the Single Market is not an end as much as a means. It has to be constructed with the rationale of serving European consumers and citizens, ensuring they can make transactions within and across European national borders with full confidence.
- Consumer-oriented copyright and solutions for online shoppers’ daily worries
The European Parliament, in its 2010 report (MEP Grech) on ‘Delivering a Single Market for consumers and citizens’, asked the Commission to give priority to “consumer-friendly” legislation. This should be the guiding approach for the Commission in implementing the Single Market Act.
- BEUC would have preferred a more “holistic” approach taking into account all factors that hinder consumers from fully benefiting from the Single Market, such as for example a consumer-oriented copyright legislation and solutions for online shoppers’ daily worries. The European institutions should take up these challenges as a matter of priority as well.
- The Commission should report once a year to the Parliament and the Council on how its Single Market policy has achieved its overall outcomes and in particular has delivered to consumers. A specific focus on reporting the consumer outcomes should ensure that the consumer perspective is taken into account right from the start and in a systematic manner.

Documents

- Public consultation on a Single Market Act – [Response by BEUC](#) (x/2011/023)
- [Letter](#) to Commissioner Dalli ‘A Single Market Act for Consumers’ (x/2010/091)

For more: consumercontracts@beuc.eu

II. E-commerce

Background

The development of online commerce, both at national and cross-border level, can potentially contribute to the achievement of the goals of the EU 2020 Strategy, boost the competitiveness of the European economy and improve consumer choice and welfare. Nevertheless, the data provided by the European Commission, reveals that only one third of European consumers have made a purchase on the internet and only 7% of those have engaged in cross-border online commerce.

In order for e-commerce to reach its potential growth, the EU needs to demonstrate strong political leadership and undertake concrete actions which respond to emerging issues which will help to boost consumers' trust and confidence.

The European Commission is expected to adopt an Action Plan for e-commerce to identify the key areas where EU action is needed, while clarifying certain provisions of the e-commerce Directive. The Action Plan should focus on ensuring the development of a well-functioning and inter-connected market for e-commerce, where consumer access and consumer welfare stimulate growth and innovation.

Our demands

- The real problems facing cross-border trade need to be identified via an evidence gathering process and by consultation with all stakeholders.
- A legislative proposal for an 'Optional Instrument' on European contract law will not help to boost cross-border e-commerce. Instead the Commission should explore options less intrusive to consumer rights and more practical for businesses e.g. the adoption of 'European model contracts'.
- Compliance with, and enforcement of, Article 20.2 of the Services Directive which forbids territorial discrimination in the provision of services on the basis of the nationality and/or place of residence of consumers should be ensured.
- The current fragmentation of the online content market should be addressed by promoting multi-territory licensing, adopting forward-looking copyright exceptions and limitations and the reform of the copyright levies system.
- The current provisions of the exemption of Internet Service Providers from liability (Article 12-15 of the e-commerce Directive) should be maintained and extended to Web 2.0 service providers.
- A high level of protection of personal data should be ensured, while enabling their cross-border flow for the revision of the Personal Data Protection Directive.
- Enforcement of existing legislation must be improved and consumers' access to effective redress mechanisms, including via judicial collective actions ensured.
- Online Dispute Resolution systems should comply with the principles of the existing EC Recommendations for Alternative Dispute Resolution.

Documents

- European Commission's consultation on the implementation of the e-commerce Directive – [Response by BEUC](#) (x/2010/078)

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Consumer contracts

I. Consumer Rights Directive

Background

In October 2008, the European Commission adopted a proposal for a Directive on Consumer Rights (CRD) which revises four consumer directives, merging them into one instrument. The ongoing informal trialogue negotiations on this Directive may have concluded when the Polish Presidency takes over the Presidency seat. If not, the Polish Presidency will have a key role in ensuring this crucial piece of consumer legislation is finally adopted.

The European Commission, in the initially proposed Directive, abandoned the minimum harmonisation approach and replaced it with full harmonisation, by which Member States would lose the possibility to adopt or maintain rules going beyond the protection provided by the EU instrument.

According to the proposal, the introduction of full harmonisation in the field of consumer law is necessary to increase the still limited cross-border trade and promote consumer confidence. According to the Commission, legal divergences stemming from minimum harmonisation constitute barriers to the development of cross-border trade. Yet, legal divergences are not a significant problem preventing consumers from shopping outside their countries. Rather, the much more important reasons for consumers continuing to hesitate to shop online across borders relate to language, lack of cross-border redress or fears regarding fraud and data protection on the internet.

In addition, the proposal provided for maximum harmonisation at a low level of consumer protection. In our view, the proposed Directive should not result in taking away essential rights from consumers just for the sake of promoting the Internal Market. It is hard to see how the objective of the Directive, namely increasing consumer confidence in cross-border shopping, could be reached in this way.

In this context, it is more important than ever to ensure consumers are properly protected and that their rights are well respected. What consumers need is not harmonisation providing the same legal rules across the European Union, but rather and above all they need solid rights to ensure that all goes well when they engage in shopping across the EU.

The proposed Directive therefore requires substantive changes and supplementation before it will become a piece of legislation which provides added value to the development of the Single Market and takes into account the needs and expectations of consumers in the EU, both now and in the future. We hope that this Directive will in the end be not only a mere technical review in order to impose a standardised level of protection on national consumer law, but that it will provide for real added value to consumers by addressing the current problems consumers are faced with when shopping online or offline, in their high street shop or abroad. Below we address the main outstanding concerns which we hope will be addressed in the further legislative procedure.

Our demands

- **Delete Chapter V on unfair contract terms**

The rules on unfair contracts terms (Chapter V) should not be fully harmonised (as recommended by the Parliamentary Legal Affairs committee and unfortunately upheld in the plenary vote) as such full harmonisation of the laws of unfair terms would lead to a significant reduction of consumer rights in relation to unfair contracts terms in many Member States, while at the same time hardly increasing legal certainty for business.

- The newly proposed rule prohibiting **disproportionate costs for the use of certain payment means** would be an important step for consumer protection (e.g. in the field of air travel) and should be accepted by the Council.
- The list of **information requirements for 'on-premises' contracts** (e.g. if a consumer orders a product in a shop) as adopted by the Parliament should be upheld on a minimum harmonisation basis, as this provides added value and a modern element of horizontal protection for consumers throughout the EU.
- In the **'Digital Era'**, more and more goods are purchased or downloaded in an intangible, digital format. The Parliament has made efforts to correct this by adopting provisions which would provide for certain rights and safeguards when consumers buy digital goods. We strongly hope that these improvements are kept in the final text.
- **Improve the rules on delivery under minimum harmonisation**
The application of minimum harmonisation to the rules on delivery, particularly late delivery must be upheld. The Council's text needs improvement otherwise a reduction of better protections currently in existence in several Member States would be the consequence, rather than an increase of consumer confidence in e-commerce.
- **Strengthen the provisions in relation to off-premises contracts**
The off-premises sector is particularly sensitive, with vulnerable consumers being often the target of unfair trading practices. The exclusion of certain off-premises contracts under a monetary threshold (€200) from the trader's obligation to provide information as suggested by the Parliament should be deleted. On the other hand, the obligation of the trader to give information to the consumer on paper and only if he explicitly agrees to it, on another durable medium (as voted in the Parliament), should be upheld.
- **Strengthen the provisions in relation to distance contracts**
We welcome both legislators' efforts to improve consumer protection against cost traps on the internet and call on them to provide for an efficient solution to this widespread problem.
- **Strengthen right of withdrawal provisions**
In order to facilitate the sending back of the good, in particular in cross-border scenarios, BEUC supports the rule adopted in the European Parliament which states the trader should pay for such costs if the price of the good is above 40 euro (Article 17, paragraph 1). The list of exceptions from the right of withdrawal should be reduced. *Inter alia*, the exception of services contracts in article 19.1 a) should be deleted, as proposed by the Council.

Documents

- [Brochure – The Consumer Rights Directive: How to get it right](#)
- [BEUC position on the Parliament's first reading negotiations](#) (x/2011/47)

For more: consumercontracts@beuc.eu

II. European Contract Law for business to consumer contracts

Background

The introduction of an 'Optional Instrument' for European contract law, in particular for business to consumer contracts, has been announced by the European Commission in its Single Market Act. A legislative proposal is expected in autumn of 2011. The Polish Presidency has stated that this initiative will be placed high on the agenda of its Presidency. An Optional Instrument for business to consumer contracts would consist of a self-standing set of rules which can be 'chosen' by the parties as the legal basis for the contract. It would most probably override the consumer specific regime of Private International Law (the Rome I Regulation) and consequently set aside the application of the relevant national rules, including mandatory consumer protection provisions.

BEUC is not in favour of the introduction of an Optional Instrument for consumer contracts. There is no need to deviate from traditional regulatory means for consumer contract law. This is particularly true with the proposed Consumer Rights Directive which is to be adopted soon and will significantly increase further harmonisation of the most important elements of distance selling. Consumers are much better protected by solid legal rights enshrined in national law, than by an optional measure, imposed on them by the trader. An Optional Instrument would rule out the application of national mandatory consumer rules and might well prompt lower standards of protection than those currently enjoyed in many countries. It would give the trader the choice as to what level of protection the consumer will benefit from. Importantly it would be confusing for consumers and business to deal with different regimes of contract law (national laws and the Optional Instrument) and thus, instead of facilitating cross-border commerce, it would become more complicated and costly for consumers and business alike.

Our demands

- The European Commission should refrain from adopting any legislative proposal unless the Consumer Rights Directive which is currently pending in final negotiations by the legislators will be adopted and its scope and impact can be evaluated.
- The 2010 Green Paper on contract law lacked fundamental preparatory work, as sound evidence on the real obstacles to cross-border trade in business to consumer contracts is still missing. Such evidence should first be provided and discussed with key stakeholders.
- The Commission's assumption that differences in national consumer contracts play a significant role in business attitudes to cross-border commerce and thus justify the introduction of an Optional Instrument for consumer contracts should be re-examined after the adoption of the Consumer Rights Directive which will further harmonise the key elements of cross-border distance selling contracts.

- If the Impact Assessment and the results of the public consultation reveal a need for progress in the field of business to consumer contracts, the Commission should firstly explore alternatives which are less intrusive on consumer rights and more practical for businesses, such as the adoption of 'European model contracts'.
- BEUC could support a "toolbox" initiative for European contract Law, as long as the basis for consumer legislation consists of not just the Draft Common Frame of Reference, but also a set of more consumer-oriented rules specifically adapted to modern consumers' needs.

Documents

- Consultation on the European Commission's Green Paper on European Contract Law, [BEUC response](#) (X/2011/008)
- Letters to Ms. Le Bail, Director General of DG Justice on [17/09/2010](#) (x/2010/90) and on [27/10/2010](#) (x/2011/088)
- [Joint letter](#) with BusinessEurope, EuroChambers, EuroCommerce, UEAPME and Notaires d'Europe to Commission's Vice President Reding of December 2010 (x/2010/045).
- BEUC's preliminary comments for the Commission's expert group on European Contract Law:
[Part I](#) (x/2011/015); [Part II](#) (x/2011/086); [Part III](#) (x/2011/005); [Part IV](#) (x/2011/015); [Part V](#) (x/2011/035)

For more: consumercontracts@beuc.eu

III. Package Travel Directive and Air Passengers' Rights legislation

Background

In the coming months, many initiatives will be put forward by the European Commission on passengers' rights and package travel.

In December 2009, the European Commission consulted on the upcoming revision of the Directive on package travel from 1990. The aim was and is to update existing provisions as the travel market and consumer behaviour have changed substantially, mostly due to online booking and low cost airlines. Specifically in cases of insolvency, BEUC answered the questionnaire of the European Commission requesting consumers also be protected when they buy a seat-only ticket (i.e. not package travel). A revision of this Directive could be put forward already by the end of 2011.

In early 2010, the European Commission undertook a consultation on a possible revision of EU air passenger rights legislation, identifying gaps and shortcomings (e.g. carriage of luggage, settlement of disputes etc.).

BEUC responded to both consultations highlighting current consumer problems insufficiently addressed by the existing legislation and underlining the need to adopt a broader, horizontal and more consistent approach to consumer transportation rights.

In March 2011, the European Commission adopted a Communication on the application of Regulation 261/2004 on compensation and assistance to passengers affected by denial of boarding, cancellation and long delays of flights. A public consultation on the revision of this Regulation is due to be launched in the second quarter of 2011 with the view to adopting a proposal in 2012.

Our demands

On the Package Travel Directive

- BEUC advocates a wide revision of the Directive, covering "dynamic packages", but also standalone products which are currently not covered by this Directive.
- To avoid consumers being sent from one service provider to the other when problems arise, joint liability of the seller and the tour operator should be established.
- Prices should be all-inclusive and fixed (prohibition of price modification once the contract is concluded).

On the revision of air passengers' rights legislation

- Rights and obligations spread in different Regulations should be gathered in one legal instrument dealing with the pre-contractual, contractual and post-contractual rights of passengers.
- Surveys show passengers are often left with no information when they encounter travel problems, therefore information obligations should be strengthened.

- Enforcement of rights needs to be improved: both public enforcement (which covers all rights) and private means of redress (Alternative Dispute Resolution) should be strengthened.
- New rights should be added: transferability of tickets, withdrawal for early bookings, cancellation of the contract in case of 'force majeure' and correction of input errors in e-commerce. In cases of lost or damaged luggage, the rights of passengers should be tightened.
- A list of unfair contracts terms in air transport contracts should be established.
- An EU-wide guarantee scheme to protect buyers of a seat-only ticket in case of insolvency of an air company should be established.

Documents

- Public consultation on Air Passengers Rights - [Response by BEUC](#) (x/2010/013)
- Public consultation on the Package Travel Directive - [Response by BEUC](#) (x/2010/008).
- Public consultation on passenger protection in case of insolvency - [Response by BEUC](#) (x/2011/048).

For more: consumercontracts@beuc.eu

Consumer Redress

I. Collective Redress

Background

Groups of consumers across different Member States are sometimes victims of faulty goods, dangerous services or faced with unfair or anti-competitive business practices. Individual actions are not a fitting response, as the litigation costs involved can be much higher than the compensation to which the affected consumers are entitled.

A European Group Action procedure is essential to enable groups of consumers to secure compensation for loss caused by the same trader, by gathering their claims into a single action. Currently, national systems across the EU Member States vary significantly. The integration of European markets and the subsequent increase in cross-border activities highlight the need for EU-wide, consistent, redress mechanisms.

In February 2011, the European Commission launched a consultation. Although we welcome this initiative, it is worth noting that this is the third one since the 2005 Green Paper and a 2008 White Paper on anti-trust damages actions, as well as after a 2008 Green Paper on consumer collective redress. We believe it is time action finally be taken and we have high expectations for the coming Communication from the Commission (expected in late 2011) to follow-up on the 2011 consultation.

Our demands

A binding instrument at Community level should outline the main features a judicial group action mechanism must respect:

- Have a wide scope and aim at obtaining compensation;
- Allow for standing of consumer organisations;
- Cover both national and cross-border cases;
- Give the court discretion over the admissibility of the claim;
- Foresee both opt-in and opt-out procedures;
- Be accompanied by information measures directed at consumers;
- Control out-of-court settlements;
- Allow compensation to be distributed fairly;
- Foresee efficient funding mechanisms.

Documents

- [Brochure - 10 Golden Rules on Group Action](#)
- [Country by country guide to Group Action](#) (x/2010/067)
- [List of potential cross-border collective cases](#) (x/2011/011)
- Public consultation on collective redress, [BEUC answer](#) (x/2011/049)

For more: consumerredress@beuc.eu

II. Alternative Dispute Resolution

Background

Alternative Dispute Resolution (ADR) mechanisms, which lead to settlement of disputes by intervention of a third, independent party can offer cheap and effective solutions to individual consumer disputes. As such, ADR is an important tool for consumer redress. However, currently there are important shortcomings in the functioning of ADR in the EU which must be addressed to ensure consumer protection and fair procedures.

The European Commission recently acknowledged the necessity of EU-wide ADR, qualifying policy measures in this respect as a flagship of the Single Market Act. A proposal of legislation is expected in autumn 2011. A second legislation initiative is expected in relation to on-line dispute resolution system.

We call on the Polish Presidency to start work on this initiative as quickly as possible and to ensure that an efficient and consumer friendly ADR system will be put in place across the European Union.

Our demands

- The principles of the 1998 and 2001 Commission recommendations for consumer ADR should be included in a binding instrument.
- There should be a regular assessment of compliance with those principles.
- Appropriate ADR should exist for all consumer complaints in all sectors.
- Consumers should receive extensive information about ADR. This information should be provided by businesses and ADR schemes.
- ADR must always remain a choice for the consumer and can never be an obligation. Also, an ADR outcome should not be binding on a consumer in the sense that it prevents the consumer from bringing the case before a court. However, to counterbalance the weaker position of the consumer, it could be binding on business.
- It should be ensured that legal prescription periods do not run for the period where the ADR scheme is used, but instead start anew at the end of the ADR procedure.
- Relying on ADR as the only solution for mass claims situations should be avoided, the work on judicial collective redress must be pursued further.

Documents

- Public consultation on Alternative Dispute Resolution, [BEUC response](#) (x/2011/033)

For more: consumerredress@beuc.eu

Digital Environment & Telecoms

I. Net neutrality

Background

Net neutrality is one of the fundamental principles of the internet which has significantly enhanced citizens' participation in society and access to knowledge and diversity, while promoting innovation, economic growth and democratic participation. Nevertheless, the neutral architecture of the internet is currently being challenged by various parties, such as network operators providing end-users' connections.

The European Union has missed the opportunity to safeguard net neutrality as a fundamental regulatory principle during the revision of telecom rules in 2009. Through the recognition of the possibility for network providers to engage in traffic management as a default rule, the EU has opened the door to potentially unfair and discriminatory traffic control on the internet. The adoption of transparency and information disclosure requirements cannot be the sole remedy, especially in a market where competition is seriously hampered by barriers to switching.

The Communication of the European Commission, adopted in April 2011, only included general principles and refrained from providing national governments with specific guidelines when implementing the revised Telecoms package.

Our demands

- The European Commission should provide Member States with specific guidelines on the implementation of the revised Telecoms package to ensure a coherent implementation across Europe.
- Net neutrality should be recognised as a fundamental regulatory principle.
- Consumers should be entitled to:
 - an internet connection of the speed and reliability advertised;
 - an internet connection which enables them to send, receive and use content, services and applications of their choice;
 - an internet connection free from discrimination of the type of application, service or content, or based on sender or receiver address;
 - competition among network, application, service and content providers;
 - know which network management practices are deployed by their network providers.

Documents

- Public consultation on net neutrality, [BEUC response](#) (x/2010/070)

For more: digital@beuc.eu

II. Data protection

Background

Digital information technologies and new services, although beneficial to consumers, also represent a major challenge to consumers' personal data. ICT often leads to a proliferation of information collected, stored, filtered, transferred or otherwise retained. The risks to privacy therefore multiply. In the digital environment, almost every communication leaves behind detailed footprints and the collection of personal data has become the default rule. Internet and mobile information appliances allow large quantities of personal data to be collected, while data mining tools are used to track the online behaviour of individuals and predict their preferences.

The European Commission is reviewing the Data Protection Directive 1995/46, and a proposal is expected in July 2011. The new Framework needs to be user-centred and ensure that individuals remain in control of their privacy. A high level of protection of personal data and privacy is not only required by the entry into force of the Lisbon Treaty, but it also constitutes a *sine qua non* condition for the realisation of the EU Digital Agenda, which needs to be built upon consumer trust in the online environment. We hope the Polish Presidency will do its most to ensure negotiations on this highly important revision will provide a high level of protection and will ensure consumer confidence in online transaction.

Our demands

- A general transparency principle should be introduced, the use of Transparency Enhancing Technologies should be promoted and the development of standard privacy notices supported.
- The introduction of an obligatory, horizontal, data-breach notification should be considered for serious data breaches, in line with a proportionality test.
- Specific modalities to exercise of the right to access, correct and delete personal data should be introduced.
- Effective implementation of the right to be forgotten and the right to data portability must be ensured.
- The rules on meaningful consent involving all stakeholders concerned should be clarified.
- 'Privacy by design' as an explicit, mandatory principle should be introduced and the use of Privacy Enhancing Technologies promoted.
- Joint and multiple liability rules between business and a third party for breaches should be established.
- EU data protection laws should apply to cases where services are directed at EU citizens in line with the criteria established by Article 29 Data Protection Working Party.

Documents

- Public consultation on data protection, [BEUC response](#) (x/2011/003)

For more: digital@beuc.eu

III. Intellectual Property Rights Enforcement Directive

Background

The European Commission is currently reviewing the Intellectual Property Rights Enforcement Directive 2004/48 'IPRED' with the aim of adopting a proposal for revision by the end of 2011.

However, due to the late transposition of the Directive by EU Member States and the lack of caselaw, BEUC believes it is premature to adopt stronger rules for IPR Enforcement. The adoption of stronger enforcement measures pre-supposes a revision of the substantive law with the aim of adapting it to the digital environment. An overall assessment of the economic impact of the current provisions on the development of the information society and on innovation is required by the Directive.

Nevertheless, the European Commission has not carried out such an assessment, while it has ignored the conclusions of a number of independent studies by governments, international organisations and academics highlighting the overall positive economic impact of file-sharing on the development of the content industry.

Our demands

- Enforcement measures need to be proportionate and fully comply with consumers' fundamental rights, namely the right to presumption of innocence, the right to a fair trial, the right to privacy and the right to the confidentiality of communications. Legislations treating consumers as criminals are rejected.
- IPRED should not be revised before an overall economic analysis of the impact on innovation and the development of information society is carried out.
- The European Commission should clarify the infringing nature of mere downloading acts and clarify the limits of the private copying exceptions.
- Any proposal for enforcement of IPR needs to treat an IP address as personal data and ensure that personal information about online users must only be disclosed to public law enforcement authorities.
- Internet Service Providers should not be required to apply general filtering and blocking technology to enforce copyright, in accordance with the Opinion of the Advocate General of the European Court of Justice in the *Sabam V. Scarlet* case.

Documents

- Public consultation on the review of the Intellectual Property Rights Enforcement Directive, [BEUC Response](#) (x/2011/041)

For more: digital@beuc.eu

IV. Collective management of European copyright

Background

Consumers want to have access to diverse content of good quality and at a fair price, irrespective of their nationality and their country of residence. They must be able to benefit from the establishment of a Single Market both online and offline. Currently, the territorial management of copyright, in combination with the uncertainty as to the ownership of copyright, the complex licensing mechanisms and the lack of standards regarding the governance and supervision of collecting societies result in the fragmentation of the European market for creative content.

The forthcoming proposal of the European Commission on collective management of copyright must include concrete measures to facilitate both multi-territory and pan-European licensing, as well as high standards regarding collecting societies.

Our demands

- Multi-territory and pan-European licensing of content should be promoted.
- Transparency of copyright ownership needs to be increased through the creation of a Rights Database which is publicly accessible.
- A 'one stop shop' for the clearance of rights and the granting of multi-territory licences should be established.
- Competition between collecting societies in terms of services and tariffs must be introduced.
- The development of new and innovative business models for online distribution of content should be fostered.
- The current system of nationally-based release windows should be revised and the media chronology in the distribution of audio-visual content be eliminated.
- Comprehensive rules regarding the governance, transparency, accountability and supervision of collecting societies should be established.

Documents

- [BEUC IPR Strategy: How to make IPRs work for both creators and consumers](#) (x/2011/034)
- Reflection Paper on creative content online, [BEUC response](#) (x/2010/003)

For more: digital@beuc.eu

V. Roaming Regulation review

Background

Despite the commitment of the EU to ensure consumers are able to use the full functionality of their mobile devices - for calls, messages, emails - when travelling abroad, the reality is that a competitive market for roaming services has yet to respond to consumers' expectations. The majority of consumers are still not confident using their mobiles or advanced smart phones abroad and even prefer to turn their phones off in order to avoid high bills. This reality is also supported by Eurobarometer survey concluding that 72% of mobile users continue to limit their mobile voice calls when abroad because they are concerned about costs.

The forthcoming revision of Roaming Regulation as the milestone towards the achievement of the objectives set out in the EU Digital Agenda. The new regulatory framework should be based on current rules and complemented by further regulatory measures in order to be seen as the most effective short and medium-term approach which can deliver benefits to consumers.

Our demands

- BEUC calls for further decrease in regulated, maximum average Eurotariff charges for wholesale and retail, reflecting more accurately the real cost of providing roaming services and the introduction of 'per second' charging intervals instead of initial charging intervals of 30 seconds for voice roaming services.
- The Euro-SMS tariff should be decreased further, both at wholesale and retail level.
- Wholesale price caps for data roaming should be reduced, while introducing retail price caps and considering Kilobyte as the billing unit.
- Transparency of roaming charges should be enhanced and clear information provided to consumers.
- Additional regulatory interventions which could contribute to a smoothly functioning Internal Market of roaming services in the long term should be considered.

Documents

- Public consultation on the review of the functioning of the EU Roaming Regulation, [BEUC Response](#) (x/2011/017)

For more: digital@beuc.eu

Financial Services

I. Guarantee schemes

Background

The financial crisis has shown that protecting consumers' deposits is essential, both for ensuring stability of the banking sector and encouraging consumer confidence. The function of Deposit Guarantee Schemes (DGS) legislation is major: it ensures deposit protection while providing safety to financial systems by helping to prevent bank runs.

The European Commission Directive proposal contains many advances in comparison to the current legislation on deposit guarantee schemes. However, there is room for some improvements. It seems that too much emphasis is given to the safety of the banking sector rather than increasing consumer safeguards by harmonising useful protection measures.

The protection of investor assets in cases of fraud or mismanagement by an investment firm or bank is important to restore retail investor confidence in financial services. The European Commission Directive proposal on Investor Compensation Schemes (ICS) contains many advances to insure consumer compensation for fraud compared to the current legislation on Investor Compensation Schemes

Our demands

A. Deposit Guarantee Schemes

- BEUC supports the European Commission proposal to abolish compensation mechanisms between the liabilities of the depositor and his deposits; protection of the accrued, but not credited, interests; compulsory *ex ante* funding of the DGS.
- The guarantee limit should be *per depositor* and *per brand*, not *per bank license*.
- Minimum harmonisation is needed for temporary higher balances and the circumstances which lead to protection should be extended.
- Repayment of depositors should not be privileged over interventions to permit deposit transfers to another institution or to prevent failure.
- If the repayment does not occur within 7 days, the depositor should be entitled to receive early repayments.
- There should be no time limit to claiming repayment. Each DGS should settle a provision for all depositors whose identity is known, but who have not yet contacted the DGS.

B. Investor Compensation Schemes

- BEUC welcomes the main modifications to the ICS Directive which are:
 - The extension of protection to some cases not previously covered (failure of a depositary or of a custodian chosen by the investment firm).

- Protection for the unit holder in case of failure of the depositary of the UCITS assets.
 - A higher protection level: €50,000 instead of €20,000.
 - Exclusion of the co-insurance principle.
 - Coverage of funds in currencies other than Member State currencies
- We believe all gaps in the protection of liquidities should be eliminated. Consumer protection should not be weaker for clients who enter the market via an investment firm than those who do so via banks.

Documents

- [BEUC Position paper on Deposit Guarantee Schemes](#) (x/2010/083)
- [BEUC Position paper on Investor Compensation Schemes](#) (x/2010/084)

For more: financialservices@beuc.eu

II. Enhance investors' protection: PRIIPS, UCITS, MiFID & IMD

Background

The low level of most statutory pensions, an aging population and the state of public finances make long term investment more and more important for consumers.

The complexity and long term dimensions of investments make it difficult for the retail investor to assess the suitability of an investment before a long time has elapsed since the decision to invest. The lack of comparability of the different kinds of retail investment makes it impossible for the non-sophisticated investor to make an informed decision regarding his investments. The mis-selling of long term investments are highly prejudicial to consumers who will not have sufficient revenue when retiring.

In December 2010, the European Commission consulted on certain aspects for the upcoming revision of several Directives regarding the protection of the retail investor: Package Retail Investment Products (PRIIPs), Undertakings for Collective Investment in Transferable Securities (UCITS), Market in Financial Instrument Directive (MiFID) and Insurance Mediation Directive (IMD). BEUC responded to all of those consultations highlighting the improvements needed to avoid mis-selling of investments and to restore consumer confidence in the financial sector. The proposals for legislation on PRIIPS and MiFID are expected in July 2011 and the IMD review proposal later this same year.

Our demands

- Introduction of a standardised Key Investor Information Document (KIID) with a Synthetic Risk Indicator (SRI) is essential to better inform consumer and make comparison easier. BEUC supports a highly standardised information sheet and asks for a review of the existing SRI for UCITS in order to make it useful for all types of investments.
- The duty to act honestly, fairly and professionally in accordance with the best interests of clients should be a general principle applicable to all financial services, irrespective of the financial product type.
- BEUC fully supports the measures suggested by the European Commission regarding organisational requirements for the launch of products, services and operations, in particular: assessing the compatibility of a specific product, service or operation with the characteristics and requirements of the clients to whom these products would be offered; and stress-testing the products and services.
- Regarding UCITS, BEUC supports the European Commission approach that the level of protection for UCITS should not go below the standard applied for the AIF (Alternative Investment Funds) and that the large retail base of UCITS investors should be provided with the necessary guarantee for them to place their confidence in UCITS.

Documents

- BEUC responses to consultations on [PRIIPS](#) (x/2011/009), [MiFID](#) (x/2011/010), [IMD](#) (x/2011/026) and [UCITS](#) (x/2011/007)

For more: financialservices@beuc.eu

III. Payment services - SEPA regulation on credit transfer and direct debit

Background

The creation of an Internal Market for payments in euro (Single Euro Payments Area or SEPA) is a project comparable to the introduction of the euro currency in 2002. Its aim is to replace the current electronic payment instruments, which often can only be used at national level, with payment services to be used both at national and cross-border level in 32 European countries for all euro payments.

The lack of EU-wide credit transfers and direct debits have never been an issue for most consumers. In order to convince consumers to exchange their national payment services for SEPA payment instruments, they should be convinced that these new services will be reliable, efficient and cheap.

In this context, the Regulation establishing technical requirements for credit transfers and direct debits in euro will play an important role in reassuring consumers. BEUC is generally satisfied with the content of this text which takes into account many consumer demands. Further improvements are needed to, *inter alia*, improve the SEPA governance model which is highly inefficient.

Our demands

- The measures on the safety of SEPA direct debit as proposed by the European Commission should be maintained in the Regulation.
- The potential expansion of non-refundable direct debit should be limited in order to protect the payer against potential abuse on behalf of unscrupulous creditors.
- Migration end-dates should be far enough to allow consumers to get accustomed to the SEPA instruments.
- Multilateral interchange fee per direct debit transaction should not exist in order to make direct debit payments cheaper for EU consumers. Transparency of fees is crucial.
- BEUC believes the issue of SEPA governance should be addressed by establishing an independent standardisation body, representative of all stakeholders, which would oversee the long-term development of SEPA standards.
- Conversion services need to be transitionally offered to consumers by banks in all Member States to allow an easier migration from BBAN to IBAN.

Documents

- [BEUC Position paper on Single Euro Payment Area](#) (x/2011/032)

For more: financialservices@beuc.eu

IV. Mortgage Credit Directive

Background

Borrowing money to build or buy a home is the single most important financial decision in most people's lives, one which engages them for 20, 30 years or longer. Borrowers cannot afford to be sold a bad deal. One of the lessons of the financial crisis has been on inadequate protection of borrowers in many EU countries: unsuitable loans, misinformation, aggressive marketing, lack of information on risks linked to using foreign currency and superficial assessment of people's financial means have made many loans increasingly unaffordable, raised defaults of payments and seen an increase in foreclosures.

BEUC welcomes the long-awaited legislative proposal on credit agreements relating to residential property which should provide borrowers from all over Europe with a higher protection standard, while allowing Member States to raise national standards even further. While the minimum harmonisation approach adopted by the European Commission is welcomed, the proposal needs some further improvements as regards its scope, provisions on early repayment of credit, the European Standardised Information Sheet (ESIS), the Annual Percentage Rate of Charge (APRC), protection of personal data (credit database access), regulation of credit intermediaries, sanctions and supervision.

Our demands

- Where better national provisions are in place they should be maintained and Member States should be allowed to adopt additional measures to better protect consumers.
- The scope should be extended to ensure responsible contractual (and not only pre-contractual) relationships between lenders and borrowers.
- It should be ensured that the ESIS is complete and is provided early enough to inform consumers and enable them to compare offers and shop around.
- The calculation of the APRC needs to be adapted to take due account of the impact of long-term variable interest rates and other factors.
- An appropriate cap on early repayment fees should be provided.
- It must be avoided that provisions on non-discriminatory access to credit registers proliferate consumers' personal data.
- The conflicts of interest relating to both tied and non-tied intermediaries need to be properly addressed.
- Sanctions should not be imposed on borrowers - to avoid potential abuse by lenders.
- Effective supervision at national level should be ensured.

Documents

- [BEUC Position paper on Mortgage Credit Directive](#) (x/2011/055)

For more: financialservices@beuc.eu

V. Ensure access to a basic payment account for all consumers

Background

Financial inclusion is a priority for BEUC in the area of retail financial services. Basic banking services should be accessible by all consumers across the EU. Firstly, every consumer needs access to a basic payment account (BPA) and essential means of payment (debit card, credit transfer, direct debit, withdrawal from cash points) and services attached to it to live a normal life. Without access to a BPA, many important financial services remain inaccessible. Moreover, bill payments can be more time-consuming and costly without a payment account and charges can be higher for basic financial transactions (e.g. cashing cheques). Without a payment account, it can be very difficult to find accommodation or even a job. In some countries, paying salary, social benefits or any type of payment from the government/municipalities to a citizen in cash is banned and paying in cash in general is allowed only for a limited amount of money.

BEUC therefore welcomes the European Commission's legislative proposal on access to a BPA. Currently such legislation exists in only a few Member States.

Our demands

- Any EU consumer should have the right to access a BPA, i.e. not only the financially excluded, but also those who do not need additional services offered by a regular bank account.
- It is essential to ensure that all financial institutions concerned are obliged to offer a BPA to all citizens across the EU.
- Community rules preventing the use of the financial system for the purpose of money laundering and terrorist financing should not be misused to financially exclude consumers.
- The different national specificities need to be taken into account when defining a BPA.
- It should be ensured that the price of a BPA for the financially excluded does not exceed its actual cost.
- Financial institutions and public authorities should commit to active promotion of the BPA.
- Alternative Dispute Resolution mechanisms should be simple, independent, accessible, powerful, effective and free.
- BEUC calls for a minimum harmonisation approach.

Documents

- Public consultation on access to Basic Payment Account, [BEUC response](#) (x/2010/080)

For more: financialservices@beuc.eu

VI. Transparency and comparability of bank account fees

Background

In August 2010, the European Commission invited the European banking industry (represented by EBIC) to take prompt action to identify and implement appropriate solutions to ensure proper understanding and comparability of personal current account fees throughout the EU. The European Commission's request was a follow-up to its study published in September 2009 which found that bank fees across Europe are often opaque and difficult to understand.

The following objectives should be achieved by the self-regulatory initiative: clarification and easier to understand terminology, improved comparability of banking fees, greater transparency and enhanced availability of the information on banking fees.

Furthermore, the European Commission stated that consumer representatives should be closely associated with this project. BEUC requests have been brought to the attention of EBIC and the European Commission. The adoption and entry into force of the code of conduct are expected respectively in July 2010 and January 2011 at national level. Given the weaknesses of self-regulation, it is necessary to ensure that the code of conduct is properly enforced and monitored. In the absence of appropriate monitoring and supervision at national level, this code of conduct would be worthless.

Our demands

- We call on the Polish presidency to hold a debate with Member States on this issue to ensure that this code will be applied widely and enforced properly by the banking sector.
- Member States should commit themselves to promote and oversee the enforcement of this code of conduct.
- Deterrent sanctions for non-compliance with the code of conduct should be imposed to ensure all financial institutions concerned comply with it.

Documents

- "Transparency and comparability of bank account fees" project - [BEUC requests \(x/2011/054\)](#)

For more: financialservices@beuc.eu

VII. Enhance financial supervision

Background

The European financial supervision package was adopted in 2010. Three European Supervisory Authorities (ESAs) and a European Systemic Risk Board (ESRB) were set up in January 2011 to replace the former supervisory committees. BEUC is already strongly concerned as to how consumers' interests will be taken into consideration by these new authorities: designation of stakeholder group members of each authority already shows a clear imbalance in favour of financial providers. Consumers are underrepresented.

Furthermore, while more and more legislation protecting consumers in the financial services area is adopted at national level, nothing has been done at EU level to ensure effective supervision of rules protecting consumers in each EU Member State.

Our demands

- We call on the Polish presidency to launch a debate on the need to co-ordinate supervision and ensure efficient enforcement at EU level.
- The membership of ESA's stakeholder groups should be re-examined to allow consumers' voices to be properly taken into account at ESA level.
- National financial supervisory bodies, or a specific body in charge of consumer protection, should effectively monitor the compliance with all rules protecting consumers within the area of financial services. As legislation is increasingly issued from the EU, to achieve a high level of consumer protection national bodies should cooperate at EU level.

Documents

- [BEUC Study on financial supervision](#) (x/2011/056)

For more: financialservices@beuc.eu

Energy and Sustainability

I. Energy Savings Directive

Background

The Energy Savings Directive is a follow-up of the European Energy Efficiency Plan and will replace the Energy Services Directive. A proposal for a Directive is expected before the summer break in 2011.

It will provide a framework for the energy efficiency and savings policies of Member States, including targets, financing, and consumer information.

Energy efficiency measures and provisions on supply of services will affect energy consumers in their daily lives. BEUC demands that consumers are not only provided with the right tools and information to increase their energy savings potential, but also become more active players on the energy market contributing to increased security of supply.

Our demands

- An effective framework for national reporting obligations is essential for the comparison of energy efficiency programmes across Member States.
- To actually embrace energy efficiency consumers need targeted information campaigns.
- Any reference to Smart Meters in the Directive must depart from the assumption that consumers need accurate, timely and understandable information on their energy usage to be able to change their consumption patterns and eventually save energy. Moreover, sensible requirements regarding the format and content of information provided to consumers via displays should be appropriately addressed in order to deliver behavioural change.

Documents

- [ANEC/BEUC position paper](#) on Energy Efficiency Plan 2011 (x/2011/057)

For more: sustainenergy@beuc.eu

II. Smart Grids /Smart Meters (roll-out of smart technologies)

Background

Europe has paid a significant price for its poorly interconnected and often out-dated energy infrastructure. The EU is now facing many challenges: ensuring the security of supply, increased efficiency needs and proper integration of renewable energies are crucial for well-functioning markets delivering benefits to consumers.

As set out in the European Commission's Communication on 'Energy Infrastructure Priorities for 2020 and Beyond' the roll-out of smart grid technologies are among the European Commission's priorities.

BEUC is actively involved in a European Commission Task Force on Smart Grids to develop a common vision for the implementation of smart grids and smart meters, and to recommend regulatory requirements to address the key issues.

Our demands

- Consumer trust and engagement are crucial for successful deployment. Member States should develop strategies and campaigns based on a social marketing approach to promote behavioural change.
- Transparent and robust processes are needed to assess whether the benefits of implementation outweigh the costs. Regulatory mechanisms are needed to ensure benefits are reflected in consumers' bills.
- Consumer interests and consumption patterns differ. Therefore, it should be up to them to decide if they want and need a smart meter.
- Special attention should be paid to vulnerable consumers. It should be analysed how they will be affected by smart meters and if they will benefit.
- Data protection and privacy should be integrated from the very inception of the project and at all stages of its development. Security and privacy by design, together with the principle of data minimisation are crucial.
- It is necessary to provide easy-to-read and consistent information on consumption to allow comparisons of the deals available on the market (e.g. time of use tariffs). Consumers must have free access to their actual energy consumption information as well as to backdated data.
- Strong protections are needed for remote disconnection and switching.
- Standards to promote interoperability and additional functionalities of smart meters are necessary.

Documents

- Smart Energy Systems for empowered consumers - [ANEC/BEUC Position \(x/2010/044\)](#);
- ERGEG Consultation on guidelines of Good Practice on regulatory aspects of smart metering for electricity and gas, [BEUC response \(x/2010/065\)](#)

For more: sustainenergy@beuc.eu

III. Energy Roadmap 2050

Background

In spring 2011, the European Commission organised a consultation for an Energy Roadmap to 2050, which BEUC answered. A Communication from the Commission is expected this autumn and it should present possible development paths for the EU energy markets to 2050, towards a low-carbon, resource-efficient system.

From a consumer perspective, it is important to assess what efforts are required from European citizens and what needs to be done to support consumers when fulfilling their part of the commitment to reach the objective of a 80% – 95% reduction of greenhouse gas emissions in the energy sector across Europe. National governments need to give their citizens the tools to participate in these expected changes, clearly set the objectives as well as explain why these steps are necessary.

It should also be clear that a vision of 2050 still requires short-term investments. The EU needs a strategy to cope with investments, communicate costs and benefits and be aware that fuel poverty might become an increasing reality for an even larger number of European citizens.

Our demands

- All stakeholders should communicate clear information to consumers related to the costs and benefits of a build-up of a low-carbon energy system.
- The transition towards a low-carbon energy system can only be achieved by building a low-carbon society. This requires improving energy efficiency, increasing the share of renewable energy sources and guiding consumer behaviour.
- Consumers must be motivated to proactively contribute to the creation of a low-carbon society via purchasing environmentally-friendly goods and services. Only if all consumers, including the more vulnerable ones, have a real choice will it be possible to enact the necessary changes.
- In order to ensure stability and balance of supply in the future, the planning and development of renewable energy needs to take place at European level, as only a coordinated approach can be successful.
- Competitive technologies should be widely deployed and the right incentives set. Implementation of smart and low-carbon technologies should be based on cost-efficiency.
- Well-functioning, EU-wide, internal energy markets as well as increased consumer rights and an assessment of consumer needs.

Documents

- Consultation on the Energy Roadmap 2050, [BEUC response](#) (x/2011/027)

For more: sustainenergy@beuc.eu

Safety

I. Revision of the General Product Safety Directive

Background

Unsafe consumer products, including products bearing the CE mark, are often found on the EU market and need to be recalled, thus posing risks to health and safety which could have been avoided.

The European Commission is planning a revision of the General Product Safety Directive (GPSD) in 2012, of which the preliminary consultation phase took place in 2010. BEUC, in collaboration with ANEC¹, has made suggestions to the European Commission and Parliament for a revised Directive. Many of our concerns have been addressed in the European Parliament and we hope that it will be taken up by the European Commission in the new proposal for the revised Directive.

Our demands

- BEUC calls for support of the 2010 Parliament Resolution.
- More clarity is needed as to how the various product safety legislations in effect in the EU interact with each other. Manufacturers' responsibility needs to be strengthened and clarified.
- It needs to be ensured that the level of enforcement is the same across the EU and that market surveillance activities are effective.
- Child-appealing products should be explicitly addressed. In addition, the prohibition of food-imitating products should be maintained.
- A European framework for market surveillance and wider access to information on dangerous products should be developed. An EU-funded accident statistics system and a European complaints handling and reporting point should be set up.
- EU emergency measures should be fully adapted to the risks they are intended to address, either by making these measures permanent or ensuring their validity until a satisfactory solution is found.
- A legally-binding status should be given to European Commission decisions which lay down safety requirements under the scope of the GPSD and which aim to support the development of standardisation mandates.

Documents

- Revision of the General Product Safety Directive – [Key issues from a consumer's perspective](#) (x/2010/031)

For more: safety@beuc.eu

¹ ANEC is the European consumer voice in standardisation

II. Nanotechnologies and nanomaterials

Background

Nanotechnologies are newly emerging technologies. Some of these applications could bring benefits to consumers' health and safety. Or for the environment could bring increased energy efficiency, more effective medical treatment and improved manufacturing production. However, we are concerned about the potential adverse effects of nanomaterials on human health and the environment, both in the short and long term.

In this context, we are alarmed by the increasing use of nanomaterials in consumer products sold on the European market without prior risk assessment. We are particularly concerned about products with which consumers come into direct contact on a daily basis (e.g. cosmetics and food products). It is crucial that consumers are properly protected and can feel confident that any product containing nanomaterials (or made using nanotechnologies) on the market has been independently assessed and found to be safe, before it is permitted to go on sale.

BEUC has high expectations with regard to the future EU Action Plan on Nanotechnologies. On top of that, in 2011 the European Commission will have to respond to the Parliament's Resolution on regulatory aspects of nanomaterials of April 2009, which in particular calls for a regulatory review and a definition.

Our demands

- A review and adaption, if necessary, of all relevant legislation (REACH and product safety legislations) should be undertaken in order to adequately address the potential risks of nanotechnologies.
- The development of adequate safety and risk assessment methodologies should be promoted taking into account all characteristics of nanomaterials.
- Safety assessment and approval should be imposed for all nanomaterials used in consumer products or in products that can have important impacts on the environment. The 'no data, no market' principle should prevail.
- Manufacturers should label consumer products containing nanomaterials, as it will be done in the new regulation for cosmetic products. An inventory of products containing nanomaterials on the EU market should be established.
- Misleading claims are currently made on products marketed as containing nanomaterials and need them to be regulated.
- Funding and research should be prioritised towards environmental, human health and safety aspects of nanomaterials.
- A public debate on nanotechnologies needs to be launched across the EU.

Documents

- Small is beautiful, but is it safe? [ANEC/BEUC position paper](#) (x/2009/043)
- [Leaflet](#) (x/2010/076) for [2010 inventory of products claiming to contain nanomaterials](#) (x/2010/077)
- Consultation for a definition of "nanomaterials", [BEUC answer](#) (x/2010/081)

For more: safety@beuc.eu

Food

I. Food Information to Consumers

Background

In some EU countries, over half of the adult population is overweight, and one child in five is obese. Type II diabetes, closely linked to diet and obesity, is on the increase. Although the solution to obesity involves many factors, diet plays a key role.

Even if more consumers are becoming aware of the link between what they put on their plates and the effect this has on their health, they are often bewildered when they look at the labels on food products. The nutritional information is often incomplete or difficult to use: consumers are faced with different simplified labels on the front of the packaging which makes it difficult to make comparisons between products. With the proposal for a Regulation on the provision of food information to consumers entering a crucial stage in second reading our demands are listed below.

The proposed directive is now in second reading procedure and the vote of the European Parliament is expected in July 2011.

Our demands

- Nutrition labelling should be mandatory on the front-of-pack for key nutrients (fats, saturated fats, sugars and salt) plus energy; while back-of-pack should present a complete nutritional information on the 'Big 8' nutrients (protein, energy, fat, saturated fats, carbohydrates, sugar, salt and fibre) plus trans-fats.
- It should be ensured there is the possibility for simplified front-of-pack labelling which shows the levels of these nutrients through the use of other forms of expression and presentation of this information.
- This nutritional information should always be expressed per 100g/ml to allow for comparisons between products. Additionally the information should be given on a per portion basis on the back of the pack as requested by the European Parliament in the Environment committee (ENVI) in 2nd reading.
- BEUC calls to support the position adopted by the ENVI committee on mandatory country of origin labelling for fresh fruits and vegetables, milk and dairy products, all meat and fish as well as for meat and fish when used as ingredients in processed foods.
- The legibility of the labels needs to be improved. We therefore support the position adopted by ENVI of a minimum font size of the print of 1.2mm as well as rules on clarity and contrast.

Documents

- [Position paper on Food Information to Consumers \(x/2008/040\)](#)

For more: food@beuc.eu

II. Health and Nutrition Claims

Background

Health and nutrition claims have been and continue to be used as a major marketing tool by the food industry in order to entice consumers into buying products. Due to the huge number of exaggerated or unsubstantiated claims that are currently on the market, it is very difficult for consumers to know which ones to trust and ultimately make an informed choice. Too often claims stress only one positive aspect of product claiming a low level of sugar, for example, but not mentioning the high levels of salt, or saturated fat.

In response to the proliferation of food products claiming health and/or nutrition benefits to appeal consumers, an EU regulation was adopted in 2006 laying down harmonised rules for the use of claims.

The purpose of regulating claims is to eliminate unsubstantiated and misleading claims and only allow claims that are scientifically proven and that consumers can trust. It also ensures that companies which make scientifically substantiated claims can benefit from their investments.

Our demands

- EFSA is currently assessing the scientific substantiation of the health claims and BEUC has put high expectations in the establishment of a positive list of authorised claims. It is indeed essential that exaggerated claims are removed from the market as soon as possible so that consumers can trust the claims which are made on foods.
- Nutrient profiles, a vital and a necessary part of the Health Claims Regulation, will help consumers to make an informed choice. They were due to be developed by the European Commission by January 2009. However, two years later and we are still awaiting a proposal. BEUC therefore calls for the European Commission to come forward with its proposal for nutrient profiles as soon as possible. We ask that such profiles be robust and scientific and to be fit for purpose i.e. that they prevent consumers from being misled about the qualities of a food through the use of claims.

Documents

- [Position paper on nutrition labelling](#) (x/2008/052)
- [BEUC Factsheet on Nutrient Profile](#) (x/2011/024)
- [BEUC Factsheet Nutrition & Health claims](#) (x/2011/025)

For more: food@beuc.eu

III. Cloning and Novel Food

Background

New technologies in food rearing and production processes may have an impact on food safety. Although consumers can benefit from these innovations, competitiveness and innovation must not be allowed to take priority over public health and safety. With regards specifically to cloning technique for food production, BEUC has expressed concerns. Indeed, an overwhelming majority of EU consumers do not want cloning to be used for food production purposes. Also, given the lack of traceability and labelling, consumers have no means of knowing if their meat or milk has been produced from clones or not. Furthermore, EFSA itself has recognized that scientific uncertainties remain when they stated that all the issues were not “satisfactorily addressed”.

BEUC reacted to the European Commission’s report on cloning published in October 2010 wherein they proposed to come forward with specific legislation establishing a temporary ban of the cloning technique and food from cloned animals.

We regret the negotiations in conciliation between the European Parliament and the Council failed, leaving a loophole in the regulation of marketing of food products from offspring of clones, and dropping the positive provisions achieved, for instance improved authorization procedures for foodstuffs from third countries or a definition of nanotechnology. The European Commission now has to put forward regulation including on cloning issue as soon as autumn 2011. We hope that the Polish Presidency will quickly start to work on the new proposal.

Our demands

- The European Commission’s new proposal for a regulation should tackle the issue and loopholes of food derived from cloning technique of a matter of urgency.
- The European Commission’s proposal of a 5-year suspension on the marketing and import of food from clones should be extended to the offspring and the reproductive materials (semen and embryos), at least until knowledge gaps have been addressed and consumer choice is ensured, as it is food from the offspring which would be consumed.
- Should the moratorium be removed in the future, there should be a full compulsory traceability system of clones and their offspring as well as labelling rules for derived food.

Documents

- Cloning for food production - [BEUC comments to the Commission’s report \(x/2010/087\)](#)
- [Position paper on Novel Food Regulation \(x/2010/005\)](#)

For more: food@beuc.eu

I. Information to Patients

Background

In December 2008, the European Commission presented a proposal on industry information to the general public on prescription medicines. The proposal did not bring any added value for consumers and opened the door to advertising of prescription medicines. It has been heavily criticised by BEUC and many other stakeholders.

The position in first reading of the European Parliament substantially improves the text and changes the perspective; from the industry's right to communicate, to patients' right to be informed. Following this vote, the European Commission decided to present a modified proposal, which is expected this summer taking many of the Parliament amendments into account. However, even if BEUC was relieved by the text put forward by the MEPs, we are still sceptical about the added value of such legislation for consumers and insist more guarantees are given, particularly in the case of information handed over by healthcare professionals, as they are those who patients trust the most.

Our demands

- We call on the Council to carefully assess the added value of this proposal for a Directive and to ensure it truly responds to consumers' health information needs.
- It is vital to maintain a clear distinction between information and advertising.
- The particular case of information directly given by healthcare professionals is of great concern and the information provided by the industry should not be exempted from the Directive, but be imperatively regulated.
- Good and independent sources of information (e.g. European Medicines Agency, EU register on clinical trials) should be promoted and reinforced.
- The source of the information should be clearly identified.
- Effective enforcement of the legislation, including on the internet and in social media needs to be guaranteed.

Documents

- [BEUC position paper on information to the public on prescription medicines \(x/2010/068\)](#)

For more: health@beuc.eu

II. E-health

Background

In 2010, the Digital Agenda for Europe and the Innovation Union Communication were launched as part of the EU's 'Europe 2020' strategy for smart, sustainable and inclusive growth. The EU Digital Agenda includes targeted eHealth actions and objectives as part of a wider strategy towards sustainable healthcare and ICT-based support for dignified and independent living.

In parallel, Member States have been taking a complementary and pro-active approach to eHealth. The Council's conclusions, adopted in December 2009, called upon the European Commission to update the 2004 eHealth Action Plan and was followed by the creation of the 'eHealth Governance Initiative'. Its overall objective is to contribute actively to the shaping of the eHealth political agenda at EU level, with a specific focus on interoperability.

The second eHealth action plan (eHAP) which is now under discussion will provide an opportunity to consolidate the actions which have been addressed to date, take them a step further where possible and provide a longer term vision for eHealth in Europe, in the context the EU 2020 Strategy, the Digital Agenda for Europe as well as the Innovation Union Communication and its associated European Innovation Partnership on Active and Healthy Ageing.

Our demands

- Awareness and confidence should be promoted for an adoption of e-health services by consumers.
- Consumers should always give informed consent to the sharing of their personal health information and the collection of any other classes of sensitive data.
- The legal, regulatory and organisational barriers to eHealth interoperability need to be overcome.
- Conception and implementation of initiatives are needed to allow for the deployment of eHealth services.

Documents

- Public consultation on the EU eHealth Action Plan, [BEUC answer](#) (x/2011/058)
- [BEUC position on the electronic health records](#) (x/2011/059)

For more: health@beuc.eu

III. Active and healthy ageing

Background

The European Innovation Partnership on Active and Healthy Ageing is part of the EU's Innovation Union Strategy, which is in turn one of the Europe 2020 flagship initiatives.

The initiative, which was endorsed by the Council in February 2011, aims to enable consumers to lead healthy, active and independent lives while ageing; improving the sustainability and efficiency of social and health care systems; boosting and improving the competitiveness of the markets for innovative products and services. The strategic implementation plan and the concrete actions linked to the pilot will be discussed in the coming months and will involve all stakeholders - including Member States.

Our demands

- BEUC calls for more emphasis on prevention and health promotion, giving consumers adequate tools to make informed and healthy choices.
- All consumers should have access to high quality health care, including safe, affordable and innovative medicines.
- The digital divide between generations needs to be taken into account, as well as safety and privacy considerations in the use of ICT solutions.
- Older consumers have specific needs, a more comprehensive approach encompassing financial services, food, health, social, education, transport thus need to be adopted.

Documents

- Public consultation on active and healthy ageing, [BEUC response](#) (x/2011/016)

For more: health@beuc.eu

AT - Verein für Konsumenten-information - VKI
AT - Arbeitskammer - AK
BE - Test-Achats/Test-Aankoop
BG - Bulgarian National Association Active Consumers- BNAAC
CH - Fédération Romande des Consommateurs - FRC
CY - Cyprus Consumers' Association
CZ - TEST - Czech association of consumers
DE - Verbraucherzentrale Bundesverband - vzbv
DE - Stiftung Warentest
DK - Forbrugerrådet - FR
EE - ETL - Eesti Tarbijakaitse Liit
EL - Association for the Quality of Life - E.K.PI.ZO
EL - General Consumers' Federation of Greece - INKA
EL - Consumers' Protection Center – KEPKA
ES - Confederación de Consumidores y Usuarios - CECU
ES - Organización de Consumidores y Usuarios - OCU
FI - Kuluttajaliitto – Konsumentförbundet ry
FI - Kuluttajavirasto
FR - UFC - Que Choisir
FR - Consommation, Logement et Cadre de Vie - CLCV
FR - Organisation Générale des Consommateurs - OR.GE.CO
HR - Croatian Union of the Consumer Protection Associations – Potrosac
HU - National Association for Consumer Protection in Hungary - OFE
IE - Consumers' Association of Ireland - CAI
IS - Neytendasamtökin - NS
IT - Altroconsumo
IT - Consumatori Italiani per l'Europa - CIE
LU - Union Luxembourgeoise des Consommateurs – ULC
LV - Latvia Consumer Association - PIAA
MK - Consumers' Organisation of Macedonia - OPM
MT - Ghaqda tal-Konsumaturi - CA Malta
NL - Consumentenbond - CB
NO - Forbrukerrådet - FR
PL - Polish Consumer Federation National Council – Federacja Konsumentów
PL - Association of Polish Consumers - Stowarzyszenie Konsumentów Polskich
PT - Associação Portuguesa, para a Defesa do Consumidor - DECO
RO - Association for Consumers' Protection – APC-Romania
SE - The Swedish Consumers' Association - Sveriges Konsumenter
SI - Zveza Potrošnikov Slovenije - ZPS
SK - Association of Slovak Consumers- ZSS
UK - Which?
UK - Consumer Focus

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