

NEW CONSUMER AGENDA

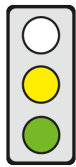
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KEY ISSUES

Context: EU consumer law has developed in a variety of areas, and various Directorates General within the Commission are responsible for it, resulting in a sometimes confusing situation.

Objective of the Communication: The New Consumer Agenda aims to present a “vision” for coherent EU consumer policy up to 2025 and to consolidate EU consumer protection law.

Affected parties: All citizens and companies.



Pro: (1) The New Consumer Agenda creates clarity regarding the Commission’s plans for consumer protection.

(2) Technical support for national authorities enables more efficient monitoring of cross-border trade in goods and more effective enforcement of consumer protection.

Contra: –

Points to note: (1) Any reform of the Package Travel Directive must ensure that consumers remain free to choose the form of reimbursement.

(2) Legislative proposals on the “substantiation of green claims” and “empowering consumers” must ensure that they actually follow the concept of empowering the consumer and refrain from imposing a specific lifestyle.

The most important passages in the text are indicated by a line in the margin.

CONTENT

Title

Communication COM(2020) 696 of 13 November 2020: **New Consumer Agenda**

Brief Summary

► Context, objectives and “key priority areas”

- European consumer law has undergone further development particularly in the last few years e.g. due to the 2018 “New Deal” for consumers [see [cepPolicyBrief No. 2018-28](#) and [cepPolicyBrief No. 2018-36](#)].
- The New Consumer Agenda aims to present a “vision” for EU consumer policy up to 2025 as well as assimilating experiences from the pandemic [p. 1].
- The New Consumer Agenda only “outlines” how consumer law could be “consolidated” [p. 21]. The measures are only described in a “selective” and “non-exhaustive” manner in order to highlight areas of focus and avoid overlaps with existing strategies and action plans [p. 2, f.n. 8].
- The Commission wants to work with stakeholders – consumer organisations, civil society and industry – in a newly formed “Consumer Policy Advisory Group” [p. 21].
- The Consumer Agenda deals with “gaps” in consumer law that have emerged as a result of COVID-19, as well as five “key priority areas”: (1) green transition; (2) digital transformation; (3) effective enforcement and redress; (4) addressing specific consumer needs and (5) consumer protection in the global context [p. 1].

► Consumer protection and COVID-19

- The pandemic has given rise to significant problems in the enforcement of the consumer’s right to a full refund of advance payments made to transport undertakings and tour operators, principally due to liquidity problems. The Commission therefore wants to examine the Package Travel Directive [(EU) 2015/2302] [p. 2-4].
- The pandemic is changing consumption and mobility patterns. The confinement measures have highlighted the fact that digital technologies also play a major role for consumers. [p. 3]
- There has been an increase in consumer scams, deceptive marketing techniques and fraud in online shopping during the pandemic. The Commission therefore wants to “support and facilitate cooperation between the Consumer Protection Cooperation network and other networks and stakeholders” [p. 3-4].

► Key priority area 1: Green transition

- The Commission wants to enable consumers – irrespective of their financial situation – to play an active role in the “green transition” without imposing a specific lifestyle [p. 5].
- Various EU initiatives have already been adopted to support this. These include the “Farm to Fork” [see [cepPolicyBrief from the Centres for European Policy Network](#)] and “Biodiversity” [see [cepPolicyBrief from the Centres for European Policy Network](#)] strategies [p. 5-6].
- The Commission sees the need for more information on sustainability aspects of goods and services. This should not, however, “overload” consumers with information. [p. 7]
- The Commission wants to find ways to enable sustainability labelling for food products, already taken up in 2020 by the “Farm to Fork” strategy [see [cepPolicyBrief from the Centres for European Policy Network](#)] [p. 8].
- The Commission also picks up on the “right to repair” already planned in the 2020 Circular Economy Action Plan [see [cepPolicyBrief No. 2020-5](#)]. It is considering [p. 7-8]
 - extending the minimum liability period for new or second-hand goods and
 - introducing a new liability period after repairs.
- The Commission also considers “greenwashing” – i.e. misleading information presenting a product or company as more environmentally friendly than it actually is – and early obsolescence of products – i.e. products becoming prematurely unusable – to be problems [p. 6 and 8].
- The Commission is planning [p. 9]
 - a legislative proposal on the “substantiation of green claims” so that companies will have to prove their environmental claims based on methods for measuring the “environmental footprint” of products and organisations;
 - a legislative proposal to “empower consumers for the green transition”;
 - to review the Sale of Goods Directive [(EU) 2019/771] as to the question of how to encourage repairs and more sustainable products.

► Key priority area 2: Digital transformation

- The Commission sees a need to combat, inter alia, fraud, false or misleading information and manipulated consumer reviews [p. 10].
- The product safety of new technologies is to be increased. The General Product Safety Directive [(EG) 2001/95], in particular, dates back to a time when AI-powered products and connected devices were rare [p. 11-12].
- Consumers will also be empowered to understand financial products and to compare and accept offers online [p. 13].
- The Commission wants to [p. 13-14]
 - revise the Consumer Credit Directive [(EC) 2008/48] and the Distance Marketing of Financial Services Directive [(EC) 2002/65] to strengthen consumer protection for retail customers;
 - analyse whether additional legislation is required in order to provide a comparable level of consumer protection both “online” and “offline”;
 - lay down requirements for Artificial Intelligence (AI), as already announced in the White Paper on AI in 2020 [see [cepPolicyBrief No. 2020-4](#)];
 - revise the General Product Safety Directive [(EC) 2001/95] and the Machinery Directive [(EC) 2006/42] to address new challenges to the safety of products.

► Key priority area 3: Effective enforcement and redress

- The EU has already extended consumer rights by way of the “New Deal” [see [cepPolicyBrief No. 2018-28](#) and [cepPolicyBrief No. 2018-36](#)] [p. 15].
- In order to ensure uniform enforcement of consumer rights in the EU, the Commission wants to support the “capacity-building activities” of national authorities. It wants to provide “e-tools” to strengthen national authorities’ capacity to identify unsafe products and tackle illegal online commercial practices [p. 15].
- The EU will continue to fund the European Consumer Centres and tools for Alternative Dispute Resolution and Online Dispute Resolution [p. 15].

► Key priority area 4: Addressing specific consumer needs

- Debt advice has proven to be an effective way of helping over-indebted consumers to return to financial sustainability, while ensuring that creditors are repaid [p. 16].
- The Commission will also assess whether the current provisions of the Consumer Credit Directive [(EC) 2008/48] are adequate for ensuring that consumer credit is granted only in conjunction with a thorough assessment of the consumer’s creditworthiness [p. 16].
- Lifelong consumer education, particularly in financial matters, will be promoted so that consumers can make sound decisions in this area. Better coordination at national and EU level will contribute to this [p. 17].
- The Commission is planning [p. 18-19]
 - to increase funding for actions enhancing the availability and quality of debt advice services in Member States;
 - a strategic approach to improving consumer awareness and education.

► **Key priority area 5: Consumer protection in the global context**

- Production and value chains are increasingly globally interconnected. As a result, international cooperation among authorities is also important to ensure effective protection of consumers [p. 19].
- A large number of dangerous products in the EU come from countries outside the European Economic Area, including China. Cooperating with third countries, including through the exchange of data on dangerous products, will increase the safety of EU consumers [p. 19].
- Since 2006, the EU and China have cooperated in the area of product safety via the “Information exchange system on dangerous products” [[“RAPEX-China-System”](#)] [p. 19].
 - The “RAPEX-China-System” facilitates the transfer of data between the EU and China, on dangerous products originating in China that are found in the EU, and enables the competent authorities in China to prevent or restrict further export of dangerous products into the EU.
 - This has helped to reduce the number of unsafe products – although the overall figure remains high [p. 19].
- The Commission is aiming to develop an action plan with China for strengthened product safety cooperation for products sold online [p. 20].

Statement on Subsidiarity by the Commission

The Commission makes no statement on subsidiarity.

Policy Context

The New Consumer Agenda ought to contribute to a “sustainable” and “green” recovery and a “fair digital-oriented society”. It complements other EU initiatives which, although not part of consumer policy in the narrower sense – e.g. the European “Green Deal” [[cepAdhoc “A European Green Deal”](#)], the Circular Economy Action Plan [[cepPolicyBrief No. 2020-5](#)] and the [Communication on Shaping Europe’s digital future](#) –, nevertheless address various aspects of consumer policy. The Council welcomes the New Consumer Agenda [[Conclusions on the New Consumer Agenda](#)].

Options for Influencing the Political Process

Directorates General:	DG Justice and Consumers [DG JUST] (leading)
Committees of the European Parliament:	Internal Market and Consumer Protection [IMCO] (leading); Rapporteur: TBA
Federal Ministries:	Justice and Consumer Protection (leading)
Committees of the German Bundestag:	Justice and Consumer Protection (leading)

ASSESSMENT

Economic Impact Assessment

The New Consumer Agenda sets out EU consumer policy for the next five years. Essentially, it restricts itself to compiling proposals which have already been specified and described elsewhere. This **creates clarity regarding the Commission’s plans for consumer protection**, for which various Directorates General are responsible, and is therefore commendable.

The COVID-19 pandemic has among other things resulted in major travel restrictions that have brought tourist travel almost to a complete standstill. This has led to many cancellations. Current European law on package holidays provides that, in the event of a cancellation due to “unavoidable and extraordinary circumstances”, travellers have a right to an immediate and full refund of all payments already made. The large number of cancellations caused by COVID-19 has in turn resulted in liquidity problems for travel operators. Travel vouchers for consumers, as recommended by the Commission [see in particular No. 21 of [Commission Recommendation \[\(EU\) 2020/648\]](#)], were intended to contain these liquidity bottlenecks. The Package Travel Directive [(EU) 2015/2302] does not make express provision for the possibility of refunds in the form of vouchers. In the aforementioned recommendation, the Commission recognises that, in the event of cancellations, travel operators can offer vouchers as an alternative to cash refunds if travellers voluntarily accept such vouchers. During the COVID-19 pandemic, however, 15 Member States have passed national rules temporarily allowing travel operators to impose the acceptance of vouchers. The Commission has opened infringement proceedings in order to enforce an amendment to those national rules that are in breach of the right to reimbursement [see [Report from the Commission on the application of the Package Travel Directive of 26.2.21](#), p. 16 and 19-20]. **Any reform of the Package Travel Directive must ensure that consumers are still free to choose the form of reimbursement** and in particular retain the right to a cash refund. In addition, it must be ensured that the use of travel vouchers does not result in any disadvantage to consumers, particularly additional costs for issue, transmission or redemption.

It is appropriate that consumers are empowered to make informed and self-determined purchasing decisions through information about goods and services. As regards “sustainability labelling”, although it may create added value for consumers - by increasing transparency - this will only be the case if over-complex labels are avoided. The use of such labelling should then be voluntary in nature because it provides the consumer with additional information for a self-determined purchasing decision without - as the Commission rightly emphasises - enforcing any specific lifestyle. This is supported by the positive experience with the voluntary hexagonal symbol for organic certification, introduced in Germany in 2001. At the same time, a voluntary label does not impinge on the freedom to conduct a business [Art. 16 CFR].

The Commission wants to give consumers better protection against “greenwashing” and early obsolescence of products. This will primarily take place by way of **the legislative proposals on the “substantiation of green claims” and “empowering consumers”**. These **must** in turn **ensure that they actually follow the concept of empowering the consumer and refrain from imposing a specific lifestyle**.

Unsafe products and illegal business practices are harmful to both consumers and to those companies that guarantee the quality and safety of their goods and services. In order for consumers to be sure that products traded in the internal market are safe, compliance with the relevant safety requirements must be monitored. This is the responsibility of the Member States. **Technical support given in this respect to national authorities by the EU – regarding the discovery of unsafe products and exposure of illegal online business practices – is appropriate because it enables both more efficient monitoring of the cross-border trade in goods and more effective enforcement of consumer protection by Member States**. To that extent, enhanced cooperation between the EU and China is also appropriate.

Legal Assessment

Legislative Competency

Dependent on the actual design of the specific measures. Consumer protection falls under the shared competences [Art. 169 (2) TFEU]. The EU can pursue consumer protection (1) in connection with the internal market competence [Art. 114 TFEU] or (2) to support, supplement and monitor the policy pursued by the Member States.

Subsidiarity and Proportionality with Respect to Member States

Dependent on the actual design of the specific measures.

Compatibility with EU Law in other Respects

Including the requirements of consumer protection in defining and implementing other EU policies and activities corresponds with the provisions of primary law [Art. 12 TFEU and Art. 38 CFR]. Otherwise dependent on the actual design of the specific measures.

Impact on German law

Dependent on the actual design of the specific statutory measures.

Conclusion

The New Consumer Agenda creates clarity regarding the Commission’s plans for consumer protection. Any reform of the Package Travel Directive must ensure that consumers remain free to choose the form of reimbursement. Legislative proposals on the “substantiation of green claims” and “empowering consumers” must ensure that they actually follow the concept of empowering the consumer and refrain from imposing a specific lifestyle. Technical support given to national authorities – regarding the discovery of unsafe products and exposure of illegal online business practices – enables both more efficient monitoring of the cross-border trade in goods and more effective enforcement of consumer protection by Member States.