

Protecting European consumers

SUMMARY

Consumer protection rules have been improving the rights of consumers in the European Union since the 1970s. While the level of protection is today considered to be among the highest in the world, consumers in the EU are still faced with a number of issues. According to the latest available data, in 2016 one in five consumers said that they had had a reason to complain in the last 12 months, a level which has remained largely unchanged since 2008.

Since 2014, efforts have been made in a number of areas, including stronger cross-border cooperation between national authorities in charge of consumer protection and market surveillance. Notably, the Commission proposed a 'new deal for consumers' in April 2018, to enable representative legal actions for the protection of the collective interests of consumers and to modernise EU consumer protection rules. Sector-specific efforts included: eliminating roaming charges across the EU in 2017; legislation aimed at facilitating consumer participation in the digital single market; reforms on the rules on privacy and data protection; enhancing the rights of energy consumers and passengers; and efforts to address the 'dual quality' of branded food products.

The EU budget for consumer protection is relatively small, because although rules in this field are made at the EU level, their implementation and enforcement are carried out by the Member States. The consumer programme has a budget of €188 million for the 2013-2020 period, or roughly €0.05 per citizen per year. This may change in the new multiannual financial framework, as consumer protection becomes part of a wider single market programme, which is expected to create synergies between its various components. Future policies could focus on longer product lifetime, labelling and quality requirements for non-agricultural and industrial products, fairer food labelling and retail financial services.

This is an update of an earlier briefing issued in advance of the 2019 European elections.



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State of play

Consumer protection is one of the most tangible areas of EU policy for citizens, covering a wide range of their everyday activities, from the way prices are displayed in shops to roaming charges, electricity bills and rules on returning faulty products.

First efforts to protect consumers at the EU level in the 1970s focused on health protection and the quality of goods and services, under the premise that this would help European economic integration.¹ This internal market focus continues to be the main logic behind EU consumer protection today. On the one hand, consumer protection rules are expected to enable consumers to take full advantage of the internal market, resulting in improved choice and lower prices, as they look for what they need across the Member States, consult the opinion of other consumers, and find the best deals. On the other hand, the same or a similar level of consumer protection throughout the European Union simplifies cross-border sales for businesses, while at the same time increasing consumer trust. This is vital for the European economy, as consumer expenditure accounts for around half of the gross-domestic product in most EU countries. In 2017, for instance, consumer spending accounted for 55 % of the EU gross-domestic product.

Successive consumer strategies have set EU priorities in the field of consumer protection. Priorities for the 2014-2020 period are defined in the [European consumer agenda](#), which puts forward four key 2020 objectives:

- **improving consumer safety** by revising the regulatory framework on product and service safety and enhancing the market surveillance framework; reinforcing safety in the food chain;
- **enhancing knowledge** by improving information and raising awareness of consumer rights and interest among both consumers and traders; building knowledge and capacity for more effective consumer participation in the market;
- **improving implementation**, by stepping up consumer law enforcement and giving consumers efficient ways to solve disputes, with a focus on key sectors such as the digital market, energy, transport and financial services sectors and misleading environmental claims;
- **aligning rights and key policies to economic and societal change** by adapting consumer law to the digital age; promoting sustainable growth and supporting consumer interest in the digital, financial services, food, energy, travel and transport and sustainable products sectors.

The consumer agenda also identifies challenges, such as helping consumers to identify sustainable and healthy choices, or addressing the needs of vulnerable consumers who have difficulties in accessing and understanding information and finding appropriate products and services on the market.

While the consumer protection strategies define the overall framework for consumer protection, consumer aspects in particular sectors are also contained in strategic documents such as the [New deal for energy consumers](#) and [Consumer financial services action plan](#).

The past few decades have undoubtedly seen an improvement in EU consumer rights. According to the European Commission, the [level](#) of protection is among the highest in the world. However, the [2017 consumer condition scoreboard](#) shows that consumers in the EU are still faced with a number of issues:

- **Non-compliance:** one in five consumers said they had had at least one reason to complain about a purchase in the previous year.² In addition, 17 % of consumers were exposed to unfair consumer practices, such as being pressured by persistent sales calls, or messages urging them to buy something, or being offered a product advertised as free of charge which actually entailed charges.

- **Consumers not using their rights:** while two-thirds (63.4 %) of consumers who complained reached a satisfactory solution, about a third of those who said they had a reason to complain decided not to complain at all. Most of them said this was because they thought the amount in question was too small or because they thought it would take too long.
- **Poor level of knowledge of the rules:** in a poll that tested consumers' knowledge of three of their rights, only 12.6 % answered all three questions correctly.³ This is particularly problematic, as the less consumers know about their rights, the less likely they are to report a problem and to do something about it.
- **Untapped potential of the digital market:** 55 % of the EU population has made a purchase online in the previous 12 months, but they overwhelmingly bought from retailers in their own country (49 %). Only 17.5 % bought online from retailers in a different EU country.
- **Delivery issues:** 34.5 % of consumers who bought online experienced a problem with delivery of the products, with late delivery reported by 25.6 % of consumers. A 2015 Commission public consultation revealed that over two thirds of consumers had given up an online purchase they had been considering because of the high delivery costs. Currently, cross-border parcel delivery prices charged by universal service providers can be up to five times higher than domestic prices.⁴
- **Issues with access to the single market:** almost a quarter of consumers encountered barriers limiting their access to the single market – for instance retailers that did not accept payment from the consumer's Member State, or refusal to deliver to their country.

EU framework

Legal framework

The first consumer protection efforts in the EU in the 1970s aimed at removing impediments to the integration of the internal market. The 1986 Single European Act explicitly recognised consumer protection as a policy aim within internal market policies. The 1992 Treaty of Maastricht elevated consumer protection to an independent policy area for the first time and obliged the Community to work on a high level of consumer protection without requiring a direct connection with single market integration.⁵ With the entry into force of the Lisbon Treaty in 2009, the [Charter of Fundamental Rights of the European Union](#) became legally binding, acknowledging the human rights dimension of consumer protection.⁶

Today, consumer protection issues are a shared competence between the EU and Member States. Article 114 of the Treaty on the Functioning of the European Union (TFEU), which is the legal basis for internal market harmonisation measures, sets the objective of a high level of consumer protection, 'taking account in particular of any new development based on scientific facts'. It requires decisions on measures to approximate EU countries' consumer legislation to be decided using the ordinary legislative procedure and after consultation of the European Economic and Social Committee. Article 169 TFEU further specifies that EU consumer policy seeks to protect the health, safety and economic interests of consumers and to promote their right to information, education and to organise themselves in order to safeguard their interests. It lays down the principle of minimum harmonisation of rules, allowing Member States to maintain or introduce more stringent protective measures than internal market legislation, provided such measures are compatible with the Treaties and the Commission is notified of them. Consumer protection requirements have to be taken into account in defining and implementing other Union policies and activities according to Article 4 TFEU.

In addition to horizontal EU consumer protection legislation, which protects consumers across sectors and serves as a safety net, consumer protection aspects can be found in a wide variety of sector-specific legislation:

- **digital market:** rules on e-commerce, processing of personal data and the protection of privacy, online dispute resolution for consumer disputes, distance marketing of financial services;
- **financial services:** rules concerning information on financial products at advertising stage, misleading description of financial products, credit arrangement for consumers, comparability of fees related to payment accounts;
- **food safety and labelling:** EU legislation deals with preventing food fraud, ensuring clear labelling of foodstuffs, implementing strict food hygiene standards and controls in the internal market;
- **energy:** consumer rights relate to specific aspects of the energy market, such as the right to clear information when choosing a provider, the right to switch providers and the right to the frequency and clarity of billing and the way the information on the bill has to be presented;
- **travel, leisure and transport:** a set of passenger rights in all modes of transport entitling them to compensation and assistance in the event of accidents, cancellations or delays, as well as rules on package travel and timeshare.

Financial framework

The current multiannual financial framework (MFF) attributes €188.83 million for the 2013-2020 period for the consumer programme⁷ under Heading 3: Security and citizenship, which also includes justice and home affairs, border protection, immigration and asylum policy, public health, culture, youth, information and dialogue with citizens. The consumer programme, established by [Regulation \(EU\) No 254/2014](#), focuses on four areas:

- **Safety:** by consolidating and enhancing product safety through effective market surveillance throughout the Union, in particular through the EU rapid alert system for dangerous consumer products ([RAPEX](#)).
- **Consumer information and education, and support to consumer organisations:** by improving consumers' knowledge, information and awareness of their rights, by developing the evidence base for consumer policy and by providing support to consumer organisations, including the specific needs of vulnerable consumers.
- **Rights and redress:** by developing and reinforcing consumer rights in particular through smart regulatory action and improving access to simple, efficient, expedient and low-cost redress, including alternative dispute resolution.
- **Enforcement:** by strengthening cooperation between national enforcement bodies and by supporting consumers with advice, in particular via the activity of the Consumer Protection Cooperation Network and the European Consumer Centres.

The consumer programme funds various types of measures. Some concern cooperation actions at the EU level in the area of food safety and non-food consumer products, joint action between national authorities, as well as exchanges of enforcement officials between authorities under consumer safety and consumer protection cooperation. In addition, grants are available for national consumer organisations and EU-level consumer organisations, such as the European Consumer Organisation [BEUC](#) and the Co-ordination of Consumer Representation in Standardisation [ANEC](#). European Consumer Centres Network ([ECC](#)) activities, with offices in all Member States and offering advice to consumers on their rights in cross-border purchases, are also funded, as are information campaigns on consumer rights. Funds are also available for actions aimed at increasing the number of people contacting the ECC Network, as well as the number of people using the EU-wide online dispute resolution ([ODR](#)) system. The programme also funds market studies and independent scientific advice for use by the European Commission.

Actions in other areas also contribute to consumer protection, including in the field of retail financial services, services of general interest, passenger rights and gas and electricity consumer rights. The Consumers, Health, Agriculture and Food Executive Agency ([CHAFEA](#)) runs the 'Better training for safer food' initiative, aimed at organising training for Member State authorities involved in official control activities in the fields of food, feed, animal health, animal welfare and plant health. The European Food Safety Authority ([EFSA](#)) runs a project on food quality and genetically modified organisms. The European Environment Agency ([EEA](#)) runs projects on consumption and tourism.

Deliveries of the 2014-2019 parliamentary term

Since mid-2014, the Union has developed a number of policy initiatives aimed at improving the enforcement of consumer rights and of safety and compliance of products on the internal market.

Some of the results that have been achieved include the following:

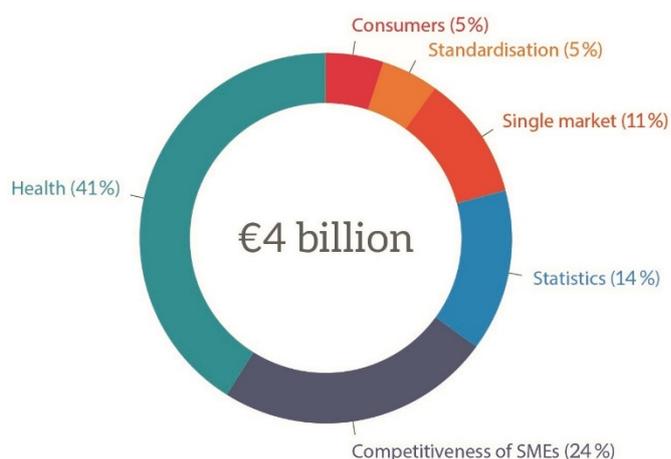
- On **horizontal measures**, Parliament and Council have passed new legislation to introduce more effective procedures for [cross-border cooperation](#) between national authorities in charge of consumer protection from 2020. They have also agreed on legislation strengthening [cooperation between market surveillance authorities](#). In April 2018, the Commission published a '[new deal for consumers](#)'. This included a proposal for a directive on [modernisation of EU consumer protection rules](#). The Parliament and the Council reached an agreement on the proposal in March 2019 and the Parliament approved it at first reading in April 2019. The directive would introduce maximum penalties for widespread consumer infringements of at least 4 % of the trader's annual turnover, increase transparency on online marketplaces and ban some new unfair practices. Subject to the provisions on the carrying over of unfinished business from one term to the next, it is expected that the agreement will be formally confirmed by the Council and the new Parliament.
- On **intra-EU phone charges**, [roaming charges](#) were ended across the EU in 2017. At the insistence of the European Parliament, the price of [phone calls between Member States](#) has been capped at 19 cents for phone calls and 6 cents for text messages since May 2019.
- On the **digital single market**, legislation adopted banning unjustified [geo-blocking](#) applies since January 2018, enabling consumers to order products and services from online stores across the EU without discrimination on the basis of nationality or residence. A cross-border [parcel delivery](#) regulation, adopted in April 2018, will bring greater transparency and is expected to result in lower delivery prices for online shoppers. New legislation on [contracts for the sale of goods](#) and [contracts for supply of digital content and digital services](#),⁸ adopted towards the end of the legislature, will improve the rights of consumers regarding conformity of goods and buyer's remedies in case of defective goods. For instance, Member States will be allowed to decide on legal guarantees for goods and digital content and services of longer than two years, while the period during which it is presumed that the goods were faulty from the start, which currently stands at six months, will be extended to at least one year.
- On **privacy**, the Parliament and the Council have strengthened the protection of EU citizens' data by adopting the new General Data Protection Regulation ([GDPR](#)), which took effect in May 2018.
- On **financial services**, in 2017 the European Commission published an [action plan](#) setting out a strategy to enable consumers to choose freely from a wide range of financial services available across the EU, while being confident that they are well protected. The action plan seeks in particular to use the potential of digitalisation and technological developments ([FinTech](#)) to improve consumer access to financial services across the EU.

- On **energy**, the revised [energy efficiency labelling](#) rules are expected to ensure easier-to-understand energy efficiency labels for consumers. The new [energy market design](#) agreed by the Parliament and Council is expected to result in easier switching of providers (within 24 hours) and more transparent energy bills. Member States will be obliged to offer targeted protection to [energy poor](#) or vulnerable customers, and consumers will have a right to [self-production](#) and self-consumption of energy.
- On **passenger rights**, since July 2018, new rules on [package travel](#) ensure that consumers are better informed about the services they are buying and that they have a right to clear remedies if something goes wrong.
- On **food**, the European Parliament succeeded in pushing the issue of [dual quality of products](#) onto the EU agenda, which led the Commission to propose a [revision](#) of the Unfair Commercial Practices Directive (UCPD), mentioned above, that will enable the national authorities to ban practices on a case-by-case basis.⁹ In February 2019, the Parliament and the Council reached an agreement on a targeted [revision](#) of the General Food Law and eight related legislative acts. The new regulation is expected to improve public access to industry studies used by the European Food Safety Authority (EFSA) in its risk assessments related to food and feed safety.¹⁰

Potential for the future

The current consumer programme is discontinued under the MFF 2020-2027 proposal. Consumer protection actions are instead to be included in a new [single market programme](#), under Heading 1: Single market, innovation and digital. The new programme seeks to consolidate a range of activities previously financed separately.¹¹ It bundles together 17 programmes and actions financed by the current MFF, two new initiatives and eight commitments undertaken by the Commission in the meantime, including the new deal for consumers, reform of market surveillance and a new framework for type approval and market surveillance of motor vehicles. The Commission claims that bringing all of these areas into one programme would minimise overlaps, encourage synergies and improve cooperation.

Figure 1– Estimated breakdown of the single market programme elements



Data source: Secretariat of the EP Committee on Budgets.

Consumer protection and empowerment are listed among the general objectives of the proposed new programme. One of the specific objectives includes **promoting the interests of consumers** and **ensuring a high level of consumer protection and product safety**. It has the following two main components.

- 'Empowering, assisting and educating consumers, businesses and civil society; ensuring a high level of consumer protection, sustainable consumption and product safety notably by supporting competent enforcement authorities and consumer

representative organisations and cooperation actions; ensuring that all consumers have access to redress and; provision of adequate information on markets and consumers'. This component is allocated an indicative amount of €188 million.

- 'Enhancing the participation of consumers, other financial services end-users and civil society in financial services policy-making; promoting a better understanding of the financial sector'. This component is not allocated a specific amount of funds.

Although not explicitly mentioned, consumers are also expected to benefit from other specific objectives of the programme, for instance the supporting of the process of product standardisation, which can lead to better product safety; contributing to a high level of health for humans, animals and plants along the food chain and supporting sustainable food production and consumption; implementation and enforcement of the Union law in the areas of the internal market for goods and services, market surveillance and contract and extra-contractual law.

Consumer protection activities will, among other things, aim to raise the awareness of consumers, businesses, civil society and authorities on Union consumer and safety laws through campaigns, exchange of best practice and expertise, and training for businesses, consumers, civil society and public authorities. They will seek to empower consumers and consumer and business organisations at the national and EU level by taking part in political discussions and the decision-making process. The Commission's proposal explicitly announces support for BEUC and ANEC. Particular attention will be given to promotion of sustainable consumption, the prevention of consumer vulnerabilities, challenges created by the digitisation of the economy and development of new consumption patterns and business models. The programme should also support the publication of the annual [Union consumer scoreboards](#).

Assistance is to be available for national competent authorities, including those responsible for consumer protection and those for monitoring product safety. The programme will support the Union rapid alert system for dangerous products (RAPEX), the Consumer Protection Cooperation network, and cooperation and joint actions between authorities in third countries and the Union. Funding would be available for supporting the modernisation of the Union legal framework and its rapid adaptation to the changing environment, including through data gathering and analyses, studies, evaluations and policy recommendations, pilot projects, and communication activities. The proposal also mentions the need to ensure the equal treatment of consumers across the internal market in relation to dual quality standards, stronger Member State enforcement capacities, enhanced product safety, increased international cooperation and new possibilities for redress through representative actions by qualified entities.

As far as the policy outlook is concerned, under the Treaties, the EU shares the powers in the field of consumer protection with Member States. Consumer protection rules are therefore made at the EU level, but financing, implementation and enforcement are the responsibility of the Member States. However, coordination of national competent authorities is increasingly facilitated at the EU level.

EU consumer protection laws are generally adopted under the 'ordinary legislative procedure', whereby the Commission puts forward a proposal, which is subsequently amended and adopted by the European Parliament and the Council. At the end of the last parliamentary term, however, work on several legislative proposals was still ongoing. Further progress on these files will depend on how the new Parliament and the other institutions decide to proceed in the new legislature.

These files include:

- A proposal on [representative actions](#) for the protection of the collective interests of consumers, which was presented in April 2018 as part of the 'new deal for consumers'. The Parliament adopted its first reading position on this proposal in March 2019, but the Council has yet to reach its position. The proposal would introduce the possibility for consumers across the EU to collectively sue for compensation when companies infringe their consumer rights.

- A proposal for an [e-privacy regulation](#), which would cover unsolicited marketing, cookies and confidentiality. The consideration of the proposal is still ongoing in the Council, the Parliament having adopted its position back in November 2017.
- A proposal for [rail passenger rights](#), put forward by the Commission in September 2017, would improve the rights of passengers with disabilities and clarify the rules for complaint-handling. While Parliament adopted its position in November 2018, the Council has yet to decide.
- A revised [drinking water](#) directive, which the Commission proposed in February 2018, and which would improve water quality and safety, require Member States to improve access for everyone (including by installing equipment for access to drinking water in public spaces), and improve consumer information about the quality of drinking water in their area. Both Parliament and the Council adopted their positions on the proposal during the last legislature. Subject to confirmation by the new Parliament and the other institutions, interinstitutional negotiations are likely to take place after the European elections.

In addition, new or updated legislation could be considered in the following areas:

- **Longer product lifetimes:** the Parliament has [called](#) on the Commission to propose new rules for extending the lifetime of products, making sure they are more easily repairable and recyclable, that spare parts are available, that the minimum guarantees for consumer durable goods are extended and that consumers are given information via a voluntary European label showing the product's durability. The Commission was also asked to propose measures against [planned obsolescence](#).
- **Labelling and quality requirements:** in 2016 the Parliament [asked](#) the Commission to present a legislative proposal for the establishment of a single European system for the protection of geographical indications for non-agricultural products in the EU. It has also called for the swift adoption of the 2013 [Market surveillance and consumer safety](#) package, in particular the indication of country of origin on retail products. Parliament already adopted its position on the two proposals concerned back in 2014, but the procedure is on hold in the Council as Member States have been unable to find common ground. In 2017, the Commission tabled another proposal on market surveillance that deals with some of the issues that the 2013 proposals were expected to solve. As mentioned above, negotiations between the Parliament and the Council on that proposal ended with an agreement in February 2019. Finally, Parliament has called on the Commission to assess which labels are essential and which are not essential for ensuring consumer information, and to consider introducing a mandatory scheme for the provision of key information for hand-made and industrial products.
- **Financial services:** in 2017 the Parliament [called](#) on the Commission to increase transparency in currency conversion so that consumers can choose the best rates and be aware of additional costs when making transactions, payments made abroad and ATM withdrawals; to make it easier for consumers to switch to more affordable retail financial services across the Union; and to facilitate cross-border access to loans.
- **Food:** BEUC has [called](#) for legislation to ban misleading food labels, by introducing EU definitions of terms such as 'traditional', 'artisanal' or 'natural'; prescribing minimum levels of whole grain content for 'whole grain' claims; prescribing minimum content rules for products which highlight certain ingredients such as fruits on the front of the packet; and requiring that the percentage of advertised ingredients (such as fruit) also be displayed on the front.
- **Unfair commercial practices:** BEUC [considers](#) that the 'black list' of unfair practices that are always considered unfair could be extended to the marketing of unhealthy food to children, unfair green terms and the false claim or impression that the trader is not acting in his business' interests while monetising consumers' data.

- **Unfair contract terms:** BEUC [considers](#) that a non-exhaustive black list of unfair terms that are always prohibited should be introduced and updated regularly.

In addition, the following initiatives could be pursued:

- On **food**, the Commission [announced](#) in 2017 that it would publish an opinion, which may lead to adoption of an implementing act on labelling of vegan and vegetarian food. The Parliament has called for improved traceability of fishery and aquaculture products and for voluntary labelling for fish products in restaurants and retail.
- On **retail financial services**, the Commission began an [evaluation](#) of the Consumer Credit Directive in 2018, to check if consumer rights in this field need to be strengthened. The Parliament has [called](#) for independent financial education of consumers to be widened and for the Commission to ensure that existing measures to improve financial literacy and awareness are fully implemented and that further measures are introduced to help consumers make informed decisions. It has also called on the Commission to set up an EU comparison portal covering the retail financial services market.

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ENDNOTES

- ¹ The first special programme for consumer protection and information policy in 1975 defined five fundamental consumer rights: the right to health and safety protection; the right to protection of economic interests; the right to claim for damages; the right to an education and the right to legal representation. See [Council Resolution](#) on a preliminary programme of the European Economic Community for a consumer protection and information policy, OJ C 92, 25 April 1975.
- ² According to the 2017 [fitness check](#) of EU consumer and marketing law, this figure has remained roughly unchanged since 2008.
- ³ Two thirds of consumers (67.4 %) knew that they have the right to return a product bought at a distance within 14 days without giving any reason, 45.8 % knew that they have the right to a free repair or replacement if a new electronic product breaks down without any fault on their part within the legal guarantee period, but only 34.5 % knew that they are neither obliged to pay for unsolicited products, nor to return them.
- ⁴ A 2015 [econometric study on parcel list prices](#) prepared by Saint-Louis University for the Commission, showed that cross-border prices for parcels are 471 % higher than domestic prices. Additionally, [sending a parcel](#) from the Netherlands to Spain would cost €13, while sending a parcel in the opposite direction would cost €32.74. As the Commission [notes](#), this price difference cannot be explained by labour or other costs in the destination country.
- ⁵ This possibility was introduced by Article 129a(1), which became Article 169 TFEU with the entry into force of the Lisbon Treaty. It allows 'measures which support, supplement and monitor the policy pursued by the Member States' without explicitly linking them to the internal market. However, this legal basis is rarely used to improve consumer protection.
- ⁶ Article 38 of the Charter of Fundamental Rights of the European Union requires Union policies to ensure a high level of consumer protection. Although the internal market aspect is still very strong, there is now a recognition that consumer protection also has a fundamental social policy objective and is increasingly connected to fundamental rights. This approach sees consumers as a weaker party, requiring protection by the state beyond what the markets can deliver by themselves. See for instance I. Benöhr, *EU Consumer Law and Human Rights*, Oxford University Press, Oxford, 2013.
- ⁷ The EPRS [briefing](#) on the consumer programme notes that its budget is about €0.05 per citizen per year (or about €0.38 for the seven-year period).
- ⁸ The Directive on contracts for digital content and digital services will for the first time define at the EU level the mutual rights and duties of the traders and consumers of digital products such as software, video, audio and e-books, and of digital services such as cloud computing, social media, data-sharing and online work tools.
- ⁹ The UCPD revision is part of the proposed directive on modernisation of EU consumer protection rules on which the Parliament and the Council reached an agreement in March 2019.
- ¹⁰ The proposal for a regulation on the transparency and sustainability of the EU risk assessment in the food chain was presented in the wake of the public controversy surrounding the risk assessment of genetically modified organisms (GMOs) and glyphosate.
- ¹¹ In addition to the consumer programme, these include the programme for the competitiveness of enterprises and SMEs [COSME 2014-2020, European statistical programme 2013-2017](#), the programme to support specific activities in the field of [financial reporting and auditing 2014-2020](#), management of expenditure relating to the [food chain](#), animal health, animal welfare, plant health and plant reproductive material 2014-2020, and the programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union policy-making in the area of [financial services 2017-2020](#).

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