

New consumer agenda

SUMMARY

Consumer expenditure accounted for 52.6 % of European Union gross domestic product (GDP) in 2019. Meanwhile, in the same year, one in five consumers said they had had at least one reason to complain about a purchase the previous year – a number largely unchanged for a decade. Increasingly, consumers do their shopping online. One in six people bought at least one item online in 2019. Yet while online shopping is now ubiquitous, European rules have lagged behind.

On 13 November 2020, the European Commission published a new consumer agenda – its strategy for consumer policy for the 2020-2025 period. The strategy aims to address five long-term priorities: the green transition, digital transformation, redress and the enforcement of consumer rights, the specific needs of certain consumer groups, and international cooperation. In addition, it proposes measures to address immediate challenges that have emerged during the pandemic.

Over the next five-year period, the Commission plans to empower consumers for the green transition: giving them information on the sustainability of products; establishing a right to repair; and laying down rules regarding green claims. It plans to tackle problematic practices on online marketplaces, fix the gaps in rules on product safety, especially for products sold online, and improve enforcement of existing rules. At the same time, it plans to improve protection of vulnerable groups, especially people who do not have access to the internet, and children. It plans to revise the rules for retail banking and improve financial advice services in Member States.

Although the European Parliament has not adopted a resolution on the consumer agenda per se, it has adopted several legislative and non-legislative resolutions on topics covered by the agenda, including the sustainable single market, product safety, the future digital services act and artificial intelligence.

Various stakeholders have expressed their views on the new consumer agenda, both during the public consultation before it was published, and following its publication.



In this Briefing

- Introduction
- Consumers in the EU
- European Commission priorities for consumer policy
- European Parliament's position
- Stakeholder views

Introduction

On 13 November 2020, the European Commission published a [new consumer agenda](#) – its strategy for consumer policy for the 2020-2025 period. The strategy aims to address the immediate challenges that have emerged during the coronavirus crisis and sets five long-term priorities regarding: the green transition; digital transformation; redress and enforcement of consumer rights; the specific needs of certain consumer groups; and international cooperation.

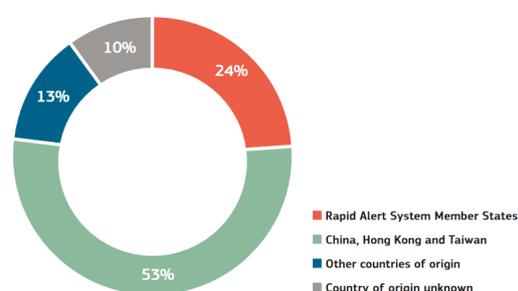
The Commission has been laying down consumer policy priorities in successive action plans and consumer strategies since the 1990s.¹ The strategy adopted in 2012 was the first to be called a '[consumer agenda](#)' and covered the period from 2014 to 2020. Many of its priorities were similar to those of the 2020 strategy: sustainable consumption, digital transformation, consumer vulnerability (especially over-indebtedness and accessibility issues), and unsatisfactory enforcement. In the last parliamentary term, the EU adopted a number of legislative acts aiming to resolve some of these issues,² and launched the [New Deal for Consumers](#), which closed more gaps in consumer legislation, enhanced consumer protection on online marketplaces and strengthened enforcement of consumer rights by harmonising fines for breaches of consumer law. It also proposed EU-wide rules for collective redress for consumers – adopted in November 2020. The von der Leyen Commission is now planning a new push in consumer protection, to bring it in line with the priorities of adjusting the EU economy to the green and digital transformation.

Consumers in the EU

Consumer expenditure accounts for approximately half of GDP in most EU countries, amounting to [52.6 % of EU GDP](#) in 2019. On average, EU households spend most on housing, water and energy (23.5 %), transport (13.1 %), food and non-alcoholic beverages (13.0 %) and miscellaneous goods and services (11.2 %). According to the 2019 [consumer conditions scoreboard](#), 22 % of consumers said they had had at least one reason to complain about a purchase in the previous year. This number has stayed the same for more than a decade. Still more consumers said they had encountered unfair commercial practices: 35.7 % said they had experienced being pressured by persistent calls or messaging from domestic traders, 25 % had come across fake limited-time offers and 19 % had been offered a product advertised as free of charge that actually entailed charges.

EU consumers are doing more and more of their shopping online: in a 2019 Eurostat survey, [60 % of people](#) in the EU aged 16 to 74 had bought something online in the previous 12 months, compared with 56 % in the 2018 survey and 32 % in 2009. This growing trend is bound to continue in 2020, owing to the coronavirus crisis. Most online shoppers (87 %) [made purchases](#) from sellers in their own country, with cross border sales much less frequent, though rising. In 2019, 35 % of online shoppers bought goods or services from other EU Member States (compared with 29 % in 2014), and 27 % made orders from sellers from outside the EU (compared with 17 % in 2014). Consumer confidence followed the same pattern: the scoreboard shows that 72 % of consumers were confident when buying online from traders in their own Member State, while confidence in buying from other Member States stood at 48 %. When buying online, consumer complaints mainly concerned problems with delivery: 51.5 % had encountered such problems with domestic online purchases and 36 % when trying to buy online from another EU country. The growth in e-commerce also raises issues of compliance of

Alerts on Safety Gate in 2018 by product origin



Source: European Commission, [Safety Gate](#), 2019.

consumer products on the EU market, including their safety. National market surveillance authorities have difficulties in enforcing the rules across borders within the EU, and this is further complicated when it comes to monitoring individual purchases online, especially on non-EU platforms and from non-EU traders. According to the Commission's [statistics](#), in 2018, at least 66 % of alerts circulated on Safety Gate (the EU rapid alert system for non-food products) were for products originating outside the EU (although not all of these were found online).³

European Commission priorities for consumer policy

Covid-19

The pandemic has revealed gaps in EU consumer protection, relating largely to access to reimbursement for tickets and package travel arrangements following cancellation of flights and closure of borders between Member States. Consumers have also faced unfair commercial practices in e-commerce when looking to buy protective gear and disinfectants, and as a large proportion of shopping moved online. The Consumer Protection Cooperation (CPC) Network, which brings together Member States' consumer protection authorities, has conducted two coordinated large-scale [sweeps](#) of online platforms. Its findings show a surge in consumer scams, deceptive marketing techniques and fraud in online shopping. Examples include false products, such as protective gear, and false claims, such as assertions that a product can prevent or cure Covid-19 infection. As a result of the sweeps, millions of misleading advertisements and products have been removed or blocked.⁴ The Commission now plans to use these lessons to analyse, by 2022, whether the [Package Travel Directive](#) is still fit for purpose or whether it should be revised. The Commission will also facilitate cooperation between the CPC network and stakeholders (such as platforms, business associations and advertisers) to tackle consumer scams, unfair marketing practices and fraud.

The green transition

To achieve the EU climate goal of carbon neutrality by 2050, in line with the [European Green Deal](#), the Commission plans to make products on the internal market more sustainable,⁵ while empowering consumers with the information necessary to choose the most eco-friendly option. Consumers seem to be ready for this. According to a 2019 [special Eurobarometer](#), most consumers mention changing the way we consume (33 %) and changing the way we produce (31 %) as the best way to tackle environmental problems.⁶ More than half of consumers (56.8 %) in the EU say that their decisions are [influenced by environmental claims](#) for at least some of their purchases.

According to the new consumer agenda, the Commission is to propose legislation on **empowering consumers for the green transition**, by providing them with information on product sustainability, including durability, reparability and upgradeability, and protecting them from early obsolescence and false green claims ('greenwashing'). The Commission is also considering an effective [right to repair](#) for electronics and planning legislation on **substantiating green claims**, by means of the product environmental footprint, so that consumers can compare products from the same group, and standardised organisation environmental footprint methods.

The future review of the [Sale of Goods Directive](#), planned from 2022 onwards, will be used to examine how legal guarantees could be altered to promote repair and circular products and longer durability. It will look into whether the two-year legal guarantee could be extended under EU law for both new and second-hand goods; whether repair could be given preference to replacement should it become apparent that a product was faulty; and whether the repair should restart a new two-year legal guarantee period.

The Commission is also planning to work on voluntary pledges with businesses, to disclose to consumers the company's environmental footprint, improve their sustainability and reduce the impact of their products and activities on the environment.

Digital transformation

While the digital revolution has dramatically changed the way we shop, EU consumer rules have not always kept up with the rapid development of the digital economy. The Commission is therefore planning to update a number of legislative acts, some of which are several decades old.⁷

According to the consumer agenda, the Commission is planning to publish guidance documents on the application of the [Unfair Commercial Practices Directive](#) and the [Consumer Rights Directive](#) to **problematic practices observed in e-commerce** that prevent consumers from obtaining important information and abuse their behavioural biases. This refers, more specifically, to the use of 'dark patterns' (user-interface designs aimed at manipulating consumers), profiling, hidden advertising, fraud, misleading information and manipulated consumer reviews.

In addition, a whole set of legislation relating to **product safety** is up for revision. The 2001 [General Product Safety Directive](#) will be revised with a focus on online shopping, in particular direct sales from third countries, artificial intelligence (AI) and connected products. The Commission has proposed a new [digital services act](#) (DSA) that aims to make online platforms, including online marketplaces such as eBay and Amazon, more responsible for the safety of products sold through them. A proposal for a [digital markets act](#), meanwhile, aims to regulate the gatekeeping function of platforms to improve competition between the businesses that use them. In line with the communication on artificial intelligence for Europe, the Commission aims to propose a horizontal legal act laying down requirements for artificial intelligence and will introduce measures on product liability for AI, possibly revising the 1985 Product Liability Act.⁸

The Commission also plans to focus on **retail financial services**. It has announced a revision of the [Consumer Credit Directive](#) and the [Distance Marketing of Consumer Financial Services Directive](#), to make them fit for the increasing digitisation of retail financial services. This refers, in particular, to the rise of non-traditional providers of financial services, such as fin-techs and peer-to-peer lenders; new products, such as short-term high-cost loans; and the use of alternative data categories combined with automated decision-making to assess consumers' creditworthiness.⁹

Effective enforcement and redress

Since the beginning of 2020, the Commission has had a stronger mandate to coordinate the enforcement of consumer policy in Member States, while the national consumer protection authorities have had wider investigation and enforcement powers.¹⁰ The Commission therefore plans to prioritise funding of **national authorities' capacity-building** activities and initiate coordinated actions on EU-wide issues, with the focus on the impact of coronavirus on consumer rights, misleading green claims, and unfair commercial practices relating to online influencing techniques and personalisation.

It also intends to focus its efforts on assisting Member States in the transposition, implementation and enforcement of two major new pieces of legislation: the [Directive on better enforcement and modernisation of consumer law](#), which will bring additional rights to consumers in e-commerce and increase fines for mass infringements of consumer legislation, adopted in last term; and the [Directive on representative actions](#), adopted in November 2020. The latter will enable consumers throughout the EU to sue collectively for compensation in cases of large-scale infringements, which are especially acute in the online setting, where a single action of a sole trader can easily reach a large number of consumers. The Commission plans to strengthen the **capacities of national consumer organisations**, since new legislation gives them an important role in making consumer rules work. On the one hand, they can be designated as qualified entities, which would allow them to initiate representative actions on behalf of consumers. On the other hand, under the [Consumer Protection Cooperation Regulation](#), since 2020, they can be given the power by Member States to alert national consumer protection authorities and the Commission formally of suspected infringements of consumer legislation.

The Commission also plans to fund a project to set up an **EU e-Lab**, a toolbox of innovative e-tools to strengthen national authorities' capacity to carry out online investigations into illegal online commercial practices and identify unsafe products' sold online. The platform will enable them to deploy 'advanced IT solutions, using AI, data mining techniques and webcrawlers'.

Addressing specific consumer needs

While consumer legislation protects the 'average consumer', special protection is afforded to '[vulnerable consumers](#)'. However, a 2016 Commission [study](#) showed that most consumers can be considered vulnerable depending on particular circumstances or a particular situation. The von der Leyen Commission plans to focus on the following areas:

- **Problems with accessibility.** This concerns mainly consumers with no internet access, especially older people and people with disabilities. The Commission intends to support initiatives providing local offline advice for consumers in rural areas or smaller towns, who would not otherwise have access to support, information or advice online or offline at central information offices.
- **Financial vulnerability.** The pandemic has exacerbated the financial vulnerability of many citizens. Six out of ten consumers are facing financial difficulties, which may lead to over-indebtedness. The Commission plans to tackle this by providing funding to improve the availability and quality of debt advice services in Member States. It also plans to revise consumer credit and financial services rules.
- **Products for children.** The Commission plans to update safety requirements for childcare products and will support sampling and testing of children's products through coordinated market surveillance activities by Member States.

Consumer protection in the global context

In addition to revising consumer legislation to bring it into line with developments in the digital economy, the Commission is working on cooperation and exchange of data with the market surveillance authorities of its international partners. As part of those efforts, it plans to:

- develop an action plan with a focus on products sold directly to EU consumers online from **China**;
- discuss arrangements for the inclusion of a regular exchange of information on dangerous non-food products and related market surveillance in trade agreements that are currently under preparation, for instance, with **Australia, New Zealand** and **Chile**, similar to the arrangement already in place with Canada;
- as of 2021, seek to provide regulatory support, technical assistance and capacity building for EU partner countries, including in the **western Balkans** and in **Africa**, to boost their consumer protection standards.

European Parliament position

While the European Parliament has not adopted a resolution specifically on the consumer agenda, it has already adopted several resolutions on topics covered by it, including some legislative initiative resolutions.¹¹ In its own-initiative [resolution](#) of 25 November 2020 on a more sustainable single market, it calls on the Commission to introduce a number of measures, including a requirement for consumers to be provided with pre-contractual information on the estimated lifespan expressed in years or use cycles and reparability of products. Parliament also recommends bringing in mandatory labelling on estimated lifetime and reparability; assessing how to bring the duration of legal guarantees more into line with the estimated lifetime of a product category; introducing a joint manufacturer-seller liability mechanism under the legal guarantee regime; and considering adding premature obsolescence of products to the list of banned commercial practices. It also calls on the Commission to adopt measures to facilitate repair, promote re-use of products, and

develop a digital 'product passport' to improve traceability and access to information on the conditions of production of a product, durability, composition, reuse, repair, dismantling possibilities and end-of-life handling.

In its [legislative initiative resolution](#) of 20 October 2020 on a framework of ethical aspects of artificial intelligence, robotics and related technologies, Parliament calls for a 'comprehensive and future-proof' regulatory framework for artificial intelligence in the EU. It calls on the Commission to examine consumer law, product liability legislation, product safety legislation and market surveillance legislation in order to ensure a high level of consumer protection. It warns that the 'traditional principles of information and disclosure' may not be enough anymore to protect consumers and that stronger consumer rights will be necessary. In the [legislative initiative resolution](#) of 20 October 2020 on a civil liability regime for artificial intelligence, Parliament calls for adjustments to liability regimes to avoid situations in which persons who suffer harm or whose property is damaged end up without compensation.¹²

In its [legislative initiative resolution](#) of 20 October 2020 on the 'Digital Services Act: Improving the functioning of the Single Market', Parliament called for a comprehensive revision of the e-Commerce Directive. It called for action to address pressing consumer protection concerns relating to profiling, targeting and personalised pricing by means, for instance, of clear transparency obligations and information requirements. It expresses the view that consumers and users should have more control over how artificial intelligence is used and should have the possibility to refuse, limit or personalise the use of any AI-enabled personalisation features. In its [legislative initiative resolution](#) of 20 October 2020 on the 'Digital Services Act: adapting commercial and civil law rules for commercial entities operating online', Parliament calls on the Commission to introduce new measures on transparency provisions on advertising, [digital nudging](#) and preferential treatment, and to assess a possible prohibition of targeted advertising. It calls for action to ensure that consumers can use all the functions of connected devices, even if they refuse to give consent to share non-operational data with the device manufacturer or third parties.¹³

In its own-initiative [resolution](#) of 25 November 2020 on addressing product safety in the single market, Parliament urges the Commission to update and establish aligned market surveillance rules for both [harmonised and non-harmonised products](#) placed on the market offline or online, and to make them fit for the digital age. It calls for updated product safety rules that would tackle the challenges of emerging technologies, such as artificial intelligence, connected products, robotics and 3D printing. It encourages the Commission and Member States to increase the resources and expertise of their market surveillance authorities, including through the [MFF single market programme](#). It also calls on the Commission to explore the option of requiring non-EU businesses to designate an economic operator in the EU for non-harmonised products, with the task of cooperating with EU market surveillance authorities in cases of product safety issues.

Stakeholder views

The European Consumer Organisation (BEUC) [welcomed](#) the new consumer agenda, but warned that 'boosting enforcement was key'. In its position paper preceding the publication of the consumer agenda, it [called](#) for a broader rethink of EU consumer law, stepping away from the traditional approach that relies on providing consumers with information and protecting the 'average' consumer (with additional protection afforded only to 'vulnerable' consumers). Instead it called for all consumers to be protected 'by default and by design'. It noted that all consumers are facing increased complexity, whether they are trying to identify a sustainable product or are shopping online 'while being constantly monitored'. This view was shared by [ANEC](#), the European association representing consumers in standardisation processes. It warned that the assumption that informed consumers would make the best choices for themselves was challenged by today's digital technologies, as their new elements put all consumers in a vulnerable situation. It argued that rules should be adopted to 'tackle vulnerabilities by default' and that sustainability principles should also be embedded in technologies by default and by design.

The Council of European Energy Regulators ([CEER](#)) warned that providing consumers with information was not enough. What was needed was to help consumers understand what the information was telling them and how to use it. Therefore, it argued for national and European education campaigns to educate consumers. It stated that green and climate-neutral labelling for products should go hand in hand with requiring companies to pay 'adequate and reasonable costs/compensations for climate/environmental pollution' if they placed non-environmentally friendly products on the market. It also argued in favour of promoting reduced consumption of all resources, goods and services as the most sustainable way of living.

Business associations were more likely to consider that consumers are sufficiently protected by EU rules, but that the enforcement of rules is lacking, especially when it comes to products from non-EU marketplaces and non-EU traders. [Business Europe](#) suggested that market surveillance and redress activities should focus on such products. It also said that the new consumer agenda should focus on reducing red tape for businesses, fighting legal fragmentation and [gold plating](#), ensuring continuous evaluation of existing EU consumer rules, correcting any inconsistencies in the light of technological developments, and creating a level playing field with third countries. It also argued that consumers were willing to share their personal data in exchange for personalised offers and called for specific rules on compensation in cases of travel cancellations by transport operators to soften the economic damage in the sector resulting from the coronavirus crisis.

[Digital Europe](#) also expressed the view that personalisation of offerings for consumers can be beneficial when used transparently, and argued that consumers are not only aware of such practices, but also choose to use personalised services. It supported an EU-wide harmonised methodology for providing information on product sustainability, and a right to repair that would be defined as consumer access to a high quality, safe and secure repair option, while recognising the importance of manufacturer-led repair networks. It argued that existing legislation for consumer protection against premature obsolescence was enough, while the commercial extended warranties should be left to market forces.

[SMEunited](#) believes that all new proposed consumer protection initiatives should strike the right balance between the interests of companies, with specific attention to the needs of SMEs and the interests of consumers in order to allow them to benefit from the single market. It argues that SMEs often lack the resources to keep abreast of EU rules. It also argued for maximum harmonisation of consumer protection rules, to make them easier to apply for small companies that sell across borders.

European telecom associations ETNO and GSMA [welcomed](#) the new consumer agenda. They are in favour of standardised and reliable sustainability labels, as well as the establishment of a new right to repair. However, they consider that information on life-cycle, environmental and climate footprint and on reparability of products would not necessarily provide consumers with reliable information. They argue that existing laws provide a solid basis for consumer protection against greenwashing and obsolescence claims, however, the EU should provide guidance on their implementation and enforcement. They also argue that the rules on product safety do not require full revision, but can be updated with targeted adjustments, focusing in particular on high-risk applications and products.

The European Federation of Finance House Associations ([Eurofinas](#)) focused on the possible review of the Consumer Credit Directive. It argued that the directive remains broadly relevant to current market reality, and that the EU should focus on proper and full enforcement of the existing framework, with possible adaptations and guidance to clarify its application to new products and providers. It warned that consumers already suffer from information overload because of compulsory pre-contractual information that is not conducive to easy comparison of different products. It cautioned against further standardisation of processes to assess borrowers' creditworthiness, as that could lead to 'unjustified financial exclusion' of some consumers.

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ENDNOTES

¹ For the previous strategies, see: [Three year action plan of consumer policy in the EEC \(1990 – 1992\)](#); [Second Commission three-year action plan 1993-1995](#); [Priorities for consumer policy 1996-1998](#); [Consumer policy action plan 1999-2001](#); [Consumer Policy Strategy 2002-2006](#); and [EU Consumer Policy strategy 2007-2013](#).

² See EPRS briefing [Delivering for citizens: Protecting European consumers](#), EPRS, European Parliament, 2019.

³ According to the communication on the New Consumer Agenda, in 2019, 64 % of all alerts were alerts for non-EU products. This number shows a downward trend, as from 2008 until 2018, this figure was consistently [at or over 70 %](#).

⁴ For more, see proceedings of IMCO webinar, [The impact of COVID-19 on the Internal Market and consumer protection](#), December 2020.

⁵ The [Sustainable Product Initiative](#), planned under the new circular economy action plan, is expected to lay down requirements to make products more sustainable, including actions in specific sectors, such as textiles, common chargers for mobile phones and electronics. The [Chemical Strategy](#) and related legislative proposals will strive to make chemicals in products safe for both consumers and the environment. Under the [Farm to Fork Strategy](#) and the [Biodiversity Strategy](#), the Commission will seek to make food products more sustainable and less damaging to the environment, while the [Renovation Wave Strategy](#) aims to improve the energy performance of homes.

⁶ For more, see EPRS briefing [Sustainable Consumption: Helping consumers make eco-friendly choices](#), October 2020.

⁷ For an overview, see EPRS briefings [EU policies – Delivering for citizens: Digital transformation](#), June 2019, and [The rise of e-commerce and the cashless society](#), March 2020.

⁸ For more, see EPRS briefings: [EU guidelines on ethics in artificial intelligence: Context and implementation](#), September 2019, and [Regulating digital gatekeepers: Background on the future digital markets act](#), December 2020, and in-depth analysis: [Reform of the EU liability regime for online intermediaries: Background on the forthcoming digital services act](#), May 2020.

⁹ For more, see study for the ECON committee, [Consumer credit: Mis-selling of financial products](#), June 2018.

¹⁰ For an overview, see EPRS briefings [Enforcement of consumer protection rules](#) and [Consumer Protection Cooperation](#).

¹¹ Under Article 225 of the Treaty on the Functioning of the European Union, Parliament can adopt a resolution based on a legislative initiative report that invites the Commission and the Council to submit a legislative proposal. While the Commission is not required to follow through, it is obliged to provide reasons for any refusal to do so. For more, see EPRS briefing [Parliament's right of legislative initiative](#), February 2020.

¹² For more on Parliament's position, see EPRS, [An EU framework for artificial intelligence](#), October 2020.

¹³ For more on Parliament's position on the digital services act, see EPRS 'at a glance', [Digital services act](#), October 2020.

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