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# Consumer protection in the EU

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Policy overview

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## IN-DEPTH ANALYSIS

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This document seeks to provide an overview of consumer protection policy, focusing on the general principles (competences of the European Union, legal base and definition of the notion of consumer). It examines the tools available to ensure the protection of consumers in the EU. The legally binding tools consist of around 90 directives and a few regulations. Other supplementary tools to monitor and improve the protection of consumers within the EU market include consumer scoreboards, market studies and behavioural studies commissioned by the European Commission, awareness-raising and information campaigns within the European Consumer Centres network and the work of the European Judicial Network. Another aim of the document is to present key EU policy areas related to consumer protection, to highlight past improvements and success stories, and to identify shortcomings and future policy trends.

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## EXECUTIVE SUMMARY

The final consumption expenditure of households currently accounts for 57% of EU gross domestic product. A single market that serves consumers well is therefore an important element to stimulating Europe's economic growth.

The Council Resolution of 14 April 1975 on a preliminary programme of the European Economic Community for a consumer protection and information policy constituted the formal inauguration of consumer protection policy at EU level. In time, consumer policy has become one of the most transversal EU policies, covering product safety, digital market, financial services, food safety and labelling, energy, travel and transport. In recent years it has shifted from the technical harmonisation of standards to the recognition of consumer protection as part of the effort to establish a 'Europe for citizens'.

Currently, the programme of EU action in the field of consumer policy is based on two measures: the **European Consumer Agenda**, which is the new strategy for EU consumer policy in line with the EU's growth strategy – Europe 2020 – and the **consumer programme 2014-20** – the financial framework complementing the strategy. The consumer agenda has four main objectives: **improving consumer safety; enhancing knowledge; improving implementation, stepping up enforcement and securing redress** as well as **aligning rights and key policies to economic and societal challenges**.

Here, the question of potentially changing the current instrument of harmonisation at EU level – the directive – arises. While there are some success stories, such as significant lowering of roaming charges in recent years, open consumer protection related issues still exist, for example in relation to data protection, as well as regarding the negotiations on a Transatlantic Trade and Investment Partnership (TTIP) with the United States. In addition, a number of future challenges remain, such as defining the evolving concept of *prosumers* and protecting consumers from the new practices of collaborative economy as well as adapting the policy to technological developments.

**TABLE OF CONTENTS**

1. General principles.....	3
1.1. Legal basis.....	3
1.2. The notion of consumer .....	4
1.3. Tools protecting the consumers.....	4
1.3.1. EU Legislation .....	4
1.3.2. Tools to assess, monitor and improve the protection of consumers .....	5
1.3.2.1. Market monitoring tools .....	6
1.3.2.2. Awareness-raising tools .....	6
1.3.2.3 Tools for stepping up enforcement and securing redress .....	7
2. Key EU policy areas related to consumer protection .....	8
2.1. Product safety.....	8
2.2. Digital market .....	9
2.3. Financial services .....	9
2.4. Food safety and labelling.....	10
2.5. Energy .....	10
2.6. Travel, leisure and transport .....	10
3. Past improvements of consumer protection in the EU and its shortcomings .....	11
3.1. Success stories .....	11
3.2. Weak points.....	12
3.3. The challenges of behavioural economics .....	13
4. Outlook .....	14
4.1. Policy developments.....	14
4.1.1. Consumer protection and European Commission priorities.....	14
4.1.2. Future challenges of the collaborative economy.....	15
4.1.3. The concept of 'prosumers'.....	16
4.2. European Parliament .....	17
4.3. Stakeholders .....	19
4.3.1. Consumer protection concerns regarding Transatlantic Trade and Investment partnership (TTIP).....	20
5. Further reading.....	20

## 1. General principles

The aim of European consumer policy is to make the European Union (EU) a tangible reality for 500 million citizens by guaranteeing their rights as consumers. That means protecting consumers from serious risks and threats that they are unable to tackle as individuals; empowering them to make choices based on accurate, clear and consistent information; enhancing their welfare and effectively protecting their safety as well as their economic interests. That is to be achieved by aligning consumer rights and policies to changes in society and economy. The legislation adopted at EU level aims primarily to protect the safety, health, economic and legal interests of consumers, as well as offering redress and general product safety systems.

According to the Treaty on the Functioning of the European Union (TFEU), consumer protection issues are a shared competence of the EU and Member States. Once EU legislation in this domain is adopted through the ordinary legislative procedure, the Member States are responsible for implementing and enforcing the EU rules.

Currently, the final consumption expenditure of households accounts for 57% of EU gross domestic product.<sup>1</sup> EU consumer policy strategy for the period 2014-20 is defined in the European Consumer Agenda,<sup>2</sup> which is complemented, in its financial aspects, by the Consumer programme.<sup>3</sup> The Consumer programme (2014-20) foresees a budget of €188.8 million (corresponding to around €0.05 per consumer per year).

### 1.1. Legal basis

Articles 4(2)(f), 12, 114(3) and 169 of TFEU and Article 38 of the Charter of Fundamental Rights of the European Union constitute the primary law for consumer protection policy. Article 169 TFEU defines specific objectives of the policy:

*In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the **health, safety and economic interests** of consumers, as well as to promoting their **right to information, education and to organise themselves in order to safeguard their interests**.*

Article 169 supplements Article 114 of the TFEU, which indicates that – in its proposals concerning health, safety, environmental protection and consumer protection – the Commission will take as a base a high level of protection. Article 169 of the TFEU also states that EU measures shall not prevent any Member State from maintaining or introducing more stringent protective measures provided that they are compatible with the Treaties. In this way EU law provides a common basic level of protection to all consumers residing in the EU. Furthermore, Article 12 TFEU clarifies that consumer protection requirements must be taken into account in defining and implementing other Union policies and activities, while Article 38 of the Charter of Fundamental

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<sup>1</sup> Consumer Markets Scoreboard: [Making markets work for consumers, 10th edition](#), European Commission, 2014, SWD(2014) 212 final.

<sup>2</sup> [A European Consumer Agenda - Boosting confidence and growth](#), COM(2012) 225 final.

<sup>3</sup> [Regulation \(EU\) No 254/2014 on a multiannual consumer programme for the years 2014-20 and repealing Decision No 1926/2006/EC](#).

Rights of the European Union confirms the importance of consumer protection, stating that Union policies shall ensure a high level of consumer protection.<sup>4</sup>

## 1.2. The notion of consumer

There is no consistent and uniform definition of consumer in EU law and there are also divergences amongst the Member States, partly as a result of transposing EU directives into national legislation. In the current EU consumer *acquis* each EU instrument defines the notion of consumer separately for its own purposes. Those definitions essentially converge, but some differences exist. The notion of consumer has been defined in several directives in the area of contract law, as well as in the regulation Brussels I<sup>5</sup> and Rome I<sup>6</sup> (in the area of procedural law), which include specific rules for consumer protection. A majority of current EU directives define the consumer as a '**natural person who is acting for the purposes which are outside his trade, business and profession**'. The definition is therefore a negative one. The directives also diverge in the definition of economic activity, some also including a 'craft'. The notion of consumer in EU law does not apply to legal persons, even if they have a non-business character, as would be the case for non-profit associations. This has also been emphasised in the case law of the Court of Justice on several occasions. There is an exception, namely the Package Travel Directive 90/314/EEC, which uses a broader notion of the consumer by including companies and business travellers as purchasers and users of travel services.<sup>7</sup>

Because of the minimum harmonisation character of the larger part of the consumer *acquis*, many Member States extended the scope of their consumer protection law beyond the definition of 'consumer' in EU law.<sup>8</sup>

## 1.3. Tools protecting the consumers

### 1.3.1. EU Legislation

The Council adopted its first special programme for consumer protection and information policy in 1975,<sup>9</sup> where it defined five fundamental consumer rights: the right to protection of health and safety, the right to protection of economic interests, the right to claim for damages, the right to an education, and the right to legal representation (or the right otherwise to be heard). This programme (together with its successors) has served as a basis for an ever growing corpus of directives and regulations in the area of consumer protection.

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<sup>4</sup> The right to consumer protection enshrined in Article 38 of the Charter of Fundamental Rights does not grant a substantive right to European citizens, but rather refers to the EU's objective of ensuring a high level of consumer protection. See M. Kingisepp: *The Constitutional Approach to Basic Consumer Rights*, 2012, p 58.

<sup>5</sup> [Regulation \(EC\) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters](#), laying down rules governing the jurisdiction of courts and the recognition and enforcement of judgments in civil and commercial matters in EU countries.

<sup>6</sup> [Regulation \(EC\) No 593/2008 on the law applicable to contractual obligations](#), applying to contractual obligations in civil and commercial matters in the event of a conflict of laws.

<sup>7</sup> The Package Travel Directive is currently under [review](#).

<sup>8</sup> See for instance: [F. Price Indication Directive \(98/6\)](#), H. Schulte-Nölke and L. Meyer-Schwickerath or [The notion of 'consumer' in EU law](#), R. Mańko, EPRS, 2014.

<sup>9</sup> Council Resolution on a preliminary programme of the European Economic Community for a consumer protection and information policy, OJ C-092, 25 April 1975.

In line with the principles of subsidiarity and proportionality, the European Union's intervention must be qualified as necessary in order to provide adequate and equivalent levels of consumer protection. The particular legal instrument predominantly used by the EU in field of consumer protection has been the directive. It does not apply directly and it needs to be transposed into the national laws of each EU Member State. The EU therefore introduced a common set of consumer protection rules by requiring each national law to be adjusted, rather than by adopting regulations which would apply directly without the need for further action by the Member States. Sometimes, but somewhat exceptionally in this field, the directly applicable instrument – the regulation – was used.

At present, around 90 EU directives cover consumer protection issues, and that is why the consumer *acquis* remains complex and sometimes inconsistent (in the case of the same directive, since it can be transposed into national law differently, but also because of differences between various directives). The greater part of EU consumer law remains of a minimum harmonisation level. As a result, the corresponding national legislation (either pre-existing or adopted later to transpose a directive) can go even further than the relevant directive. In practice, this means that traders and consumers alike still need to be very aware of the relevant national legislation (in particular, regarding matters left to national law).

If a dispute arises, consumers cannot invoke the directive against a trader directly, it is up to the national courts to apply and interpret these rules<sup>10</sup> and they can request additional interpretation from the European Court of Justice through the preliminary ruling procedure. However, this is rather infrequent, which can also contribute to potential divergences in the interpretation of particular provisions based on an EU directive.<sup>11</sup>

### *1.3.2. Tools to assess, monitor and improve the protection of consumers*

Legally non-binding tools aimed at improving, monitoring and assessing the current state and enforcement of consumer protection available on the EU level are: **market monitoring tools**, **tools for awareness-raising** (providing information to consumers about their rights) and **tools for stepping up enforcement and securing redress**.

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<sup>10</sup> See the [Judgment of the Court of Justice of 14 July 1994](#) (Paola Faccini Dori v Recreb Srl.). 'In the absence of measures transposing within the prescribed time-limit Directive 85/577, concerning protection of the consumer in respect of contracts negotiated away from business premises, consumers cannot derive from the directive itself a right of cancellation as against traders with whom they have concluded a contract away from business premises or enforce such a right in a national court. If a Member State fails to comply with the obligation to transpose a directive which it has under the third paragraph of Article 189 of the Treaty and if the result prescribed by the directive cannot be achieved by way of interpretation of national law by the courts, Community law requires that Member State to make good the damage caused to individuals through failure to transpose the directive provided that three conditions are fulfilled, namely that the result prescribed by the directive must entail the grant of rights to individuals, the content of those rights must be identifiable on the basis of the provisions of the directive and there must be a causal link between the breach of the State's obligation and the damage suffered. In those circumstances, it is for the national court to uphold the right of aggrieved persons to obtain reparation in accordance with national law on liability.'

<sup>11</sup> See C. Twigg-Flesner: [A Cross-Border-Only Regulation for Consumer Transactions in the EU](#), 2012, p 20.

### 1.3.2.1. Market monitoring tools

These regroup two different editions of consumer scoreboards (published by the European Commission in alternate years), and show how the single market performs for EU consumers by identifying problems. They are a tool for evidence-based consumer policy, allowing European and national policymakers and stakeholders to estimate the impact of existing policies as well as benchmark performance over time. The data sources used to feed the scoreboards stem from EU-wide consumer surveys.<sup>12</sup>

**Consumer Conditions Scoreboard**<sup>13</sup> provides data on national consumer conditions, cross-border trade and the development of e-commerce. **Consumer Markets Scoreboard**,<sup>14</sup> on the other hand, tracks the performance of 52 specific consumer markets (21 goods and 31 services markets, such as clothing and footwear market, airline services market, etc.) based on the indicators of comparability, trust, problems and complaints, overall satisfaction, choice and switching.

As a follow-up to the Consumer Markets Scoreboard, additional in-depth **market studies**<sup>15</sup> can be carried out to analyse the problems identified by the scoreboard in detail and find potential solutions. Another type of study that can be carried out on behalf of the European Commission is a **behavioural study**.<sup>16</sup> The aim is to test the behaviour and decision-making of consumers in a certain area. When evidence suggests that consumers lack the knowledge or competences in a specific area, such a study can propose alternative policy remedies.

### 1.3.2.2. Awareness-raising tools

Several other tools have been developed with the aim of empowering consumers and providing them with clear, simple and transparent information so that they are able to make better choices. The **European Consumer Centres network** – ECCN (providing consumers with information on their rights in their language, assisting them in solving cross-border disputes with traders situated in another Member State) and **Enterprise Europe Network** (consisting of almost 600 member associations in the EU that disseminate information on consumer legislation to traders, including small and medium sized companies – SMEs). Similarly, **awareness-raising campaigns** (focusing for instance on raising awareness on consumer rights in new Member States or on specific policy areas like passenger or online rights,<sup>17</sup> consumer credit, etc.) are a common practice on EU level. Besides the right to information, the right to education for consumers is also important. For that purpose, online tools<sup>18</sup> or specific training courses for independent non-profit institutions (i.e. 'training for trainers')<sup>19</sup> have been

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<sup>12</sup> See European Commission website: [Consumer scoreboards](#).

<sup>13</sup> See [Consumer Conditions Scoreboard for 2013](#).

<sup>14</sup> See [Consumer Markets Scoreboard for 2014](#).

<sup>15</sup> This was the case for market studies on electrical and electronic appliances, meat, internet service provision, voluntary food labelling schemes and digital content products in 2012 and 2013.

<sup>16</sup> In the past, consumer-related behavioural studies tackled the transparency and comparability of bank accounts, energy and food labelling, cross-border purchases, hidden credit card fees, etc.

<sup>17</sup> See for instance [Code of EU Online Rights](#).

<sup>18</sup> See [Your Europe](#) (for practical advice on consumer rights) or the [Consumer Classroom](#) website for teachers to exchange best practices and materials on consumer education or specific training courses for independent non-profit institutions (i.e. 'training for trainers').

<sup>19</sup> See for instance the Consumer Financial Advice project [ConFinAd](#).



designed. Here, the role of consumer organisations in offering general or more specialised advice to consumers is most welcome.<sup>20</sup>

#### 1.3.2.3 Tools for stepping up enforcement and securing redress

According to the provisions of the Consumer Protection Cooperation Regulation,<sup>21</sup> cooperation between national authorities responsible for the enforcement of consumer protection laws takes place in the form of a European enforcement network (Consumer Protection Cooperation network). In the case of cross-border violations of consumer rights, the network allows the authority of the Member State in which the consumer interests are harmed to call on the counterpart in the Member State where the trader is located, to request action to stop the violation.

Every year, the network also identifies common enforcement priorities and carries out specific activities (e.g. **sweeps – systematic coordinated checks performed simultaneously in different Member States** to investigate breaches of consumer protection law in the particular online sector). Examples of such breaches include incomplete information on the trader, lack of contact details, incorrect and misleading information about the price (hidden costs such as unexpected taxes or delivery fees), insufficient information on the product characteristics, advertising that a product is free of charge and afterwards tying the consumer to a long term subscription, unclear information on the right of withdrawal from the agreement, as well as the return or reimbursement of the product. Sweeps in the past examined airline online ticket websites, hotel accommodation websites, websites selling electronic goods and websites selling mobile phone services. Following such investigations, the relevant national authorities must take appropriate action to ensure that non-compliant websites are corrected and/or closed. Further sanctions and penalties can be imposed at national level.

**The European Judicial Network** (network of national contact points for the facilitation of judicial co-operation in criminal matters) also works on consumer issues. The network is for use not only by individuals or groups of consumers, but also by SMEs confronted with cross-border disputes in the course of their business. With the aim of providing information on European small claims procedure, the network adopted the Practice Guide on Small Claims.<sup>22</sup>

To help consumers, different guidelines (e.g. guidelines on passenger rights regulations<sup>23</sup> as well as guidelines on Article 20(2) of the Services Directive on non-discriminatory access to a service)<sup>24</sup> have also been published. Another non-binding tool available for consumers who wish to save litigation costs when a large number of them are harmed by the same practice on the internal market is the procedure of **collective redress**. It allows similar legal claims to be bundled in one single court action

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<sup>20</sup> European consumer organisation – BEUC, European consumer voice in standardisation – ANEC, national consumer organisations etc.

<sup>21</sup> [Regulation \(EC\) No 2006/2004](#) on cooperation between national authorities responsible for the enforcement of consumer protection laws (Regulation on consumer protection cooperation).

<sup>22</sup> [Practice guide for the application of the European Small Claims Procedure](#), European Commission, 2013.

<sup>23</sup> See [European Commission website on Passenger rights](#).

<sup>24</sup> [With a view to establishing guidance on the application of Article 20\(2\) of Directive 2006/123/EC on services in the internal market \('the Services Directive'\)](#), SWD(2012) 146 final.

to avoid too many individual proceedings (as well as the high costs involved),<sup>25</sup> but it only exists in certain Member States because it is a purely non-binding principle in EU cross-border litigation.

## 2. Key EU policy areas related to consumer protection

Consumer protection policy is a transversal policy. EU legislation in this area deals with specific issues only, such as the provision of pre-contractual information or a right of withdrawal from a contract where the circumstances in which it was made (from a distance or in the consumer's home), or the nature of the transaction justifies it.

There are some measures of more general scope and application, such as Directive 93/13/EEC on unfair terms in consumer contracts, Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>26</sup> and Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees. Another general legislative act in the area of consumer protection is Directive 2006/123/EC on services in the internal market. It covers a wide group of service activities<sup>27</sup> with the aim of facilitating freedom of establishment for providers in other Member States and freedom of provision of services between Member States, improving the quality of services both for consumers and businesses using these services, as well as prohibiting any discrimination based on nationality or the residence of the service beneficiary. Other such acts are Directive 2009/22/EC on injunctions for the protection of consumers' interests, with the aim of terminating or prohibiting infringements which are contrary to the collective interests of consumers, along with Directive 2006/114/EC concerning misleading and comparative advertising,<sup>28</sup> Directive 2011/83/EU on consumer rights,<sup>29</sup> and Directive 2013/11/EU on alternative dispute resolution for consumer disputes.<sup>30</sup>

### 2.1. Product safety

Product safety is the cornerstone of consumer safety and consumer confidence. According to EU legislation, every consumer product put on the market needs to respect certain requirements regarding information to consumers, measures to avoid safety risks, monitoring of product safety, and traceability. Even if the product is not covered by specific sector legislation,<sup>31</sup> general rules on product safety apply and complement that legislation. Safety is first and foremost the responsibility of producers, as they are obliged to manufacture and consequently place safe products on

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<sup>25</sup> See [Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law](#) and [Overview of existing collective redress schemes in EU Member States](#), EPRS, 2011.

<sup>26</sup> See [Directive 95/46/EC](#).

<sup>27</sup> It covers services such as construction and craft industries, retail trade and the majority of regulated professions (for example lawyers, architects, engineers and accountants), business services (office maintenance, management consultancy and publicity for example), tourism, real estate services and private education).

<sup>28</sup> See [Directive 2006/114/EC](#).

<sup>29</sup> See [Directive 2011/83/EU](#).

<sup>30</sup> See [Directive 2013/11/EU](#).

<sup>31</sup> In this respect see for instance [Regulation 1223/2009 on cosmetic products](#) or [Directive 2009/48/EC on the safety of toys](#).

the market. By affixing the **CE marking** (*'Conformité européenne'*) on their products, producers certify that they comply with the applicable safety rules. If a product poses a serious threat to health and safety, national competent authorities (including market surveillance authorities as well as customs) are obliged to immediately share this information with the European Commission via the **European rapid alert system for non-food dangerous products (RAPEX)**, in order to prevent dangerous products from circulating on the market and reaching consumers. The most relevant legislative acts in this area are Directive 2001/95/EC on general product safety<sup>32</sup> and Directive 1999/34/EC on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products.

## 2.2. Digital market

Constant developments in the area of digital technology are fundamentally changing the way consumers interact and shop online. Consumer protection in the digital single market is one of the main priorities of European policy makers<sup>33</sup> – with the aim of systematically taking into account the rights and needs of consumers in a rapidly changing digital environment.

More general legislation that also covers electronic commerce has already been mentioned (Directive 2011/83/EU on consumer rights,<sup>34</sup> Directive 2006/114/EC concerning misleading and comparative advertising and Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data). More specific legislation in this area is: Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market; Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services; Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector; Regulation (EU) No 524/2013 on online dispute resolution for consumer disputes; and Directive 2002/65/EC concerning the distance marketing of consumer financial services.

## 2.3. Financial services

Protection of consumers in the sector of financial services falls within the broader aim of protecting their economic interests. The area of financial services<sup>35</sup> is very complex and involves serious risks for consumers, especially when they are unable to understand the complex financial products, or take out inappropriate loans based on uninformed choices. Unfair practices (lack of essential information at advertising stage, misleading description of financial products) have recently led to the adoption of stricter rules to protect consumers.

General legislation that has been adopted relating to consumer protection in financial services includes: Directive 2007/64/EC on payment services in the internal market; Regulation (EC) No 924/2009 on cross-border payments in the Community; and Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in

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<sup>32</sup> Here, see also the European Commission proposals for the review of current legislation under the [Product Safety and Market Surveillance Package](#).

<sup>33</sup> See [http://ec.europa.eu/priorities/digital-single-market/index\\_en.htm](http://ec.europa.eu/priorities/digital-single-market/index_en.htm) and the [European Parliament resolution of 4 July 2013 on completing the digital single market](#).

<sup>34</sup> See [New consumer rights applicable across the EU](#), 2014, EP.

<sup>35</sup> See also [Consumer Protection Aspects of Financial Services](#), EPRS, 2014.

the internal market. More specific legislation on consumer protection in the financial sector exists: Directive 2008/48/EC on credit agreements for consumers; Regulation (EU) No 1286/2014 on key information documents for packaged retail and insurance-based investment products; Directive 2014/92/EU on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.

## **2.4. Food safety and labelling**

The meat labelling scandal in 2013 revealed the vulnerability of the sector and dented consumer trust in the food industry. Preventing food fraud, ensuring clear and reliable labelling of foodstuffs (e.g. labelling of food origin, organic products, presence of genetically modified organisms, presence of allergens), implementing strict food hygiene standards and controls in the internal market have returned as a focus of recent policymaking in this area.

Relevant legislation adopted in this area includes: Regulation (EU) No 1169/2011 on the provision of food information to consumers; Regulation (EC) No 1924/2006 on nutrition and health claims made on foods; Regulation (EU) No 609/2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control; Regulation (EC) No 834/2007 on organic production and labelling of organic products; Regulation (EC) No 1830/2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms; Regulation (EC) No 2023/2006 on good manufacturing practice for materials and articles intended to come into contact with food; Directive 2002/46/EC on the approximation of the laws of the Member States relating to food supplements.

## **2.5. Energy**

From the point of view of consumers, energy they use should be secure, safe, reasonably priced, but also sustainable – with a growing trend of consumers interested in green consumption patterns. When they are faced with choosing an energy provider, consumers should have access to comparable and clear information on the services they are getting, transparent prices, information on energy efficiency schemes, comparison tools, tools monitoring their energy consumption and they should also be able to change their provider.

The main general legislation adopted in this area is Directive 2009/72/EC concerning common rules for the internal market in electricity, as well as Directive 2009/73/EC concerning common rules for the internal market in natural gas. Legislation with a more pronounced consumer focus includes: Directive 2012/27/EU on energy efficiency; Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products; and Directive 2010/31/EU on the energy performance of buildings.

## **2.6. Travel, leisure and transport**

The EU has developed a set of passenger rights in all modes of transport (air, rail, waterborne, bus and coach) with the aim of ensuring the same level of protection for passengers (compensation and assistance to passengers in the event of accidents, cancellations or delays) no matter which mode of transport they decide to use and regardless of their nationality.

The main general legislative acts adopted in this area include: Regulation (EC) No 300/2008 on common rules in the field of civil aviation security; Directive 90/314/EEC on package travel, package holidays and package tours, (currently under review and covering all means of transport); as well as Directive 2008/122/EC on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts.

More specific legislation in the sectors of air, rail, bus, coach and waterborne transport includes: Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights; Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air; Regulation (EC) No 1371/2007 on rail passengers' rights and obligations; Regulation (EU) No 181/2011 concerning the rights of passengers in bus and coach transport; Regulation (EU) No 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway.

### 3. Past improvements of consumer protection in the EU and its shortcomings

Cutting roaming costs when using mobile phones abroad and improving passengers' rights within the whole of EU territory are some of the main achievements<sup>36</sup> of the harmonisation of legislation in this area. On the other hand, the lack of consumer right awareness among EU citizens seems to be undermining these improvements.<sup>37</sup> Consumers' confidence also remains low – with nearly 50% of consumers still of the opinion that their rights are not protected.<sup>38</sup>

#### 3.1. Success stories

It is hard to assess exactly which EU actions benefited consumers the most, or which of them were largest in scale, but it is possible to get some indication from consumer surveys as well as from other voices like consumer organisations and the European Consumer Centres Network.

Recent improvements of consumer protection legislation include: **lowering of roaming charges** for voice calls, text messages and data downloads by 80%, if we compare tariffs from 2014 and 2007; constantly **reducing certain irregularities** and non-compliance with consumer legislation identified on European websites selling airline tickets, music, books, games, etc. – by introducing regular yearly checks ('sweeps'); introducing a consumers' **right to change their mind ('cooling off period')** together with the **right to delivery within a reasonable time** when purchasing online and the right to a two year guarantee when buying a product in a shop or online,<sup>39</sup> as well as setting-up the **RAPEX**

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<sup>36</sup> [Putting the consumer first](#), European Commission, 2014.

<sup>37</sup> The Empowerment Survey from 2011 for instance showed that only 2% of European consumers could correctly answer questions on their rights of withdrawal, guarantees and protection from unfair commercial practices. See: [A European Consumer Agenda - Boosting confidence and growth](#), COM(2012) 225.

<sup>38</sup> [Putting the consumer first](#), European Commission, 2014, page 11.

<sup>39</sup> See [New consumer rights applicable across the EU](#), EP, 2014, and [http://ec.europa.eu/consumers/ecc/consumer\\_topics/online\\_shopping\\_en.htm](http://ec.europa.eu/consumers/ecc/consumer_topics/online_shopping_en.htm).

**alert system** aimed at identifying and removing dangerous products from the internal market.

### 3.2. Weak points

Some<sup>40</sup> argue that the current legal framework in this area is fragmented and rather unsatisfactory and that significant differences between national consumer laws in the jurisdiction of the trader and consumer may deter them from transacting across borders. The sometimes fragmentary and overly detailed nature of EU legislation points to the need for regulatory reform in parallel with the introduction of any new legal structure. Firstly, it is argued<sup>41</sup> that instead of directives, regulations could be more appropriate to ensure a coherent and accessible legal framework for consumer transactions in the internal market. Secondly, the proposal for change suggests that EU action should concentrate on the cross-border context, and more particularly on transactions concluded by distance means, mainly in the context of e-commerce.

More concretely, consumer organisations<sup>42</sup> have focused on how to improve specific acts or enforcement of rights in general. There have also been calls<sup>43</sup> for adoption of common general definitions of concepts like 'vulnerable consumer' and 'energy poverty' across the EU, to improve the current situation and ensure a more coherent legal framework in all Member States. Some consumer organisations<sup>44</sup> also call for new urgent legislation to protect consumers better, namely a new Copyright Directive and a binding legal instrument regarding collective redress.

The Consumer Empowerment survey,<sup>45</sup> for instance, shows that only 16% of all consumers who experience problems actually contact consumer organisations or public authorities to resolve them. According to another survey,<sup>46</sup> the most common reasons for not pursuing a complaint are: the procedures take too long, sums involved are too small, or a satisfactory solution appears unlikely. There is still room for improvement in eliminating barriers to effective consumer protection. According to ECCN,<sup>47</sup> the network that helps EU consumers make and resolve cross-border purchases complaints against traders, the transport sector was the source of most (29,5%) complaints from consumers in 2013. The top ten sectors experiencing complaints remain stable year to year and include: air transport; household equipment and maintenance; recreational, sporting and cultural services; time-share products and package holidays; car rental; clothing and footwear; hotels and restaurants. A snapshot of citizens' and businesses'

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<sup>40</sup> See C. Twigg-Flesner: [A Cross-Border-Only Regulation for Consumer Transactions in the EU](#), 2012 and [Opinion of the Economic and Social Committee on the 'Green Paper on European Union Consumer Protection'](#), EESC, 2001 and [Better Implementation of EU Legislation is not just a question of taking Member States to Court](#), EIPA, 2011.

<sup>41</sup> See C. Twigg-Flesner: [A Cross-Border-Only Regulation for Consumer Transactions in the EU](#), 2012, pages 18-19.

<sup>42</sup> See for instance [BEUC priorities 2015](#), ANEC [Work Programme 2015](#).

<sup>43</sup> See Opinion of the European Economic and Social Committee on [Energy poverty in the context of liberalisation and the economic crisis](#), 2010 and H. Thomson: [Is the EU doing enough?](#), 2012.

<sup>44</sup> See for instance: [Time is running out to hit the target](#), BEUC, 2013.

<sup>45</sup> [Consumer Empowerment survey](#), Eurobarometer 342, 2011.

<sup>46</sup> Flash Eurobarometer 358: [Consumer attitudes towards crossborder trade and consumer protection](#), 2013, page 7.

<sup>47</sup> [European Consumer Centres network: Help and advice on your purchases abroad](#), Annual report 2013, pages 16-17.

20 main concerns,<sup>48</sup> as well as a targeted EU consumer survey,<sup>49</sup> offer a detailed insight into consumer confidence (or lack thereof) and the overall incidence of problems and complaints.

In general terms the European Commission identified<sup>50</sup> three interrelated gaps in the area of EU consumer protection policy: an **information gap** (insufficient understanding of rules and their application in practice); an **implementation gap** (due to incorrect transposition or application of rules; 'gold plating' practices,<sup>51</sup> lack of cooperation among relevant administrations operating in a cross-border context), and a **legislative gap** (due also to the fact that the EU has no, or only limited, power to legislate).

### 3.3. The challenges of behavioural economics

Another important aspect that partially undermines the rationale behind policy-making in this area is behavioural economics. Behavioural economics is challenging neo-classical economics. It takes into account some aspects of human behaviour that are not rational, like **hyperbolic discounting**, **over-optimism**, and **framing effects**.<sup>52</sup> The concept of hyperbolic discounting means that consumer preferences are not consistent over time, suggesting that, when taking decisions, individuals may lack foresight in the short term, but seem more rational in the long term. Over-optimism relates to the fact that individuals are in general over-optimistic with regard to their capacities<sup>53</sup> and future. They may overestimate their future use of a service like health or fitness club over the year, particularly in January, or dismiss generic warnings (e.g. in insurance contracts) assuming the problem will not occur to them. Framing effects, on the other hand, concern the way the problem or a situation is presented. The difference in ways of framing can produce completely different results – a concept well known in marketing. For instance, it seems that labelling a food product *75% non-fat* instead of *25% fat* substantially increases sales.

**Information overload** is another important aspect to mention when trying to understand consumer behaviour. Some studies have shown that rational decision-making among consumers, when faced with a choice based on a lot of information, is not a safe bet. Studies have shown that consumers make poorer decisions when faced with more choice, and will in that case be more likely to respond to price promotions

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<sup>48</sup> The Single Market through the lens of the people: [A snapshot of citizens' and businesses' 20 main concerns](#), European Commission, SEC(2011)1003.

<sup>49</sup> Flash Eurobarometer 358: [Consumer attitudes towards crossborder trade and consumer protection](#), 2013.

<sup>50</sup> The Single Market through the lens of the people: [A snapshot of citizens' and businesses' 20 main concerns](#), European Commission, SEC(2011) 1003, page 3.

<sup>51</sup> 'Gold-plating' refers to transposition of EU legislation, which goes beyond what is required by that legislation, while remaining within legal boundaries. As Member States have large discretion when implementing EU directives, they may also increase reporting obligations, add procedural requirements, or apply more rigorous penalty regimes. 'Gold plating' is usually presented as a bad practice because it imposes costs that could have in principle been avoided. In operational terms, it is considered as an excess of norms, guidelines and procedures accumulated at national, regional and local levels, which interfere with the expected policy goals to be achieved by such regulation. As an example, see a study ['Gold-plating' in the EAFRD](#), European Parliament, 2014.

<sup>52</sup> See I. Ramsay: *Consumer Law and Policy: Text and Materials on Regulating Consumer Markets*, 2007, pages 71-76.

<sup>53</sup> According to a Swedish study from 1981, 93% of US drivers believed themselves to be more skilful than the median driver. See [Are we all less risky and more skillful than our fellow drivers?](#), Acta Psychologica, 1981.

that provide a simple method of justifying their choice. At the same time consumers will also show greater satisfaction when purchasing from a smaller choice set. Other studies reveal that consumers tend to ignore much of the information on pre-packaged foodstuffs when they consider it to be too detailed, and that individuals on average cannot deal simultaneously with more than seven pieces of important information.<sup>54</sup>

## 4. Outlook

Consumer protection policy faces a number of new challenges that are emerging with new technology:<sup>55</sup> unsustainable and changing patterns of consumption;<sup>56</sup> social exclusion in a number of areas;<sup>57</sup> as well as with the so-called consumer mood,<sup>58</sup> that can sometimes be very unpredictable. According to a European Parliament study<sup>59</sup> however, delivering and completing the existing single market for consumers and citizens could amount to a potential efficiency gain of €300 billion per year. Quantifying the possible gains of potential policy developments can be risky, but further benefits could arise from additional easing of the cross-border provision of services, more effective EU consumer protection regime, better market surveillance, implementation and enforcement of current legislation in this area.

### 4.1. Policy developments

#### 4.1.1. Consumer protection and European Commission priorities

In the context of the economic crisis, the European Commission's consumer agenda<sup>60</sup> defined sectors of particular importance (namely food, transport, electronic communications and financial services), based on the fact that they affect the basic interests of all consumers in essential goods and services.

With the aim of strengthening consumer safety, it identified six objectives: improving the regulatory framework on **product and service safety** and enhancing the market surveillance framework; reinforcing **safety in the food chain**; improving information and **raising awareness of consumer rights** and interests among both consumers and traders; building knowledge and capacity for more **effective consumer participation** in the market; effectively **enforcing consumer law**, focusing on key sectors; and giving consumers **efficient ways to solve disputes**.

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<sup>54</sup> See [Learning & Memory: How Do We Remember and Why Do We Often Forget?](#), 2012.

<sup>55</sup> In relation to new technologies and questions they raise – also related to future law-making – see: [Ten technologies which could change our lives: Potential impacts and policy implications](#), EPRS 2015.

<sup>56</sup> Guilt-free consumption trend, for instance, is promoting an ethical consumer who buys products of brands that support social and environmental causes.

See <http://trendwatching.com/trends/guiltfreeconsumption>. In general, the trend towards more responsible and [sustainable consumption](#) has already been recognised and promoted by EU legislators.

<sup>57</sup> See [Poverty risk, inequality and social exclusion](#), EPRS, 2014.

<sup>58</sup> See for instance S. Bakhshi, P. Kanuparth, E. Gilbert: [Demographics, Weather and Online Reviews: A Study of Restaurant Recommendations](#), 2014.

<sup>59</sup> [Mapping the Costs of Non-Europe, 2014-2019](#), EPRS, 2014, page 13.

<sup>60</sup> [A European Consumer Agenda - Boosting confidence and growth](#), COM(2012)225.



In the Commission Work Programme 2015<sup>61</sup> a couple of references to consumers appear:

- Within the priority to create a **Connected Digital Market** it is stated that the Commission will complement the regulatory telecommunications environment, modernise EU legislation on copyright and on audiovisual media services, simplify the rules for consumers making online and digital purchases, facilitate e-commerce, enhance cyber-security and mainstream digitisation across policy areas.
- Within the priority to ensure a **Resilient Energy Union with a Forward-Looking Climate Change Policy**, it is mentioned that the Commission will adopt a Strategic Framework for the Energy Union setting out the key actions to be taken in order to ensure energy supply security, reduce dependence on imports from third countries, further integrate national energy markets and improve consumer participation.

In its 2015 Work Programme, the Commission also notes that it will begin preparatory work on delivering more benefits to consumers through the single market for retail financial services.

#### *4.1.2. Future challenges of the collaborative economy*

The collaborative or sharing economy (also referred to as the peer-to-peer economy, mesh, collaborative consumption),<sup>62</sup> is based on the sharing of human and physical resources like creation, production, distribution, trade and consumption of goods and services. It can take a variety of forms, taking advantage of new technologies<sup>63</sup> and leveraging communities or crowds to rent, share, swap, barter, trade, or sell access to products or services. How does this concern individuals and change the concept of the consumer? By harnessing different technologies like open design<sup>64</sup> and additive manufacturing;<sup>65</sup> (also known as 3D printing: a manufacturing process that builds layers to create a three-dimensional solid object from a digital model), as well as the open source economy, open data, crowd sourcing, crowd funding; anyone with an internet access can become a co-creator of a product or a service. For instance, one can download a design (of a certain product), improve it, place the order to produce it with a manufacturer and have it delivered as a final product, all from home. These changes entail a lot of challenges regarding the future of consumer protection rules. The sharing economy blurs the boundary between professionals, free-lancers and hobbyists. With parts of the production process taken over by the consumers themselves, questions regarding insurance coverage in the case of a potential accident in the new 'production'

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<sup>61</sup> [Commission Work Programme 2015 - A New Start](#), 2014. For specific new legislative proposals envisaged by the Commission in 2015, see also [Annex I: New initiatives](#).

<sup>62</sup> Characteristics of sharing economy according to Belk (2013) are temporary access and non-ownership of goods and services and reliance on the Web 2.0, allowing users to connect with one another. See [I. Maselli and M. Giuli, Uber: Innovation or déjà vu?](#), CEPS, 2015. See also [Opinion of the European Economic and Social Committee on Collaborative or participatory consumption, a sustainability model for the 21st century](#), 2014.

<sup>63</sup> [The Collaborative Economy: Impact and Potential of Collaborative Internet and Additive Manufacturing](#), EPRS, 2015.

<sup>64</sup> Open design is a form of co-creation by sharing of manufacturing information. More on the definition on open source: <http://whatis.techtarget.com/definition/open>.

<sup>65</sup> See for instance <http://whatis.techtarget.com/definition/3-D-printing-rapid-prototyping-stereolithography-or-architectural-modeling>.

process, or the qualifications of consumers participating in this new emerging economy, inevitably arise.

With digital currencies like bitcoin<sup>66</sup> that could change the trend of consumer payment behaviour online, competing with traditional credit card payment providers in the area of online purchases, more rules will most probably be needed to regulate that market. Rules will also be needed to adjust standards, potentially further lowering the costs for financial transactions, and protect the consumers. Besides the potential for growth and innovation, internet and these new technologies provide tremendous opportunities in terms of bigger consumer participation in society and the economy, which needs to be taken into account and further exploited. However, consumer safety should remain a primary concern in this area. In that respect it should be noted that house or car sharing services available through platforms like Airbnb or Uber,<sup>67</sup> which already lowered costs for consumers and provided them with a broader choice, also seem to raise questions and fears about safety standards loopholes, as consumers cannot rely on the same level of protection as the traditional services market, the sharing economy market being a grey and largely unregulated area.

#### 4.1.3. The concept of 'prosumers'

In relation to the sharing economy and the new emerging concepts, the notion of *prosumer*<sup>68</sup> also demands appropriate attention. The difficulty of defining the term *prosumer* lies in its hybrid name combining 'consumer', 'producer' and 'professional'. The term was originally used by Toffler<sup>69</sup> as a contraction of 'consumer' and 'producer'. While production, consumption and professionalism have long coexisted, technological and legal developments alter and somewhat facilitate their interaction, making the new *prosumer* concept a reality. Why does this concept elude clear legal definition? A person operating in a field external to one's professional competence, skills and knowledge is treated as a consumer. And if a *prosumer* is a producer and a consumer at the same time, the thin line between them may create legal uncertainty about the responsibility (of a consumer in the sense of a non-professional party, and a business or, better, an entrepreneur). In a situation where the exact legal nature of a *prosumer* needs to be clarified by the courts, the turnover, the amount of products, frequency or time involved in an activity of a *prosumer* helps to define in which quality a person acts (together with related rights and obligations), bearing in mind that there is a high level of interpretation of facts and consequently of judicial discretion. The Finnish Consumer Dispute Board,<sup>70</sup> for instance, has held that the activities of a dog breeder qualified as business, since puppies were sold for three years without interruption, while in the Netherlands,<sup>71</sup> a dog breeder who sold puppies twice a year for more than 20 consecutive years was not deemed a professional party. A degree of professionalism may also play a role in deciding on the nature of the activity.

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<sup>66</sup> The advantages of digital currencies can be low transaction fees for the users and anonymity of use as they provide an electronic peer-to-peer payment network with no third party involved. See for instance [Bitcoin - Market, economics and regulation](#), EPRS, 2014.

<sup>67</sup> See also [I. Maselli and M. Giuli, Uber: Innovation or déjà vu?](#), CEPS, 2015.

<sup>68</sup> See *Digital Consumers and the Law – Towards a Cohesive European Framework*, Wolters Kluwer Law & Business, 2013, pages 41-51.

<sup>69</sup> See A. Toffler: *The Third Wave*, 1980.

<sup>70</sup> Finnish Consumer Dispute Board 1884/36/07, 21 September 2009.

<sup>71</sup> Court of Appeal Arnhem *LJN BC2967*, 6 November 2007.

The commercial opportunities that the internet currently offers its users strongly influence consumption and production patterns and, precisely because of the hybrid nature of the term, legislators have been slow to respond. Two important arguments are to be considered in relation to *prosumers*. On one hand, one could argue that the weaker party in the argument should be defended. The final consumer in the *prosumer* therefore demands appropriate protection, but so does the producer in the *prosumer*. It seems that the classification of *prosumers* remains very debatable, given the fact that it is such an elusive concept. Some argue<sup>72</sup> that a fair legal approach to this player would need to include a correction mechanism, which allows for adjustments after classification. If more cases come to court in the future, it may become harder to accommodate the *prosumer* within the present legal frameworks.

## 4.2. European Parliament

With the Lisbon Treaty the co-decision procedure became the ordinary legislative procedure of the EU's law-making system. It gives the same weight to the European Parliament and the Council of the European Union in the area of consumer protection. The Parliament also plays an important role in putting important consumer protection related issues<sup>73</sup> that arise outside the legislative process on the European agenda. Own-initiative (INI) reports often pave the way for new legislative proposals and are important tools in the early phase of the legislative cycle to try to shape the agenda. INI reports can be a response to Commission communications or simply express Parliament's position on different aspects of the policy. In recent years the Parliament adopted several resolutions (on the basis of an own-initiative report) dealing specifically with consumer protection.<sup>74</sup>

***The European Parliament resolution of 15 December 2010 on the impact of advertising on consumer behaviour*** states that the development of targeted (contextual, personalised and behavioural) advertising, supposedly tailored to internet users' interests, constitutes a serious attack on the protection of privacy when it involves tracking individuals (through cookies, profiling and geolocation) and has not first been freely and explicitly consented to by the consumer. It urges advertisers to work towards a standard use of the consumer-friendly opt-in format with their explicit consent, underlines the need for a 'Privacy by Design' approach<sup>75</sup> to incorporate data security concerns and calls for an insertion of the formulation 'behavioural advertisement' in online advertisements.

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<sup>72</sup> See *Digital Consumers and the Law – Towards a Cohesive European Framework*, Wolters Kluwer Law & Business, 2013, page 51.

<sup>73</sup> According to the Annex VI of European Parliament (EP) Rules of Procedure public health and food safety fall within the competence of EP ENVI Committee. In general, EP IMCO Committee is the committee responsible for the promotion and protection of the economic interest of consumers (except for public health and food safety issues), the functioning of the Single Market and the removal of potential obstacles to its implementation, including the implementation of the Digital Single Market, policy and legislation regarding the enforcement of Single Market rules and consumer rights.

<sup>74</sup> Besides the more general resolutions that partially include the consumer protection dimension – such as the resolution of 10 September 2013 on online gambling in the internal market, or the resolution of 22 October 2013 on misleading advertisement practices.

<sup>75</sup> According to the definition of the [European Data Protection Supervisor](#), *Privacy by Design* aims at building privacy and data protection up front, into the design specifications and architecture of information and communication systems and technologies – to facilitate compliance with privacy and data protection principles.

In its **resolution of 15 November 2011 on a new strategy for consumer policy**, by recalling that the consumers do not form one single homogenous group, as there are considerable differences among them in terms of consumer skills, awareness of legislation, assertiveness and willingness to seek redress, the Parliament calls for all future consumer policy measures to be based on a holistic approach which places consumers at the heart of the single market. The resolution also calls for targeted funding to be allocated to consumer research projects, particularly in the field of consumer behaviour and data collection, to help design policies that meet the needs of consumers and for more effective redress mechanisms (such as alternative dispute resolution, collective redress or online dispute resolution).

Its **resolution of 22 May 2012 on a strategy for strengthening the rights of vulnerable consumers** stresses that European legislation should address the problem of vulnerability among consumers as a horizontal task, taking into account consumers' various needs, abilities and circumstances. It also calls on the EU and the Member States to pay more attention to, and invest more in, consumer information and education campaigns that target the right messages at the right consumer segment.

**The resolution of 25 October 2012 on the 20 main concerns of European citizens and business with the functioning of the Single Market** for instance calls on the Commission to make a legislative proposal to ensure consumer-friendly procedures for opening bank accounts across the Union. The Parliament also urges the Member States to simplify and accelerate the administrative procedures for reimbursement of health treatment received abroad.

Its **resolution of 11 June 2013 on a new agenda for European Consumer Policy**, among other things, highlights the need for better protection of the rights of vulnerable consumer groups, such as children and older people or other consumers, in situations of vulnerability, particularly with regard to transport, financial services, energy and information and communications technology.

**The resolution of 15 April 2014 on consumer protection – protection of consumers in utilities services** calls for procedures for switching energy providers to be sped up and simplified, insisting also on the need to make it easier for customers to switch electronic communication service providers without additional fees other than the actual switching cost (without loss of data and with a minimum of formalities).

**The resolution of 27 November 2014 on supporting consumer rights in the digital single market** highlights the importance of affording consumers the same protection online as they enjoy in their traditional markets, stressing that all internet traffic should be treated equally, without discrimination, restriction or interference, irrespective of its sender, receiver, type, content, device, service or application. The Parliament also calls on the Commission to consider proposals aimed at unbundling search engines from other commercial services.

In relation to particularly vulnerable group of consumers, **the resolution of 11 March 2015 on child sexual abuse online** stresses the need for a comprehensive and coordinated European approach in order to ensure consistency in policymaking and the resulting action, encompassing consumer protection together with fundamental rights, privacy, data protection, cybersecurity, e-commerce and the fight against crime. It mentions that children's personal data online must be duly protected and that children need to be informed in an easy and child-friendly way of the risks and consequences of

using their personal data online, and that further steps must be taken to combat cyber grooming.

### 4.3. Stakeholders

Position papers circulated by consumer organisations tend to focus on different aspects of consumer protection, on specific sectors or legislative packages, according to their field of interest. The positions of European consumer organisation – BEUC (Bureau Européen des Unions de Consommateurs) – and European consumer voice in standardisation – ANEC – provide a more general insight on concerns related to new legislative proposals or revisions of current legislation.

BEUC priorities<sup>76</sup> for 2015 cover horizontal policy – **Transatlantic Trade and Investment partnership** (TTIP) but also: **consumer rights and enforcement** (revision of the Package Travel Directive, revision of the Air Passengers' Rights Regulation, the Common European Sales Law Regulation, and consumer rights enforcement across Europe and across borders); **financial services** (Insurance mediation Directive II, Payment Services Directive and Regulation on Card Payment Interchange Fees); **digital rights** (Telecoms Single Market, Data Protection Directive, intellectual property rights enforcement); **food safety** (antibiotic resistance, official controls on the application of food and feed law, food information: country of origin labelling, animal cloning for food); **sustainability and safety** (revision of the general Product Safety Directive, chemicals which disturb the hormonal system); **energy** (to build a consumer-centric Energy Union); and **health** (Medical devices Regulations). BEUC also believes that the pending update of EU data protection rules should strengthen the control and protection of citizen's data. It also stresses the need to create a true single market for consumers without roaming charges and protect citizens' right to access the open internet. Additionally, in its opinion, the restrictions on antibiotic use in livestock are essential for safer food.

Among the priorities that ANEC<sup>77</sup> intends to pursue in the years to 2020 are: establishing a pan-European accident and injuries database to help determine priorities for standardisation and legislation and assess their effectiveness; evaluation of the impact of international trade agreements on consumer protection (TTIP as a new kind of free trade agreement with a potential 'spill over' effect on regulation); evolution of the European standardisation System to develop European standards for consumer protection; and consumer confidence in the services sector. Under consumer policy priorities in the digital environment, ANEC also specifically emphasises the new role and responsibilities for consumers and *prosumers*, the need for consumers to have free and easy access to real information on their current energy usage as well as personalised information on their history of energy consumption, and warns of the pitfalls of traditional ways of informing consumers in 'small print'.<sup>78</sup> With regard to e-accessibility, it expresses the need to ensure continued accessibility for older consumers and consumers with disabilities.

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<sup>76</sup> [Latvian Presidency of the European Union - BEUC priorities 2015](#), 2014.

<sup>77</sup> See [Future Consumer Policy priorities & trends](#), ANEC position paper, 2014. For more details see also [ANEC Work Programme 2015](#).

<sup>78</sup> Printed matter in small type, here referring to details or conditions printed in an agreement or contract, especially ones that may prove unfavourable.

#### 4.3.1. Consumer protection concerns regarding Transatlantic Trade and Investment partnership (TTIP)

Regarding the TTIP proposals, civil society<sup>79</sup> concerns seem to focus on genetically modified organisms (GMOs) and the fear that the agreement may pave the way to a lack of information and freedom for consumers to choose GMO-free products<sup>80</sup> in the EU. In the EU, genetically modified foods must be labelled as such, which is not the case in the United States (US). Chemical regulations differ significantly between the US and the EU, and differences in poultry pathogen reduction treatments, with US using the controversial chlorine dioxide treatment to sanitise poultry intended for human consumption, seem to feed the fears of European consumers. Another aspect fuelling concerns, is the fact that the US does not follow the precautionary principle,<sup>81</sup> as is the case in the EU. Some fear that consumers might also be left with less choice in buying EU produced products or foodstuffs as a result of trade liberalisation effects,<sup>82</sup> but it is very difficult to assess the complex effects of this trade liberalisation on the final consumer in the long run.

## 5. Further reading

New frontiers of consumer protection. The interplay between private and public enforcement. Edited by F. Cafaggi and H.-W. Micklitz, Intersentia, 2009.

EU consumer law and human rights, I. Benöhr, 2013.

[The Notion of the Consumer in EU Consumer Acquis and the Consumer Rights Directive - a Significant Change of Paradigm](#), M. Kingisepp and A. Värvi, 2011.

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[10 better deals for 500 million consumers](#), European Commission, 2014.

[EU Consumers' 2020 Vision](#), BEUC, 2012.

[The European Consumer Centres Network - 10 years serving Europe's consumers, Anniversary Report 2005-2015](#), European Commission, 2015.

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<sup>79</sup> [Civil society's concerns about the Transatlantic Trade and Investment Partnership](#), European Parliament study, 2014.

<sup>80</sup> See [New GMO legislation](#), EPRS, 2015 and [Impact of a potential EU-US FTA \(TTIP\) on consumer protection and food safety](#), EPRS 2014.

<sup>81</sup> The [precautionary principle](#) defined in Article 191 of the Treaty on the Functioning of the European Union, enabling a rapid EU response in the face of a possible danger to human, animal or plant health, or to protect the environment. In practice, the scope of this principle also covers consumer policy, European legislation concerning food and human, animal and plant health.

<sup>82</sup> Fiercer competition could leave small-scale, local and agro-ecological approaches severely handicapped in relation to large agribusiness undertakings. In agriculture, some short-term impacts of an EU-US trade initiative could be a decrease in EU output, in particular for certain meat producing sectors, a Commission report concedes ([Transatlantic Trade and Investment Partnership - The Economic Analysis Explained](#), European Commission, 2013). In this context see also [Consumers at the heart of the Transatlantic Trade and Investment Partnership](#) (TTIP), BEUC, 2014.

**European Parliament publications**

[New Trends and Key Challenges in the Area of Consumer protection](#), In-depth Analysis for the IMCO Committee, European Parliament, 2014.

[EU Mapping: Overview of Internal Market and Consumer Protection related legislation](#), Study for the IMCO Committee, European Parliament, 2015.

[How the EU budget is spent – Consumer programme](#), EPRS, 2015.

[TTIP: Challenges and Opportunities for Consumer Protection](#), In-depth Analysis for the IMCO Committee, European Parliament, 2015.

**Behavioural economics and new trends**

D. Kahneman: Thinking, Fast and Slow, 2011.

Labor in the Global Digital Economy: The Cybertariat Comes of Age, U. Huws, 2014.

[Applying Behavioural Sciences to EU Policy-making](#), Joint Research Centre, 2013.

[Are Consumer Decision-Making Phenomena a Forth Market Failure?](#), P. D. Lunn, 2014.

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'Consumers, by definition, include us all. They are the largest economic group in the economy, affecting and affected by almost every public and private economic decision', were the words of US President JF Kennedy in 1962, which marked the dawn of consumer rights.

A lot has changed since then, but the fast-paced and ever-changing world is still a constant in our daily lives as consumers. In recent years, EU consumer policy has shifted from the technical harmonisation of standards to the recognition of consumer protection as a part of the effort to establish a 'Europe for citizens'. But what precisely does the European Union consumer protection legislation encompass and which tools are used to monitor and improve the protection of European consumers? This document seeks to answer these questions, providing a snapshot of the main consumer policy developments in recent years, together with success stories, shortcomings and future challenges for legislators.

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