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KEEP WORKING FOR CONSUMERS!

For strong consumer rights
and a fair single market.



verbraucherzentrale

Bundesverband

GUIDELINES FOR THE 2019 EUROPEAN ELECTIONS

Consumer policy guidelines of the Federation of German Consumer Organisations
(Verbraucherzentrale Bundesverband – vzbv) for the legislative period
from 2019 to 2024

ABOUT VZBV

vzbv is a strong voice for all consumers in Germany – regardless of their origin or circumstances. The Federation campaigns for a fair and sustainable social and economic framework that is centred on consumer needs. vzbv represents consumer interests in dealings with business, government and agencies and takes legal action to enforce consumers' rights.

The Federation was founded in the year 2000 and acts as an umbrella organisation that pools the strength of the regional consumer associations of Germany's 16 federal states and of 25 other consumer policy associations, with the aim of championing strong consumer protection. vzbv is headquartered in Berlin and has an office in Brussels.

One in two consumers does not feel well-protected in their daily life

When thinking about current consumer policy and consumer rights, consumers feel ...



Sources: Kantar EMNID, representative survey conducted on behalf of vzbv in November 2017

WHAT ARE VZBV'S OBJECTIVES?

- Improving consumers' standing in the social market economy
- Establishing clear and consistent rules for all market participants
- Stimulating healthy competition with regard to quality and prices to ensure genuine freedom of choice and transparent markets
- Ensuring that products and services are safe and secure
- Making clear consumer information available
- Ensuring reliable rights that are enforceable in practice
- Promoting sustainable consumption

HOW DOES VZBV WORK?

- vzbv is a not-for-profit organisation that is independent of political parties and entirely dedicated to protecting the interests of consumers.
- The activities of vzbv are supported by funds from the Federal Ministry of Justice and Consumer Protection as well as by project grants and membership fees.
- vzbv operates at national, European and international level and has an office in Brussels. The Federation is a member of the European Consumer Organisation (BEUC) and of Consumers International (CI), a membership organisation for consumer groups around the world.

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DEAR READER,

The European Union has in large parts been a success story for consumers from the day it was founded. The European Single Market has created a harmonised set of rules that apply to all EU citizens and companies. This benefits consumers directly in their daily life and manifests itself most notably in three ways: Consumers are left with more money in their pockets thanks to the common internal market. They benefit from more safety and security in their everyday life. And they can put their trust in strong consumer rights.

More money in people's pockets

The European Single Market has generated more *competition* in a variety of sectors, for example in the market for electricity and gas and in the telecommunications sector. As a result, consumers benefit from *more choice* and from *lower prices*.

The *abolition of roaming charges* during visits to other EU countries has been a milestone for consumers. Making calls, using messaging services and surfing the internet is an integral part of many people's daily life – including on holidays. Now that these high charges have been abolished within the EU, consumers can use their money for other things instead.

Consumers who use card payments are now better protected against unpleasant surprises. The *cap on fees for using non-cash payment methods* such as credit or debit cards means that shopping now costs less, both at home and abroad.



vzbv Executive Director
Klaus Müller

More safety and security

A growing number of companies are operating across borders and consumers can shop, work and live wherever they wish within the EU. For carefree shopping anywhere in Europe, it is important to ensure that consumers can rely on uniform supervision and safety regulations for products and services across the EU.

The General Data Protection Regulation, in force since May 2018, ensures that *consumers' personal data is also protected in the digital world*. With this regulation, a new standard for data protection has been set by the EU which serves as a benchmark around the world.

The European REACH Regulation governs the *use of chemicals* and protects consumers from coming into contact with dangerous substances in their household, through agricultural goods or in their workplace. The EU has also *prohibited more than one thousand substances formerly used in cosmetics that pose a potential risk to consumers' health*.

More rights

The EU Single Market ensures that consumers have the same rights all across the EU. This means, for example, that they can *go to a doctor in another EU country* and can rely on their health insurance in their home country covering the costs.

The EU introduced the *right to a basic bank account* with elementary functions (basic payment account) for everyone within the EU. This makes it easier for persons in difficult financial circumstances to participate in modern consumer life.

Under EU rules on passenger rights, travellers using planes, coaches, trains or boats are entitled to *flat-rate compensation payments* for missed connections, delays and cancellations.

Overcoming the challenges of digitalisation together

It takes a joint effort to manage challenges such as those posed by the digital revolution. Consumers want safe and easy access to mobility, also across borders. They want to be able to benefit from the vast range of products offered across the EU, especially when shopping online. This applies to clothing and other items of daily use as well as to digital content such as films and music.

Digital applications that are based on artificial intelligence (AI) can make our daily life easier. You can close the blinds or switch on the heating in your home while you are out and about, and a care robot can assist you when you are ill. However, this form of digitalisation should not leave people inescapably dependent on technology, nor should it replace people caring for people.

New rules are needed to regulate who is liable for loss or damage, for example if a smart home application opens the door to a property unexpectedly and thereby facilitates a burglary. The use of algorithms for pricing purposes and credit checks must not lead to discrimination. Our laws currently do not cover many aspects of these future trends and therefore need to be updated.

Strengthening trust

The EU is capable of making the life of every one of its citizens even better. As consumer advocates, we are

counting on the newly elected European Parliament and the newly appointed European Commission to address the everyday problems that affect consumers and to strengthen people's trust in a common Europe and a single market.

Not only the EU's institutions but also its member states are called upon to champion effective and useful policies within the EU that have the best interest of EU citizens at heart. Through the Council of the European Union, all individual member states and their governments assume a great responsibility to shape European policies. They must use this ability to shape our society and must not blame the European Union for failings for which they bear a share of the responsibility.

Europe can do more

Europe as a whole can achieve more for consumers than the individual member states. In a single European market, national rules are often not very helpful. The next European Commission needs to prove that people benefit from the EU, that it is their interests that are put centre stage, rather than business interests. A fair single market should not be focused purely on sales opportunities for companies. It should promote healthy competition and strengthen the consumer's rights.

In its consumer policy guidelines for the 2019 European elections, vzbv proposes solutions for many urgent issues that affect consumers. Our goal is to establish a fair and sustainable social and economic framework in Germany and in Europe that is centred on the needs of consumers – irrespective of their background or personal circumstances.

Yours sincerely,

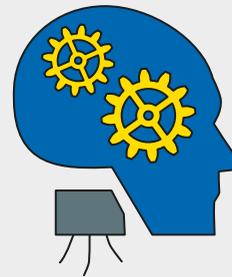


Klaus Müller

OVERVIEW OF KEY CONSUMER POLICY DEMANDS

vzbv has listed ten key demands for strong consumer rights and a fair single market for the legislative period of the European Parliament from 2019 to 2024.

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- ... To ensure that artificial intelligence serves the people: develop ethical principles



- ... To protect consumers against discrimination in the digital world: make algorithmic decision-making processes more transparent



- ... To protect consumers from damage caused by digital and connected devices: reform product liability legislation



- ... To ensure privacy in electronic communication: enshrine strong user rights in the ePrivacy Regulation



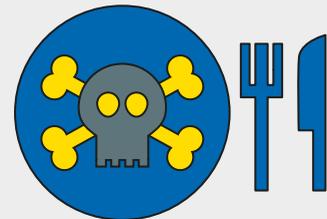
- ...❖ To provide simple compensation procedures for consumers affected by mass damage events: introduce collective redress mechanisms at European level



- ...❖ To take account of consumer interests in trade agreements and Brexit negotiations: introduce a dedicated chapter on 'trade and consumer protection' as a standard element

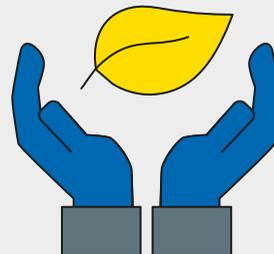


- ...❖ To provide needs-based financial advice for consumers: stop commission-based schemes for the sale of investment products and for financial services comparison platforms



- ...❖ To protect consumers against food scandals and inform them more effectively in critical situations: ensure the consistent application of food market regulations throughout Europe

- ...❖ To help consumers rebuild their trust in true and accurate information on fuel consumption and emission figures: introduce realistic measurement and testing procedures for the type approval of vehicles

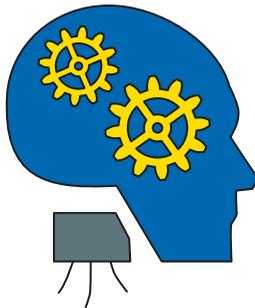


- ...❖ To make it easier for people to be sustainable consumers: extend the EU Ecodesign Directive to additional product groups and introduce binding rules for the conservation of resources

SECURITY AND SELF-DETERMINATION FOR CONSUMERS IN A DIGITAL WORLD

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To ensure that artificial intelligence serves the people: develop ethical principles



Applications that are based on artificial intelligence (AI) are intended to support people and protect their freedom and independence. Autonomous driving, for instance, can have great potential for consumers. It is important that autonomous systems support people and remain controllable for them. A public debate is needed on what the use of AI and algorithmic decision-making processes means for individuals and for society as a whole. One of the outcomes of this debate should be a set of ‘ethical by design’ principles, which force developers and users to take certain legal and ethical principles into account at the development stage of AI-based applications and algorithmic decision-making processes.

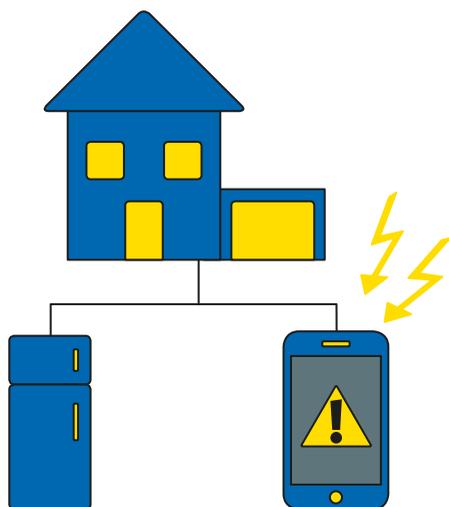
To protect consumers against discrimination in the digital world: make algorithmic decision-making processes more transparent



Algorithmically controlled processes need to be made transparent and understandable. For example, consumers need to be able to understand the way in which ranking and comparison platforms arrive at their findings or why the price that they are being offered might differ from the price that is being offered to someone else. The European Commission therefore needs to create a binding legal framework that goes further than the General Data Protection Regulation. Consumers need to know what data – including non-personal data – is being taken into account in relevant algorithm-based decision-making processes and how the processed data is being weighted. This is the only way in which we can empower consumers to fight discrimination. In order to achieve more transparency and better security and to prevent discrimination, an

independent control system needs to be able to review the algorithms that are being used and the results and decisions that they produce. This review can be designed in a manner that protects companies' trade and business secrets. A key requirement and an important element of an AI strategy would be for the European Commission to establish technical standards for the design of algorithm-based decision-making processes. This would make it possible to ensure compliance with legal requirements and make sure that the relevant processes can be audited ('accountability by design').

To protect consumers from damage caused by digital and connected devices: reform product liability legislation



Devices that are not secure are an open invitation to hackers. In an increasingly interconnected world, the damage that might be caused as a result could reach an unprecedented scale. Imagine if a smart home system inadvertently opened the front door of a property and thereby facilitated a burglary.

Who would be liable for the damage? Scenarios like this are not properly covered by the current German Product Liability Act. This Act is based on a 30-year-old EU Directive and was therefore created with a society in mind that did not have smartphones, autonomous vehicles or voice-operated, web-based personal assistants. The liability issues of the digital age are not appropriately regulated. Consumers are often left to pick up the bill because it is not possible to identify a specific party who caused the damage. This is particularly true in the case of connected devices, because it may not be possible to attribute the responsibility for any damage definitively to a specific device or manufacturer. vzbv therefore advocates a fundamental reform of current product liability legislation that takes account of these new trends and technologies.

The new liability rules need pay particular attention to the topic of autonomous and connected vehicles. Manufacturers are responsible for the proper functioning of their automated assistance systems. The liability for such a system should therefore also lie first and foremost with its manufacturer. Strict liability should begin to apply at the production stage of an automated vehicle, not only once the vehicle is purchased. It must be ensured that consumers understand all relevant risks and liability rules that apply to each level of automation.

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To ensure privacy in electronic communication: enshrine strong user rights in the ePrivacy Regulation



The European Commission has proposed an ePrivacy Regulation to ensure the right to privacy and confidentiality in electronic communication. The rules are meant to complement the General Data Protection Regulation in this highly sensitive area to acknowledge the increased economic, social and political importance of these new means of communication.

According to the European Commission's proposal, the right to privacy is to be extended to Voice over IP calls and internet messaging – in the same way as it is covering traditional calls and letters: consumers must consent to their data being processed. The proposal also contains important rules against tracking, privacy-by-default browser settings, encryption obligations and rights to complain in case of infringements.

This legislative proposal directly affects the fundamental rights of European citizens and consumers. Therefore, a swift conclusion of the legislative process is urgently needed to align the ePrivacy rules with the new General Data Protection Regulation, to close loopholes and avoid legal uncertainty for consumers and companies alike.

Ensuring that European data protection legislation is implemented consistently

Under the General Data Protection Regulation (GDPR), any company that addresses European consumers as a target audience is obliged to comply with European data protection laws. The European Commission and the European Parliament need to make a determined effort to ensure that the GDPR principles of 'privacy by design' and 'privacy by default' are systematically implemented in national law by EU member states.

Giving consumers better information about data protection

It needs to be easier for consumers to understand what will happen to their data when they accept the terms of a privacy policy or provide their consent. Standardised EU-wide icons that illustrate the scope of a declaration of consent could be helpful here. The European Commission needs to propose an EU-wide approach in the form of a Delegated Act. The GDPR already includes this possibility.

Making non-personal data and data streams accessible for consumers and service providers

As systems are becoming ever more closely interconnected and autonomous systems are on the rise, a rapidly growing volume of data is being collected, stored and processed. Types of data that do not qualify as personal data can form the basis for new types of business models. This data promotes innovation and is a key requisite for machine learning. Being able to use an app to check which roads are congested or where to find a free parking space is helpful for consumers in their daily life. It is, however, important to ensure that

individual developers or providers do not have exclusive possession of such non-personal data (no ‘exclusive right’ or ‘data ownership’). Instead, it should be made more freely available to service providers and consumers (principle of ‘open data’). The transport market demonstrates why manufacturers should not have exclusive access to data, in this case vehicle data. Making this information openly accessible enables consumers to choose freely between different providers. For example, consumers should be able to give workshops access to this data and to take the data with them when they switch to a new car. Borders present no barrier to data and data markets. Access to data and data streams therefore needs to be ensured through regulation at European level. vzbv takes a critical view of a potential German solo effort to introduce legislation that would include provisions for exclusive possession of data.

Monitoring data protection compliance in the field of autonomous and connected vehicles and ensuring freedom of choice

Consumers need to be sure that their data will be kept safe in automated and connected vehicles. Transparency in relation to the storing and processing of data, informed consent, portability of data and interoperability are some of the key requirements that arise from the provisions of the GDPR. Compliance with these requirements should be monitored by independent organisations, including through checks in the field. Here, too, open access to non-personal data has to be made mandatory by the European Commission in order to prevent individual companies from obtaining information monopolies and to ensure healthy competition. This is the only way in which true freedom of choice can be guaranteed for consumers. From the consumers’ point of view, decentralised data storage within the vehicle is preferable to data being stored

on external servers of the manufacturer (‘extended vehicle data platform servers’). And ultimately, consumers need to be free to choose whether they want their vehicle to be automated and connected at all.

Making credit checks transparent and non-discriminatory

Algorithmically controlled credit scoring needs to be made transparent and understandable. Consumers should know which data is being taken into account when companies assess their creditworthiness, and also how different types of data are being weighted. Consumers must not be discriminated against just because they live in the wrong post code area or because they use a cheaper computer. This is a problem that the European Commission needs to address.

Any reform of the EU Consumer Credit Directive would have to ensure that credit scoring algorithms can be audited by supervisory authorities and that a scientific assessment can be carried out. The affected users furthermore need to have access to enough information on their personal assessment to be able to raise a reasoned objection to the automated assessment and to have it corrected.

Strengthening consumers’ rights in relation to online platforms through transparency requirements and liability legislation

Online market places, online merchants and rating platforms play an important role in consumers’ daily life as means of obtaining information about various products and services. However, a small number of platforms have managed to accumulate a substantial market share and have thereby gained a significant informational advantage

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over consumers. Comparison platforms claim to filter out the best products for consumers, but it is often unclear what underlying filtering criteria are being used. A product might be highly recommended purely because someone has paid for a good review, for example, or because this product is one that is sold by the platform itself rather than by a third-party provider. Rating and comparison platforms also often seem to suggest that the products they recommend meet certain quality criteria, and consumers put their trust in such assurances. But if the product does not meet the consumers' expectations, most market places and platforms cannot be held to account. Misinforming or misleading consumers could therefore be in the economic interest of such platforms in certain cases.

Misleading consumers is prohibited under the EU Directive on unfair commercial practices, but the rules under this directive are too vague to be effective in achieving more transparency in online market places. vzbv demands concrete proposals from the European Commission to ensure that comparison platforms and online market places are designed in such a way as to take consumer interests into account. The assessment criteria used by these platforms need to be made transparent and understandable for consumers and ratings must not be influenced by the economic interests of the platform operator. This will protect consumers in the event that platforms fail to keep their promises.

Ensuring greater freedom of choice and competition in the online platforms business

Once a consumer has signed up to a particular platform, switching can be difficult and may entail some losses. Access to playlists or libraries of previously watched films that users have saved

on their platform will typically be lost when the user switches to a different provider. Consumers are therefore 'locked in' on their platform. This limits consumers' freedom of choice and poses a threat to free competition. To the extent to which such locked-in effects are not covered by the GDPR, rules need to be introduced to ensure that the portability of non-personal data such as playlists and the interoperable design of systems cannot be undermined. The development of norms and standardised interfaces at European level should be promoted by the Commission and the possibility of obliging platform and system operators to provide these interfaces should be considered.

Providing varied forms of access to digital content across borders

Consumers from one member state of the EU should be able to access web content from all other EU member states. At present, it is not commonly possible for consumers to use services such as video-on-demand platforms from another EU country. The EU needs to ensure that consumers can have access to a broad range of digital offers across borders, around the clock, at a fair price and based on transparent terms and conditions. This is a prerequisite for a true single market in the online sphere. The European Commission needs to revisit this topic and ensure that all EU citizens will finally be able to access Europe's full cultural diversity. In addition, legal and affordable access to content is also the most effective tool in the fight against online piracy. At the same time, it is important to protect the diversity of the content provided on online platforms. These platforms have become a key space used by consumers to obtain and share information. Extensive and largely unrestricted filtering poses a threat to the rights and the freedom of consumers online. Effective measures are needed to ensure that lawful content cannot be blocked and that no censorship

can take place. For example, consumers should have a right to demand that any lawful content they have posted must reappear on the relevant platform within a specific time frame (right to ‘put back’).

Shaping future transport through digital transport platforms

Digitalisation offers many advantages to consumers in the personal transport sector. Digital transport platforms can, for example, check all available travel options across various transport providers and modes of transport comprehensively, quickly and in real time. These services require data from transport providers to be pooled in one place and made easily accessible to customers. Digital transport platforms vary in scope and quality depending on the data available to them. Transport providers should be obliged to offer access to the data needed to achieve blanket coverage for travel information. Transport platforms using this data may operate at local, regional, national or European level. But in addition to the provision of travel information, consumers also need platforms to offer booking and payment facilities. The European Commission needs to lay down requirements for the harmonisation of relevant fare-charging and data processing interfaces in a directive that also takes data protection and security concerns into account.

Establishing new IT security concepts and norms

To ensure that automated and autonomous systems and connected devices that form part of the Internet of Things are secure, new IT security concepts and standards need to be established. For example, the highest possible level of protection against hacker attacks needs to be guaranteed. To

this end, verifiable standards need to be developed based on the best available technology and compliance with these standards must be ensured. The new standards should ideally be agreed at an international level, for example through the International Organization for Standardization (ISO).

Providing information on update support for embedded software

Increasingly often, electronic equipment that appears to be perfectly functional becomes unusable because of software issues. Durable goods such as refrigerators and washing machines are particularly affected because these items have embedded digital components, and manufacturers phase out their support for the software after a certain amount of time. If the software (e.g. the operating system) develops errors or stops working altogether, these products are often no longer usable. In addition, embedded software elements often control the energy consumption of the device. Manufacturers need to be obliged to support and provide updates for the relevant software for the actual lifetime of their products and to announce any changes in their driver architecture well in advance. Consumers should also be told – before they make a purchasing decision – how long the manufacturer will continue supporting the embedded software with updates.

Ensuring a high level of data protection, including in international trade

The European Union has adopted strict data protection standards which need to be protected systematically, including in the digital trade environment. Modern trade agreements

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need to include dedicated, horizontal exceptions on data protection and privacy. The European Commission should allow data transfers only as part of an adequacy agreement, which ensures that the collection, storing and processing of data from EU users by parties in third countries complies with EU rules. This principle must be enshrined in all trade agreements.¹

Conducting regular EU-wide surveys of consumers' digital literacy

In order to be able to address the needs of consumers in all EU member states, information on digital literacy standards across Europe needs to be collected. The European Commission should

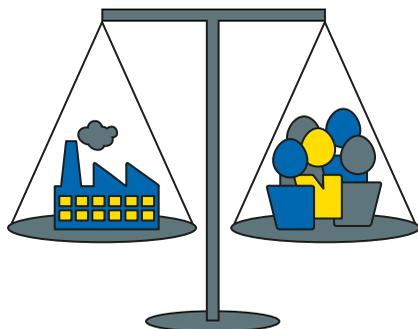
launch an EU-wide survey to assess the digital literacy of consumers. This survey should be led by experts and its development and implementation should be supported by an advisory committee of representatives from all EU member states. The findings of the survey would highlight areas in which consumers are already competent and areas in which the European Union needs to take appropriate measures to improve competence levels. To ensure that the needs of all consumers can be addressed appropriately in the medium and long term, this survey will need to be conducted at regular intervals across the whole of Europe.



CONSUMER-FRIENDLY MARKETS AND FAIR COMPETITION

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To provide simple compensation procedures for consumers affected by mass damage events: introduce collective redress mechanisms at European level



On 11 April 2018, the European Commission presented a proposal which forms part of the ‘New Deal for Consumers’ and envisages new collective legal protection measures against violations of consumer protection legislation. The proposal would grant qualified organisations such as consumer associations the power to obtain compensation for consumers who have suffered damage as a result of violations of consumer protection laws. This makes it possible to obtain direct compensation for affected consumers if the damage caused in their specific case can be clearly quantified. Examples include standardised compensation for air passengers and mandatory repayments of unlawful bank charges. In complex cases where the scale of

the damage suffered by different individuals varies, binding model rulings – similar to the model case procedure introduced in Germany – will continue to be the appropriate instrument. This initiative is important to ensure that consumers actually benefit directly from European consumer protection legislation. In the event that the relevant legislative process will not be concluded before the end of the current legislative period, vzbv demands that this directive be debated and adopted as a priority in the legislative period from 2019 to 2024.

To provide needs-based financial advice for consumers: end commission-based schemes for the sale of investment products and for financial services comparison platforms



If insurance or investment intermediaries earn money through commissions, the worst case for consumers is that they may not be sold the product that best fits their needs, but rather the product

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that will earn the intermediary the highest commission payment. Trail commissions create conflicts of interest and undesirable incentives and have been proven to result in less appropriate recommendations of financial investment products.² They are therefore wholly incompatible with the principle that providers of investment advice and other services must always act ‘in the best interest of the client’ as set out in the EU’s Financial Markets Directive MiFID II.

European legislators should therefore implement a comprehensive ban on trail commissions for traditional and insurance-related investment products, especially also on financial services comparison platforms. A European ban on commissions would also create opportunities for more cross-border competition in the investment market, as commission-based sales models often incentivise national providers to sell in-house (and therefore domestic) products.

To take account of consumer interests in trade agreements and Brexit negotiations: introduce a dedicated chapter on ‘trade and consumer protection’ as a standard



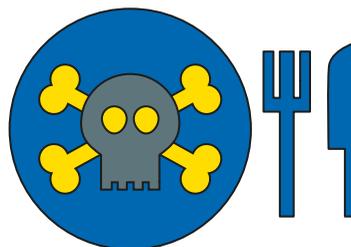
Consumer interests need to be given proper consideration in EU trade agreements, for example with regard to rules for international e-commerce and the question of what rights consumers have if they receive a damaged item or if they wish to

make a warranty claim. Telecommunication charges (roaming) should also be negotiated in this context. This regulatory focus could be incorporated in trade agreements as a dedicated horizontal chapter on ‘trade and consumer protection’. Consumer protection rules should also be taken into account and elaborated in further detail in the different sector-specific chapters.

The UK’s decision to leave the European Union (‘Brexit’) will also affect German consumers. For example, many consumers use UK-based financial services. The chief negotiators of the European Commission as well as the European Parliament need to push for a trade or association agreement with the UK that puts consumer interests first but does not allow the four freedoms of the single market to be undermined.

To protect consumers against food scandals and inform them more effectively in critical situations:

ensure the consistent application of food market regulations throughout Europe



The Fitness Check report of the European Commission shows that different member states are interpreting EU food laws in different ways and that these laws are therefore not being implemented in an efficient and consistent manner. The communication and management of risks in critical situations differs significantly

across countries, as demonstrated by the fipronil scandal in the summer of 2017. There are also differences in the way in which official inspections are carried out and penalties applied. This creates uncertainty for consumers and inconsistency in the requirements faced by EU Single Market participants.

The European Commission needs to support the member states with regard to the interpretation and enforcement of relevant EU laws and provide the necessary resources to carry out official inspections. Quick and effective controls are also urgently required in the growing online market for groceries. Furthermore, a consistent approach to crisis management and product recalls needs to be established across all member states. The 'general plan on risk communication' that will form part of an amendment to the EU General Food Law Regulation must include clear provisions in this respect.

Adapting consumer law and competition law to take account of digitalisation in trade and commerce

E-commerce and internet platforms revolutionised our shopping experience but, over time, they have become a normal part of our everyday life. Now, a new stage in the transformation of consumer behaviour through digitalisation is on the horizon. A growing range of digital assistants are being brought to market and dynamic and personalised product pricing mechanisms are on the rise. These new sales models are challenging the traditional concept of a competitive market. Rather than providing an overview of the products and services available in the market, digital assistants issue specific recommendations to consumers, tailored to the supposed personal preferences of the individual. Personalised and dynamic pricing

mechanisms can make it more difficult for consumers to compare products and make an informed choice.

The criteria on which such personalised offers are based are a 'black box' for the consumer. They are protected by legal provisions intended to safeguard trade and business secrets. As a result, it is impossible for consumers to tell whether or not they are really being pointed towards the cheapest available product or the product that best suits their needs. Current consumer protection and competition laws need to be consistently enforced and developed further to ensure that consumers remain independent market participants and do not become mere puppets guided by algorithmic sales processes.

Harmonising rules for the sale of investment products

The EU Directive on insurance mediation³ stipulates less stringent requirements for the sale of insurance-related investment products, such as unit-linked pension plans, than for the sale of traditional investment products such as shares or investment funds. For example, there is no requirement in this segment for commissions to be disclosed in detail. Commission-based intermediaries therefore often recommend insurance-related products to consumers regardless of their compatibility with the individual consumer's needs. These products are often significantly more expensive than other types of investment. In order to ensure that consistent rules apply for the sale of all financial investment products and to reduce existing distortions of competition, EU legislators should align the provisions of the European Insurance Distribution Directive (IDD) with those of the European Markets in Financial Instruments Directive (MiFID II).

Ensuring equivalent supervision of the sale of investment products

The supervision of the sale of financial investment products regulated at EU level is also fragmented at national level. Germany's Federal Financial Supervisory Authority (BaFin) oversees the sale of most traditional investment products, but it is only partly responsible for the supervision of the sale of insurance-related investment products. In order to ensure that equivalent supervision is in place for the distribution of all financial investment products across Europe, EU legislators need to oblige all Member States to nominate a supervisory authority with central responsibility for the distribution of traditional and insurance-related financial investment products (to be incorporated into both MiFID II and the IDD). This step is indispensable for the facilitation of interaction between EU supervisory authorities and the national supervisory authorities of the individual member states. In Germany, insurance intermediaries are primarily regulated by the regional Chambers of Industry and Commerce (IHK). There is therefore currently no direct link to EU structures, but it is necessary to create this link in order to enable the European supervisory authorities to fulfil their role as a coordinator.

Improving account switching support

Support structures for switching accounts were harmonised through the European Payments Accounts Directive in order to make it as easy as possible for consumers to switch from one bank account to another. Nevertheless, only a small number of consumers make a switch and thus put pressure on account providers to offer more competitive products.

Problems with the account switching support can arise, for example, from the form that needs to be used and the switching dates specified on that

form. Payments made using funds from accounts that have already been closed can fail as a result of these. This can result in expensive and frustrating debt collection procedures.

The European Commission should review the Payments Accounts Directive as soon as possible and develop concepts to find reliable solutions to the existing issues in the account switching process. This is the only way to create a healthy competitive environment.

Strengthening the rights of airline passengers

vzbv opposes the European Commission's proposed review of the European Air Passenger Rights Regulation, which has been stuck in the Council of the European Union since 2013. It would curb the protective effect of the EU's Air Passenger Rights Regulation, which has proven very effective for a number of years, and affect the applicability of the extensive body of case law of the European Court of Justice (ECJ) on this issue. vzbv calls on the European Commission to retract the proposal and to use a revision of this legislation – if necessary at all – as an opportunity to strengthen air passenger rights, close existing regulatory gaps and codify the relevant ECJ case law in the amended Regulation.

It is, moreover, high time that the European Commission brought forward a proposal for mandatory insolvency protection. The Commission must require airlines by law to take out insolvency insurance to protect advance payments made by customers. Consumers must not be left to carry the cost if an airline goes bankrupt. In addition, so-called 'no-show clauses' should be declared unlawful (in accordance with rulings already made by courts in Germany, Austria and Spain). These clauses stipu-

late that passengers who have booked a multi-leg flight journey (including a simple return flight) and skip one leg of the journey forfeit their bookings for all subsequent legs of the journey.

Making it easier for consumers to follow a healthy diet

Waistlines in Europe are expanding. Slightly more than half (51.6 percent) of the EU's adult population is considered overweight.⁴ At the same time, there are few measures in place at European level that promote healthy eating. A statutory cap on industrial trans fats is still awaited and the introduction of nutrient profiles is also overdue and recently even became the subject of a REFIT evaluation. A simple scheme for nutritional value labels on the display side of food packaging that tell shoppers instantly whether a processed product contains relatively high levels of salt, sugar or fat is still lacking. Children also continue to be targeted by marketing campaigns for unhealthy food products. Food supplements are often marketed in doses that exceed the daily requirements of vitamins and minerals by far. Until today, the European Commission has not set universal maximum quantities, even though the Food Supplement Directive from 2002 provides for the introduction of legal maximum quantities.

The European Parliament and the European Commission need to ensure that the “healthy option” becomes the “easy option” everywhere in the EU. Therefore, better labelling of products, uniform regulations and clear rules for marketing to children are indispensable. This overarching issue should not be delegated to the governments of the individual member states. The opportunities arising from the Food Information Regulation, the Health Claims Regulation as well as the Food Supplement Regulation need to be seized by the EU legislator.

Introducing standardised EU-wide country of origin labelling

Representative surveys show that consumers want to know where their food comes from.⁵ Following the decision of the European Commission not to introduce a standardised EU-wide format for country of origin labelling, various member states introduced national schemes for labelling domestically produced meat and dairy products. These labels only flag up domestic products for consumers but cannot differentiate between products from other EU countries and products from third countries. Providing this additional information would require an EU-wide labelling system for designations of origin. The European Commission needs to consider the findings from national initiatives and the objective of a harmonised single market and draw appropriate conclusions, i.e. produce a draft piece of legislation for EU-wide country of origin labelling, particularly for animal-based food products.

Putting consumers at the heart of the European energy market for gas

Following the reform of the electricity market, changes are now required in the gas market and the consumer rights of gas customers need to be strengthened. Areas that require improvement include, amongst others, options for switching suppliers and the transparency of gas price offers.

A transition from fossil to renewable energy sources is desired by a majority of consumers, not only in Germany. The offering of gas from renewable sources, especially wind and solar power (green gas), should therefore be expanded significantly as an alternative to fossil gas. The Commission's proposal must address the fact that the additional supply of green gas will need to be either produced using

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electricity from renewable sources or imported from third countries. In this context, it is important that security of supply is guaranteed for consumers at the best possible price.

Negotiating trade agreements in a transparent way

The transparency initiative launched by the European Commission during the last legislative period has been very welcome. Since its launch, the Commission has been publishing new text proposals and has been debating new initiatives and ongoing trade negotiations with stakeholders. This approach should be continued and developed further. In future, the European Commission should enter into negotiations for new trade agreements only if the negotiation partner agrees to a comparable level of transparency. In addition, the European Commission should discuss the outcomes of interim stages of ongoing negotiations with representatives who speak on behalf of all parts of civil society, for instance consumer associations.

Ensuring that trade agreements respect the precautionary principle and food standards

The EU's precautionary principle must be enshrined in all trade agreements between the EU and third countries. This principle is laid down as a regulatory objective in the Treaty of the European Union and constitutes an essential cornerstone of European consumer policy.⁶ In relation to product and food information it is necessary for the European Commission to insist on the introduction of exemptions which ensure that product labelling standards cannot be classified as a trade barrier when they conform with consumers' wishes and benefit consumers. 'Other legitimate factors' such as the ban of genetic modification techniques or other food

production processes also need to be recognised as factors for regulation, in order to being able to prevent those techniques being put on the market in the European Union.

Ensuring that international regulatory cooperation remains voluntary

Cooperation between regulatory and supervisory authorities can be beneficial for consumers, especially when food controls are being improved as part of a trade agreement. This kind of cooperation can also help to promote the harmonisation of technical rules and standards. Regulatory cooperation should, however, not become mandatory under any circumstances and must not replace legislative processes. The added value of such cooperation schemes needs to be assessed by the European Commission. Consumer associations should be involved in the process of identifying topics of relevance for this type of cooperation.

Limiting investor protection in trade agreements to non-discrimination

Trade agreements frequently include investor protection provisions that can pose a threat to European and national consumer rights. The European Commission should not include investor protection rules in any further new trade agreements until the European Court of Justice has given its decision on the compatibility of such rules with EU law.⁷ The scope of investor protection rules should be curbed significantly and limited to equal treatment compared with nationals, i.e. foreign investors should not be able to claim further-reaching rights than domestic companies. Consumer protection standards must not become the subject of legal claims brought by investors. The establishment of a multilateral investment arbitration court is generally to

be welcomed, as it would provide clear procedural steps. It must, however, meet even stricter transparency criteria.

Improving the enforcement of consumer rights in international trade

If trade agreement provisions that are directly related to consumers are breached by a contractual party, consumer organisations need to be able to lodge a complaint. This affects aspects such as product labelling requirements as well as rules on electronic business transactions, data protection and financial services, among others. The European Commission needs to make further progress with its reform of the chapters on sustainability with the aim of defining better rules for the enforcement of trade agreements.

Examining the economic implications of trade agreements in more detail

The economic implications of trade agreements for consumers are currently not being analysed sufficiently. An assessment of whether a trade agreement delivers genuine benefits for consumers cannot be carried out until reliable figures are available. Such an assessment should identify whether consumer prices have dropped as a result of the trade agreement or whether there has been an increase in the choice of products or consumers' purchasing power. The European Commission should specifically include measuring implications for consumers in the impact assessment for trade agreements as an additional, distinct pillar.

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FOR CONSUMERS!
For strong consumer rights
and a fair single market.

STRONGER PROTECTION OF RESOURCES AND A SUSTAINABLE SINGLE MARKET

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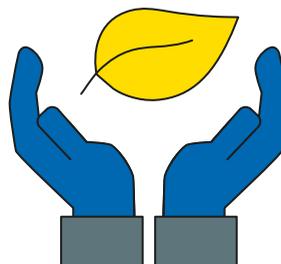
To help consumers rebuild their trust in true and accurate information on fuel consumption and emission figures: introduce realistic measurement and testing procedures for the type approval of vehicles



When purchasing a vehicle, consumers often cannot rely on the information provided by manufacturers. The diesel emissions scandal has made this very clear, but it is not the only example. Car owners often have to spend more money on petrol than they expected because the actual fuel consumption of their new car is higher than the official figure. The information on fuel consumption and emissions provided by manufacturers needs to be more realistic and more reliable. Procedures for testing cars before they are brought to market need to be overhauled so that they reflect the way vehicles are actually driven on the roads. Unrealistic roller test bench procedures need to be replaced with other methods.

The introduction of the new Worldwide Harmonised Light Vehicle Test Procedure (WLTP) is a first step. Tests are conducted for longer periods and at higher speeds, and they take account of different engine and transmission variants and special equipment features. However, for a realistic fuel consumption assessment, it is absolutely essential that vehicles are tested on the road. The European Commission thus needs to prepare a proposal for an amendment to Commission Regulation (EU) 2017/1151 as quickly as possible after the European elections with the aim of introducing a road-based testing procedure (real driving emissions – RDE). In addition, effective provisions need to be adopted that limit the acceptable discrepancy between test bench results and RDE values ('not-to-exceed' limits). The Commission's proposal should furthermore include provisions to ensure that fuel consumption data is systematically monitored throughout the production process. These provisions should also stipulate sanctions for breaches.

To make it easier for people to be sustainable consumers: Ecodesign Directive to additional product groups and introduce binding rules for the conservation of resources



'Ecodesign' rules have already been adopted for certain products that have a substantial impact on energy or fuel efficiency, such as windows and car tyres. These rules are aimed at improving the product design in order to reduce the environmental impact of the product in question throughout its production and useful life. In the interests of conserving resources, the European Commission should urgently assess which further product categories such regulations should be introduced for. vzbv is of the opinion that ecodesign requirements could be particularly beneficial for higher priced products such as furniture and other home fixtures and fittings. The sustainability of mobile phones should also be improved as a matter of urgency to address the flagrant imbalance between the staggering amount of resources used to manufacture information and communications technology products and their very limited lifespan. This current imbalance is not only harmful for the environment but also costly to consumers. The European Commission needs to pursue a more ambitious action plan with regard to the number of products covered by ecodesign rules and the implementation timelines.

Any amendments to ecodesign rules need to be consistently aligned with durability, reparability, upgradeability and recyclability requirements. In its 2015 Action Plan for the Circular Economy, the European Commission stipulated that products should be more durable and repairable. Unfortunately, no real progress has been made since then.

Adopting consumer-friendly rules to reduce single-use plastic waste

A majority of consumers are in favour of reducing packaging waste and are concerned about the pollution of our oceans and the spread of microplastics.

The European Directive for reducing the consumption of lightweight plastic carrier bags⁹ has shown that consumer habits can be changed within a short period of time. New proposals of the European Commission for a reduction of single-use plastics follow this example. Even bans on certain products should not be off limits. Where reasonable and affordable alternatives are available, product bans could be implemented in a consumer-friendly way with an appropriate transition period.

Providing consumers with reliable information before they purchase a vehicle

Purchasing a car is expensive and requires careful consideration. In order to be able to make a well-founded purchasing decision, consumers need free access to easily understandable and realistic product information. This information is currently not of a satisfactory standard, especially with regard to fuel consumption and vehicle efficiency data. The European Directive regarding the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars has not proven to be effective and needs to be overhauled.

The member states' leeway for implementation has often been exploited in favour of particular interests, such as those of the automotive industry, resulting in information of little use to consumers. In Germany, the directive was implemented in the form of the Regulation concerning Consumer Information on Fuel Consumption (Pkw-EnVKV). Under this regulation, passenger cars are categorised in efficiency classes based on their CO₂ emissions relative to the weight of the vehicle. This means that large and heavy vehicles, which produce more CO₂ emissions in absolute terms, receive a better efficiency classification than lighter, smaller cars. This is confusing for consumers and harmful for the environment.

The European Commission therefore needs to amend this directive and transform it into a regulation. This is necessary in order to ensure that fuel efficiency information provided across the EU is of a consistent quality. The use of irrelevant reference parameters like the vehicle weight in Germany needs to be outlawed. New, clearly understandable labels are required that are assigned based on absolute CO₂ emissions.

Strengthening trust in sustainable business practices through informative sustainability reports

Consumers should have access to comprehensive information about the impact of a company's operations on society. The European Commission shares this view. In 2013, it adopted an EU Directive that requires companies to publish reports disclosing non-financial company information.¹⁰ However, the German corporate social responsibility (CSR) Act of 2017 implementing the directive only applies to a small section of companies and its effectiveness is therefore very limited. In Germany, only publicly traded entities, credit institutions and insurance companies with 500 or more employees are obliged to publish a report that covers social issues, work conditions, human rights issues, environmental aspects and corruption. As a result, only around 500 companies are under an obligation to produce such reports – a small fraction of the number of companies that consumers interact with in their day-to-day life. Most companies fall through the cracks, even some which report billions of euros in turnover every year and have a substantial impact on the environment and society. For many topics of relevance to consumers, such as data protection and data security, there is no reporting obligation at all. In addition, sustainability reports are currently difficult to compare for consumers, because they are not based on a consistent and accepted reporting standard.

vzbv therefore welcomes the intention of the European Commission to implement stricter requirements for the disclosure of companies' sustainability information as part of the *EU Action Plan for Financing Sustainable Growth*¹¹. As part of any reform of the EU Directive, the scope of application should be extended to all companies with more than 250 employees. Consumer protection needs to become an integral part of the sustainability strategy of all companies. At the end of the day, no company that violates fair competition rules, fails to monitor the safety of its products, or does not have an established product recall process should be able to claim that it operates in a socially responsible way. The more transparency a company offers in relation to topics that matter to consumers, the more trust it will enjoy from consumers and also from investors in return.

ANNEX

End Notes

- 1 The European Parliament has already defined clear requirements for such a clause as part of its resolution on the TiSA agreement: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0041+0+DOC+XML+Vo//EN>
- 2 Stiftung Warentest (German testing organisation) has so far conducted three series of tests that examine the quality of investment advisors. The results of the first set of tests in 2009 were deemed ‘embarrassing’. The second round of tests (2010) returned even worse results. And although the findings from the third test series in January 2016 looked better at first sight, in reality, even these show that bank advisors regularly issue investment recommendations that are contrary to their customers’ interests.
- 3 Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation
- 4 EUROSTAT (2016); <http://ec.europa.eu/eurostat/documents/2995521/7700898/3-20102016-BP-EN.pdf/c26b037bd5f3-4c05-89c1-00bfb098d646>
- 5 According to a representative survey commissioned by the European Consumer Organisation (BEUC) in 2012, 70 percent of consumers want to know where their food comes from. The findings of a survey conducted by vzbv as part of the 2014 Food Transparency project showed that 75.3 percent of consumers would like designations of origin to be provided on food products.
- 6 A proposal for a wording that guarantees the precautionary principle can be found in a brief expert report produced for vzbv: <http://www.vzbv.de/pressemitteilung/ceta-nachbesserungen-nicht-ausreichend> (available in German only)
- 7 This refers to a request for an ECJ opinion submitted by Belgium. <http://curia.europa.eu/juris/document/document.jsf?text=&docid=196185&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=1206213>
- 8 Regulation on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information
- 9 Directive 2015/720
- 10 Directive 2013/34/EU
- 11 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018DC0097>, p. 12.

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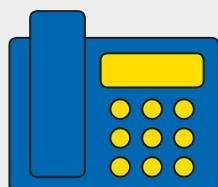
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