



NEW CONSUMER AGENDA 2020



PREPARED BY

This position paper was collected with input from: Fred Roeder, Yaël Ossowski, Luca Bertoletti, Maria Chaplia, and Bill Wirtz.



INTRODUCTION

This position paper serves as the Consumer Choice Center's contribution to the European Commission's consultation on a new consumer strategy. We have divided this document into a range of categories, designed to address the priorities of the European Commission, with particular focus on new innovative technologies, digital services, consumer information and product safety. Some of the positions laid out in this document can also be found in our [Consumer Innovation Manifesto](#), which was released as a reaction to the COVID-19 crisis.



DIGITAL SINGLE MARKET

The following positions are partially derived from our paper "[Liberalising and harmonizing European Digital Markets](#)". Several elements in the text below serve as an update to the said paper.

The Fourth Industrial Revolution is well underway. The member states of the European Union have fallen behind China and the United States in developing the necessary infrastructure to leverage its potential fully. The strength of the EU is its diversity of cultures and languages, but in the case of innovation, this diversity is proving to be a barrier to scaling new developments. While trade in goods may be high, the digital business remains limited by a lack of harmonization in digital markets, and the interventions of individual states that make investment more cumbersome.

Failing to make the necessary investments in developing a 21st Century digital infrastructure in time will put the EU at a competitive disadvantage in global markets, hampering economic growth for the foreseeable future. At the foundation of technologies such as artificial intelligence and the internet of things, which promise huge gains in productivity, there is a need for robust digital infrastructures and the accessibility of next-generation bandwidth technologies. The Consumer Choice Center's Digital Single Market (DSM) proposal seeks to better the existing digital foundations of the European Union by contributing to the liberalization and harmonization of the European Digital Market.

In 2014, the European Commission identified the development of a connected DSM as one of its ten key priorities. The EU Institutions have since delivered many of the objectives set out in the Digital Market Strategy for Europe, notably the General Data Protection Regulation, the revised European Electronic Communications Code and the Cybersecurity Act.

Digital technologies have already profoundly impacted various industries, and it has become clear that while the ongoing digital transformation of the EU economy and society presents enormous growth potential for Europe, it also poses strategic challenges and raises new legal and regulatory questions that require coherent public policy responses. As the pace in which digital technologies transform society accelerates, it is up to decision-makers to ensure not just growth, but also that the transformation benefits society.

One of the main points would be to cut red tape, for example, audiovisual licenses, that member states have, which prevent SMEs from scale-up and from creating a real and united single digital market.



ENVIRONMENT

The environmental challenges facing Europe are to be taken seriously, which is why the Consumer Choice Center has maintained that new problems require new solutions, i.e. the European Union needs an innovation-based approach to climate change. The example of **agriculture** comes to mind.

In the new "Farm To Fork" strategy, the Commission suggests a significant increase in organic farming. Organic farming is appealing because it's "natural" and is, therefore, associated with higher food safety, but it can potentially do more harm than good if we choose to stick to it. In 2017, researchers at the Research Institute of Organic Agriculture in Switzerland estimated that if the world chose to fully convert to organic agriculture, we would need between 16 and 81% more land to feed the planet.

The European Union has traditionally objected to most innovations in food science and prevented European consumers from accessing biologically-enhanced food. This can be seen in the very limited number of genetically modified crops authorised for cultivation in the EU, and a very cumbersome and expensive process of importing genetically modified food, as well as the 2018 European Court of Justice ruling against gene-editing.

However, there is no substantial scientific evidence of the health and environmental risks ascribed to genetically engineered food products. With the help of genetic engineering, we would be able to decrease our dependence on natural resources and minimise the use of fertilisers and pesticides. Creating drought and heat-tolerant crops would ensure we don't need to deforest wild areas to free up more land for agricultural purposes.

In order to unleash the potential of genetic engineering and help it mitigate the environmental challenges we have to face, it is also essential that the EU creates fair and equitable conditions for GMO-free and GM foods.

On transport, we witness that traditional modes of travel are under increasing scrutiny. Through mechanisms such as the Emissions Trading System (ETS), or the more recent discussion over carbon border adjustments, the European Union seeks to institutionalise the principle of the paying polluter. In this context, we would like to express our concern that these mechanisms are effectively taxes on consumption, known to be regressive. Low-income households spend a larger part of their total income on these services.

The adage of "if you tax something, you get less of it" is correct, yet does it serve the purpose of making the travel sector sustainable? COVID-19 has significantly reduced global air travel for a couple of weeks, and as a result, governments feel that they need to bail out the airline industry. In this sense, it seems understandable that a reduction in any mode of transport cannot be radical, and that there needs to be a gradual shift to sustainable transport.

Reducing fuel consumption is as important to airlines as it is to each and every one of us. The aviation industry has been making consistent efforts to use less fuel. Giving innovative technologies such as new materials and fuel-saving engines a chance doesn't usually come to mind as a possible solution, while its potential to help us cut the emissions would actually have a significant impact. For example, Airbus' new A321XLR has 30% less kerosene consumption per passenger, while adding 30% more range than the currently used A321neo.

These innovations are possible due to the current rate of use of airline services. Private industry needs capital flow in order to invest in future technological innovation. Cutting low-income households out of the equation with regressive taxation would paralyse the goals of sustainable agendas.

See also: the [CCC's open letter to EU Commissioner Frans Timmermans](#) on climate change on December 3, 2019.



CONSUMER RECOVERY POST COVID-19

As mentioned in the introduction, the Consumer Choice Center's [Consumer Innovation Manifesto](#) lays out a comprehensive ensemble of measures that would help consumers recover from the adverse economic effects of the COVID-19 crisis.

We would like to congratulate member states who have chosen to react swiftly to these challenges by adapting taxes that hit consumers the most. For instance, Germany has reduced its level of value added tax from 19 per cent to 16 per cent, and brought its reduced rate down from 7 to 5 per cent. The Netherlands have chosen to be more flexible on deferred VAT payments, and conversations in Ireland that might lead to a reduced VAT rate on the hospitality sector.

In general, we believe that consumer recovery needs to be based on the alleviation of fiscal and regulatory burdens as opposed to new transfers. During lockdowns in the early stages of the pandemic, some member states had chosen to seek derogations from existing red tape, in order to allow consumers and businesses to operate more freely. We incentivise law-makers and regulators to perform in-depth analyses on structural administrative simplification, as a means of giving consumers and businesses a headstart out of the impending economic contraction.



SHARING ECONOMY

The current COVID-19 pandemic has shown both how much the sharing economy has helped consumers access essential goods and services, while at the same time revealing the restrictions and regulations that undermine them. For instance, sharing economy services have made it possible for many consumers to access food delivery services during COVID-19 lockdowns.

The Consumer Choice Center's [Sharing Economy Index 2020](#) looks at 54 world's most dynamic cities to see which ones are the most sharing economy-friendly. According to the findings, excessive regulation of taxicabs has caused a lot of harm, and with various ride-hailing services entering the scene, the issue has become particularly apparent. The fear of competition has taken taxicab drivers to the streets and, in the end, resulted in even tighter regulation of ride-hailing services. In order to reduce the disparity between traditional taxi cabs and ride-hailing services, most cities introduced a taxi drivers licence requirement for ride-hailing service drivers. In all cities, except Kyiv (Ukraine), it is necessary to obtain a taxi driver's licence to become a taxi driver. Although the requirements differ from city to city, becoming a rideshare driver isn't significantly easier: out of 52 cities analysed, only ten do not have a similar taxi licence requirement. A smarter way forward would be less regulation of both taxicab services and ride-hailing, not more. Instead of picking losers and winners in the marketplace, institutions and regulatory bodies should create and sustain the conditions under which both traditional services and platform businesses can compete on equal and fair terms. It should be only up to the consumer what service to use.



CONSUMER INFORMATION

We believe that consumer information is the cornerstone of informed decision-making. We believe that it needs to come natural to law-makers and regulators to refrain from paternalistic rules, and transition into information-based consumer rulebooks. That said, we also see a misinterpretation of this principle, in the way that it is increasingly applied on fast-moving consumer goods.

Health and warning labels serve a distinct purpose. They inform consumers about the danger of consumption -- or of overconsumption -- of certain products. For instance, in the realm of alcohol-containing drinks, the industry has long practiced the important self-regulatory health warning for pregnant women. Initiatives such as these show that private industry possesses the instinct towards corporate responsibility, and we encourage companies to proactively seek out similar health challenges. We believe that more can be done to allow consumers to seek online

On the regulatory side, we advocate for a cautious approach. Legislative changes are more tediously updated and can have unintended consequences. For instance, while the food pyramid used to be standard practice in school curricula for decades, it is now recognised to have been inaccurate in its advocacy for a healthy diet. We see a similar problem with mandatory labelling suggestions such as the "Nutri-Score", which lays out the nutritional value of a product, without necessarily promoting healthy products. The green to red marking of the Nutri-Score misleads consumers into the idea that highly nutritious food is automatically healthy food. We also warn against the phenomenon of over-labelling. The attention of consumers should be focused on the most important aspects of a product. An inflation of health and warning labels could diverge the attention of consumers away from the key take-aways of health advice.



LEGAL AND FINANCIAL SERVICES

The main obstacles for consumers in a more digital and innovative single market are:

National legal regulations of notarisation and similar legal processes: in some countries such as Estonia it is possible to conduct nearly all legal transactions online. In others such as Germany or France, expensive and slow in-person meetings with notaries are required. In times of social distancing and quarantines, this makes many transactions slower and unnecessarily costly. Examples: opening bank accounts, opening credit card accounts, brokerage accounts, purchasing property.

The lack of an EU-wide direct deposit e.g. utility payments or paying off credit card bills. For an EU citizen moving from member state A to B, it is usually necessary to set up a new bank account in member state B to pay utilities, phone bills. This reduces mobility and limits competition of retail banks.

The lack of an EU-wide credit rating for consumers limits consumers to financial products from their member state.

High entry barriers for challenger banks and crypto fintech companies limit competition and consumer choice.

See also: the [CCC public consultation response](#) to "Consultation on a new digital finance strategy for Europe / FinTech action plan 2020".



PRODUCT SAFETY

The Consumer Choice Center believes in a fair relationship between consumers and retailers. It is essential that product safety remains a pillar of consumer protection in the European Union. For this purpose, we need the rule of law to defend the integrity of contracts (for instance by keeping our word on consumer protection for airline refunds, mentioned below), and make sure that naturally occurring health problems are kept in check.

A particularly striking example of the latter is the example of mycotoxins in produced and imported food in Europe. In our publication, "[Essential Food Safety : Preventing Mycotoxin Poisoning in Europe](#)", we lay out why we believe that despite warnings, not enough is being done to defend existing protections from this naturally occurring effect in food. Many consumers in Europe face adverse health effects due to mycotoxin poisoning, and we believe that there is a clear role for regulators to play in the safety of our foodstuffs. We refer to the recommendations laid out in our publication in order to fight these threats to consumer health.

On the issue of **collective redress**, the Consumer Choice Center endorses a system that allows for constructive legal reactions to gross infringements on consumer rights, without emulating the unintended consequences of the United States' class-action lawsuit system. Our Deputy Director Yaël Ossowski, in charge of the CCC's operation in the United States, provides context for the situation overseas:

"At present, the U.S. legal system is one of the most litigious in the world. The latest estimates show that the U.S. spends 2.2% of its GDP on tort litigation, close to \$310 billion a year.

The fact that there are more lawsuits in total in such a populous country is not a surprise, but the sheer amount of cases, and those deemed to be without merit by many judges, is what is truly of concern. These cases are known as “frivolous” lawsuits, brought forward by legal firms using complex and often silly legal theories that try to prove harm, and often ask for an exorbitant amount of money in damages.

In extreme scenarios, several of these cases are tied together into large class-action lawsuits, in which consumers and potential plaintiffs are often recruited by means of advertising and financial incentives to add their name to a case. With a larger class of plaintiffs, tort lawyers are often able to reap significant rewards if judges or juries side with their side. A recent study by the firm Jones Day finds that class-action plaintiffs receive an average of only 23% of the final settlement amount, while the rest goes to their lawyers.

These cases are often brought against Fortune 500 companies, in hopes that they will simply settle cases rather than take them to court. As such, incentives exist for a more litigious culture.

Because several courts have been open to hearing many of these class action cases, both professionals and firms have taken to taking out insurance to guard against civil litigation, who then must pass those costs on to consumers and workers. This raises prices for a variety of goods and services, mostly at the expense of lower-income consumers.

Collective redress is an important principle that should be upheld in the European Union, but the system should discourage frivolous and outrageous lawsuits that do not meet legal standing. Rather, the focus should be on legitimate harms that can be documented and adjudicated to that effect."



AIRLINE REFUNDS FOR CANCELLED FLIGHTS

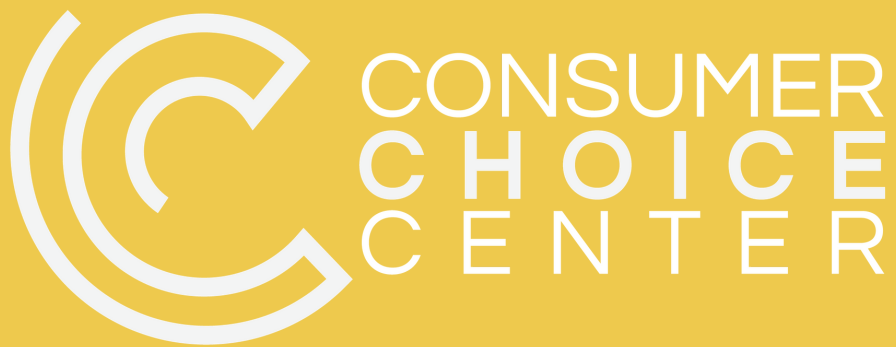
A number of EU member states are asking for changes to ticket cancellation policy rules, effectively exempting airlines for refunding their customers. The Consumer Choice Center says that this should not happen.

Consumers who have purchased tickets at a precise moment in time did so under existing rules and regulations. The European Union cannot retroactively change these policies -- this is a rule of law issue above all else. Consumers should not be forced to pay for the poor bookmaking of airline companies. COVID-19 is undoubtedly a disaster for airline companies, but that doesn't mean that the obligation to refund consumers should be willed away by the stroke of a pen. It's also important to point out the incredible hypocrisy on the part of policymakers. EU policymakers spent most of 2019 lecturing and ridiculing consumers about flights, and are now rigging the rules of commerce for the benefit of airline companies. It is outrageous that airline companies are getting special treatment when hotel and event bookings are not. Retroactively changing the terms of a contract is a severe blow to consumer trust and consumer protection. This move decimates the consumer trust in existing and incoming protections entirely and puts a question mark of the actual authority of law-makers.

See also:

The [CCC's Open Letter to Justice Commissioner Didier Reynders](#) on May 6, 2020

The [CCC's Open Letter to airline CEOs](#) of June 30, 2020



Consumer Choice Center
All rights reserved. Copyright 2020.

info@consumerchoicecenter.org
www.consumerchoicecenter.org