

MEETING WITH BUSINESSEUROPE LEGAL AFFAIRS COMMITTEE

Scene setter

- BusinessEurope's Legal Affairs Committee is responsible for setting out the overall priorities for BusinessEurope on legal issues. It is chaired by Mr Philippe Lambrecht, Director - Secretary General of the Federation of Enterprises in Belgium (FEB).
- DG JUST is in frequent contact with BusinessEurope and has taken part in the meetings of this Committee in the past.
- The objective of this online meeting would be to present the Commissioner's priorities in the field of company law and corporate governance, including the initiatives linked to the COVID-19 crisis.
- Format: a short presentation of 10-15 minutes max, followed by Q&A with members.

Lines to take

COMPANY LAW

- In company law, the COVID-19 pandemic has made it difficult for companies to meet their legal obligations. Many Member States introduced emergency company law measures to help companies cope with the exceptional circumstances.
- I am glad that we were able to help companies - following urgent requests from stakeholders, including BusinessEurope - in the context of EU company law through the recently adopted regulation on temporary measures concerning the general meetings of European Companies (SE).
- The current pandemic, by making compliance with physical presence requirements difficult or impossible, has brought to attention even more than before the importance of digital means in company law. The new Directive on the use of digital tools significantly contributes to spreading the use of digital tools in company law procedures.
- Related Implementing Acts are in preparation. Efficient and correct transposition of this Directive and of the new Directive on cross-border operations by Member States are under monitoring. Both are expected to bring important cost savings and efficiency gains for companies, and in particular SMEs.

- I hope that Business Europe and its member organisations will actively support the implementation of these rules at national level.
- Beyond these new rules, and in line with the recent SME Strategy, we are interested in hearing how company law measures could further help companies, and in particular SMEs, in the single market. This will of course need to take into account the impact of the current pandemic in particular on SMEs.

DEFENSIVES

The digitalisation of company law has gained even more importance in the context of the current health crisis. However, Member States will have to transpose it only by August 2021. Would an earlier transposition be feasible?

The work on the Implementing Act required by the Directive (to be adopted by February 2021) is progressing well and transposition work is being carried out by Member States at national level. In order to provide for a fully online registration of companies and of branches and for fully online filing, many Member States will need to carry out substantial changes in their systems and their procedures, including substantial IT investments. Even if the current crisis has highlighted the importance of digitalisation, it has also put other burdens onto national authorities. Therefore, it is unlikely that an earlier transposition could be expected.

What would be the content and timing of the planned consultation/assessment work on how company law measures could further help companies, and in particular SMEs? Would these consultations include a possibility of introducing a European company legal form for SMEs?

Any future consultations/assessments would aim to generally understand how EU company law could contribute to solve cross-border problems of SMEs. They would also follow the work already done in this area, including the Directives on the use of digital tools and on cross-border operations, which should bring benefits and make cross-border business easier for SMEs once they are fully transposed. Any future consultations/assessments will also need to take into account the impact that the COVID-19 crisis has had on companies.

It is too early to give any further details, including any possible questions to be raised. As regards the possibility of introducing a European company legal form for SMEs, I can however recall the previous experience with the earlier proposal on the European Private Company Statute (SPE) presented in 2008 which was withdrawn in 2014 because the required unanimity could not be reached.

BACKGROUND

COMPANY LAW

Proposal on European Company (SE) and European Cooperative Society (SCE)

Council Regulation (EC) No 2157/2001 on the Statute of European Companies provides rules for setting and creation of this European legal entity. It harmonises the deadline for holding the general meeting and requires that a general meeting should be held at least once each calendar year, within six months of the end of their financial year, without any exceptions. Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society (SCE) has an identical rule regarding the general meetings.

Following emergency measures taken by some Member States related to general meetings for limited liability companies, there have been urgent requests (in particular from German authorities and stakeholders, where many big companies are European Companies, but also from business organisations such as BusinessEurope) to introduce a derogation for European Companies. Otherwise, European Companies would be at a disadvantage as being regulated by a European Regulation, they could not benefit from national emergency measures.

There are 3282 European Companies as of 3 June 2020 and most of them are based in Germany, Czech Republic and Slovak Republic. Some of the biggest SEs include Strabag SE (in Austria), Allianz SE, BASF SE (in Germany), ATOS SE, LVMH Moët Hennessy Louis Vuitton SE (in France) or Airbus SE (in the Netherlands).

New company law Directives

Following the 2018 Company law package, two new Directives were adopted in 2019. Directive on the use of digital tools was published in July 2019 and Directive on cross-border operations, in December 2019. The work on drafting the Implementing Act and on transposition of the former started in the autumn 2019 and is fairly advanced. The Implementing Act is to be adopted by February 2021. The work following the latter Directive is planned to start in summer 2020.

Company law in the recent SME Strategy

SME Strategy announced that the Commission will consult and assess the need for additional company law measures to facilitate cross-border expansion and scale-up by SMEs. Preparation for such consultations is at a very early stage. There have been questions/requests from BusinessEurope, DE and FR business organisations, and some other stakeholders for a new European legal form, which could help SMEs. We will need to consider how to include this issue in consultations/assessments given the challenges linked to proposals for European legal forms (e.g. for a European Private Company Statute) in the past.

ANNEX – the 28 May 2020 BusinessEurope press release about the new SE Regulation
Legal certainty for European companies (SEs) during COVID-19 crisis

Temporary rules protect SEs and SCEs from unhelpful litigation

Today, due to the COVID-19-crisis, European companies aka *Societas Europaea* (SE) and European cooperative societies (SCE) have received urgently needed legal certainty about rules for obligatory general meetings. A temporary amendment entered into force today (published yesterday in the Official Journal of the EU), allowing SE's and SCE's to derive from the legal obligation to hold general meetings within six months of the end of the financial year.

BusinessEurope Director General Markus J. Beyrer said: "It would have been very difficult for many SEs and SCEs to hold general meetings under the current COVID-19 state measures within the first six months of the year. We strongly welcome this solution. From the early days of the COVID-19 crisis, BusinessEurope had identified this problem, arguing that a targeted and temporary change of the SE regulation would be the best legal solution.

Many EU member states had already taken measures regarding national company forms, including the welcome possibility of virtual meetings, but SE and SCE statutes are both EU regulations, so the key to solving this problem was largely in the hands of the EU.

European companies now have sufficient legal certainty and the agreed amendment protects companies from future litigation around the organisation of this year's annual general meetings."

<https://www.businesseurope.eu/publications/legal-certainty-european-companies-ses-during-covid-19-crisis>

CORPORATE GOVERNANCE

- The **European Green Deal Communication** puts the **just transition to a sustainable economy** at the core of the Commission's work for the years to come. It recognises that **this** cannot be achieved without **changes in corporate behaviour and how companies are governed**.
- The **momentum** for this change has been growing over the recent years, including among businesses. The “**new Davos manifesto**” on the universal purpose of a company in the 4th industrial revolution, adopted this January, depicts well this changing approach.
- **Sustainability pays off:** over 2000 studies show that sustainable companies outperform others. There are great opportunities in sustainable products and technologies and frontrunner EU companies are already reaping the benefits.
- The **COVID crisis** demonstrated that **companies with better environmental and social performance are more resilient** to shocks, too. A recent study shows that among 6000 companies over 56 economies, those mitigating their adverse impact on people and the environment weather the crisis better and have better stock market valuations.
- Despite all the evidence, the transition is slow due to obstacles in corporate governance. The first obstacle is a focus on short-term financial value: corporate payouts for shareholders (dividends, share buybacks) among listed companies have increased fourfold over the last 30 years while investment, research and innovation

spending, investment into workforce etc. has decreased relative to revenue. **87% of CEOs complain about shareholder pressure to generate short-term profit and claim that longer-time horizons would improve performance and innovation.** Short-termism has also contributed to the instability in the crisis and amplified the needs for State aid. The second obstacle is unregulated global supply chains.

- Embedding sustainability into corporate governance can be an important **catalyst for a sustainable recovery.** We have confirmed in our recently adopted **Recovery Plan our intention** to put forward an **EU initiative** in 2021.
- What could this initiative contain:
 1. to **empower corporate directors to act in the long-term interest of the company**, it could include:
 - a. **clarifications that directors should take into account the long-term interest of the company as well as the interests of all stakeholders** (employees, customers, local and global environment, communities affected etc.) alongside the interest of shareholders as part of their duty of care to act in the interests of the company and
 - b. a requirement to **integrate sustainability risks and impacts into the corporate strategy.** This could include setting measurable, **science-based** and time-bound sustainability **targets**, including targets aligned with global sustainability objectives, such as climate change.
 2. To address potential risks in the supply chain, it

could include a corporate due diligence duty, ie. to identify and mitigate adverse impact on humans and the environment in the supply chain.

- A **public consultation** on the renewed sustainable finance strategy already contains questions related to this initiative. A separate public consultation on the corporate governance initiative is also planned.
- **SMEs** could have a higher burden as a result of the due diligence obligation compared to large companies of comparable revenue. The consultation on a renewed sustainable finance strategy already asks about ways in which SMEs' burden could be mitigated with options ranging from full exclusion from the measure to lighter requirements. In the aftermath of the crisis, further parallel support measures could be justified for SMEs so that they can also fully reap the benefits of the initiative and the transition. The **Recovery Plan** will also play a role in providing this support.

DEFENSIVES

Q: Why should companies be supportive of due diligence?

A: Proper due diligence would bring significant benefits for companies. The large majority of individual company respondents (over 300) to the due diligence study survey support policy change for reasons of **legal certainty** about what their duties vis-a-vis the supply chain are, **level playing field** in the light of a number of emerging and differing national laws, **increased leverage on the supply chain**, **potential defence in case of litigation**, **countering free-riding**, ensuring fairness, etc.

Q: Is there a risk that putting stakeholders at equal footing with shareholders when it comes to the company directors' duty to act in the interest of the company will be destabilizing for European companies?

A: This is very unlikely. Corporate boards are already today allowed, expected or even required to take the interest of stakeholders other than shareholders into account in corporate decisions in all Member States. It became a **social norm** that companies, in particular those listed on stock exchanges, focus predominantly on maximising short-term financial value: this **does not come from the law**. **In all Member States, directors are required to act in the interest of the company** and not in the interest of shareholders, even less in the short-term financial interests of those. So, this is **fully in line with Continental legal traditions**.

Q: Why is a voluntary approach on due diligence not sufficient, why is there a need for the intervention of the regulator?

A: Our due diligence study shows that the voluntary approach supported by reporting failed: only one third of companies (out of 300 responding to the survey) claim to have processes in place to identify and mitigate negative human and environmental impact in their supply chain (due diligence). Other studies show even worse figures (for example a very recent German survey shows that 15-19% of companies have due diligence processes).

Q: Would a due diligence duty not put EU companies at competitive disadvantage vis-a-vis third country companies?

A: The due diligence study shows that no significant negative distortions for EU companies are expected which would result from increased recurrent administrative cost. Additional firm-level costs resulting from setting up due diligence processes as percentages of companies' revenues are relatively low compared to the company's revenue (less than 0.1%), and compared to the applied average tariff for goods imported to the EU. However, the initial assessment did not include a proper assessment of linking the due diligence obligation to achieving climate neutrality or other environmental goals, such as for example net zero biodiversity loss. On the other hand, companies expect significant benefits or very significant benefits through decreased distortions. These aspects would be analysed in an impact assessment.

There are different ways in which possible initial competitive disadvantage could be moderated, such as for example **strengthening sustainability chapters in trade agreements.**

Q: Will a mandatory due diligence duty, coupled with civil liability, lead to excessive litigation?

A: The pioneer French law did not seem to have resulted in excessive litigation (2 court cases so far). On the other hand, care will be taken to ensure that the possible law and its obligations are sufficiently clear so that it does not generate unnecessary litigation.

Q: Mandatory due diligence does not prevent imports from non-EU suppliers, nor does it mitigate negative impact in third countries caused by international competitors.

A: It is possible that the corporate governance measure would not only apply to EU companies but also some third-country companies operating in the EU. The experience with the French law shows that a non-negotiable legal standard can contribute to changing the regulatory and behavioural environment in the third country of the supply chain. Such positive impact of an EU standard would be even higher. Moreover, our initiative is part of a smart mix and could be accompanied by other measures, which foster a better environment in third countries (trade agreements, other support measures).

Q: When will the results of the 2nd study (EY study on directors' duties and sustainable corporate governance) be available?

A: The study is being finalised and publication will follow in due course (possibly in July).

Q: The 2nd study (on directors' duties) is biased. How are you going to ensure that your impact assessment is not?

A: Both studies are of an exploratory nature and are part of analytical and consultative work carried out by the Commission. Contractors are independent, the board duties study is being carried out by Ernst and Young as one of the contractors chosen from DG JUST's framework contract.

It is nevertheless worth noting that the EY study relies also on numerous information sources other than the web survey (where participation in certain stakeholder categories was admittedly not broad enough), including the contractor's own economic assessments, case studies with interviews, a thorough literature review and a regulatory review.

When preparing our initiative, consultative activities, including a public consultation will be launched where also the interlocutors would be able to contribute directly. Our impact assessment will also take into account the results of the first study (on due diligence), our own research of developments, including actions – and lessons we can draw from – at national level etc.

Q: Why did the Commission not support financial intermediaries and issuers' request to postpone the date as from which the new rules on shareholder identification and facilitation of the exercise of voting rights under Shareholder Rights Directive 2 (SRD2) should be applied in practice?

A: We considered the request to postpone the application date carefully [*request of several trade associations addressed to the Commissioner on 9 April – reply sent by JUST Director General on 28 May*]. On the one hand, we **understand** the difficulties unexpectedly caused by the COVID-19 pandemic. We have also had to tackle similar challenges. However, the new minimum requirements to which market standards have to be adjusted have been known for more than 1.5 years. This should have allowed **sufficient time** to adapt existing practices and procedures to the new rules. In addition, the new EU rules aim at facilitating the exercise of shareholder rights, in particular the participation and voting by shareholders at general meetings. In the current circumstances, meeting such objectives is particularly important as shareholders are often able to participate and vote in general meetings only **remotely**. Information available to us suggests that the overwhelming majority of the Member States already adopted their **national transposition measures** to which the market standards have to be adjusted.

We truly hope that the standardisation process and IT solutions necessary to comply with the new rules will be finalised and ready to be used as from the 3rd of September, as required by the Directive and the Implementing Regulation.

Q: The Commission's new State aid guidelines for COVID related State aid limit the use of the aid for paying dividend to shareholders. Do you want to include specific rules on dividend limitations in the sustainable corporate governance initiative?

A: There is no formal position on the elements of the initiative yet. We have collected some facts. Our preparatory work shows that shareholder pay-outs (including dividend) have increased fourfold in listed companies in Europe in the last 30 years. This is a barrier to the sustainability transition as such redistributions limit possibilities of long-term investment into sustainable technologies and operations. While the overall objective is to foster more long-termism, at this stage we do not have specific plans to cap dividend payments.

BACKGROUND

The Green Deal Communication refers to the need for sustainability to be further embedded into the corporate governance framework.

In 10 EU Member States, laws, initiatives and plans to reform corporate governance measures are on the rise (DE (informal draft), AT, FI, FR, NL, DK, IT, BE, LU, SE).

The Commission's 2018 Sustainable Finance Action Plan announced consultative and analytical work to prepare a possible policy initiative, undertaken by two DG JUST studies:

- 1) study on **due diligence requirements in the supply chain** (completed January 2020, Final Report received, published on 24 February 2020)

Study findings:

- Voluntary action to address corporate climate, environmental and human rights harm, also incentivised through reporting, has not brought about the necessary change.
- There is stakeholder support for a policy change and even a preference for a mandatory EU duty.

- 2) study on **directors' duties and sustainable corporate governance** (due in April 2020, 1st interim report received),

Preliminary findings of the first interim report:

- Evidence of growing short-termism trend of EU business. Between 1992 and 2018 the ratio of total pay-outs (dividend payments and share buybacks) to revenues doubled in large EU companies. At the same time, business investment in terms of the ratio of capital expenditure and research and development spending to revenues has declined substantially.
- Overall support for an extended definition of board duties encompassing or taking into account the interests of stakeholders and the environment, even from a good number of business associations, including the German business association and the European confederation of directors' associations.

Position of stakeholders

European Parliament: Parliamentarians have been asking for EU rules, in particular on due diligence, in a number of resolutions. More specifically, in 2018 the EP highlighted the importance of sustainability to be integrated into the directors' overarching duty to promote the success of the company. The JURI Committee is preparing an own initiative report (INI) on corporate governance and corporate reporting and an own initiative *legislative* report (INL) on corporate due diligence. They are scheduled for adoption in December.

Council: In 10 EU Member States, laws, initiatives and plans to reform corporate governance measures are on the rise (AT, FI, FR, NL, DK, IT, BE, LU, SE). Legislation was already adopted in FR, IT, NL and the most advanced framework is FR. DE committed to mandatory law if their ongoing studies shows less than 50 % of companies having due diligence processes.

Meeting with BusinessEurope Legal Affairs Committee

Videoconference – 12 June 2020, 14:00 - 16:00

Businesses, business associations: As regards directors' duties, the majority of national and EU business associations responding to the study contractor's survey *agreed* that directors should take stakeholder interests into account *or were neutral* regarding the question. As regards the corporate duty (due diligence), the majority of over 300 individual business respondents *supported* EU law in the study survey. They see the benefits of such law in (1) creating a level playing field and providing legal certainty in the light of a number of emerging laws, which result in fragmentation and unnecessary additional costs; (2) allowing them to increase leverage on supply chains in third countries; (3) providing them with defence in case an issue arises in front of a court. Business associations claim that the voluntary approach is working, but this contrasts sharply with the study findings. Moreover, many large individual businesses have repeatedly spoken out in EU fora and issued multiple calls for action in support of mandatory due diligence, to stop free-riding.

Investors: The financial sector has been repeatedly calling for better, more reliable and comparable corporate disclosures, which is not realistic without a corporate duty to undertake appropriate due diligence. They have also been calling for proper systemic information such as on forward-looking climate and sustainability strategies and science-based targets, which this initiative could help provide.

Trade unions/NGOs: Civil society has exhibited very strong support in numerous instances. Most recently, under this College's mandate, a coalition of around 100 NGOs asked for an EU mandatory due diligence framework. The European Trade Union Confederation (ETUC) has recently issued a similar call.

CONSUMERS

1. Response to Covid-19 crisis so far and next steps

a. Rogue trading, misinformation

- We remain on **high alert** and continue to show **zero tolerance for COVID-19 rogue traders!**
- I **welcome** that **platforms**, following our activities, have **adapted their algorithms** and **removed millions of unfair ads and offers**.
- But our latest screening shows that **more needs to be done:**
- **Platforms need to continue refining their algorithms** as scammers try to circumvent them by using images or intentional misspellings.
- **Rogue traders try to attract consumers to their own fraudulent websites** via online ads.
- We therefore **intensify our cooperation with advertisers** on fighting unfair online advertisement **and domain registers** who can request the take-down of harmful websites.

b. Product safety

- DG JUST has **stepped up efforts to help** Member States in ensuring that **products available on the market against COVID-19 infections are safe**.
- Commissioner Reynders also has the intention to write to the Ministers responsible for product safety **to do**

everything possible to protect the safety of EU consumers and notify in the rapid alert system (Safety Gate/RAPEX) dangerous items found as quickly as possible.

- **We also count on you as business representatives to echo to your members that products marketed to combat COVID-19 cannot bear false claims of protection and they must comply with safety requirements.**

c. Travel cancellations – package travel and passenger rights

- **Passengers' and travellers' rights to reimbursement must not be limited because of COVID-19.**
- **Solutions to the massive travel cancellations can be found without sacrificing consumers' rights.**
- **I encourage industry to use the instruments made available at national or EU level to increase the liquidity of their companies and to set up effective and robust insolvency protection systems for vouchers.**
- **I also call on the different economic operators in the transport and travel value chain to fairly share the burden caused by the COVID-19 pandemic.**
- **Only trustful and fair relationships with consumers can ensure a safe future for the European travel and transport industry.**

d. Consumer finance

- The COVID-19 crisis is heavily affecting consumer finances.
- **Various measures** such as moratoria on loan repayments have been implemented **in Members States to support borrowers.**
- The Commission has **recognised the importance of those relief measures.**
- The Commission has also launched a **dialogue with business and consumer representatives on best practices** to support citizens and businesses through the crisis.
- In its **Interpretative Communication** on the application of the prudential framework **to facilitate bank lending**, the Commission **stressed that measures to help consumers may need to be reinforced, because over-indebtedness is likely to increase.**
- Considering the current circumstances, the Review of the Consumer Credit Directive has been postponed to Q2 2021, to fully consider the lessons learnt from the crisis.

2. Post-COVID recovery

a. Need to make it consumer-centric and consumer-driven

- The **COVID-19 outbreak is profoundly affecting people's life** not only instantly, **but also with longer-term consequences.**
- A recent survey by the European Parliament in 21 Member States shows that in total 6 out of 10 consumers face financial difficulties. The income has decreased for 30%. 23% work less or have lost their job. 14% have problems to pay regular bills such as rent or loans.
- If we respond fast and effectively to the significant challenges of the current pandemic, we can master them. **Consumers should emerge strengthened from the crisis**, with better knowledge of their rights and with confidence in the effective enforcement of these rights.
- This would then pave the way for **consumers taking an active role in a rapid and sustainable post-crisis recovery.**
- For example, the project **on debt-advice**, just launched by DG JUST, will help increase the availability and improve the quality of debt-advice services for the European consumers. Debt-advice is one of the most effective tools to help consumers in financial difficulty and is also useful for creditors, as it facilitates the repayment of debts.
- The **new Recovery Plan** stresses that it is “...*in our common interest to support the hardest hit, strengthen*

our Single Market and invest in our shared European priorities”.

- **Only a coherent and comprehensive EU consumer policy** will be able address new vulnerabilities and contribute to the collective and cohesive recovery under the green and digital transitions, which is key also to strengthening Europe’s competitiveness in the global context.
- **Consumer spending** will represent an important part of the recovery. We must reinforce consumers’ confidence, and, at the same time, we should not impose an undue heavy burden on companies.

b. Sustainable consumption, incl. green pledges

- DG JUST is working on legislative changes in consumer law to ensure better information for consumers on elements such as **products’ lifetime and reparability, more robust tools to fight greenwashing and unfair product obsolescence practices, and minimum standards for sustainability labels/logos and information tools.**
- The legislative proposal is scheduled for adoption during Q2 2021; the preparatory work and stakeholder consultations will already take place in 2020.
- Any policy action cannot obviously rely only on legislation. In the spirit, we are considering to work with the industry to launch a series of “**Green Consumption Pledges**”, as voluntary partnerships with business that are committed to achieve a real long-term

change by achieving footprint reductions and improving their communication to consumers to support more massively green consumption practices. These pledges can contribute to the post-covid-19 recovery.

c. Digital and AI

- In 2019, 69% of internet users in the EU made **online purchases**. This percentage is likely to further increase this year especially given the lockdown in many EU countries due to COVID 19. Therefore, it is now more important than ever that businesses ensure that products ending up in consumers' hands through online channels are safe.
- The Commission is currently working on the **evaluation and revision of the General Product Safety Directive** that will, among others, tackle issues related to product safety in online sales. The revision will also look into the impact of new technologies on product safety. The Commission, at the same time, is also working on the preparation of the **Digital Services Act** regarding the role of online platforms and illegal content.

3. Consumer Agenda – a longer term perspective

- Through the **New Consumer Agenda**, we intend to work on a comprehensive consumer policy strategy based on:
- **First**, a comprehensive approach with a focus on five areas: **consumer empowerment in both the green and**

the digital transitions; consumer vulnerabilities; enforcement of EU law; and international cooperation

- In each area, we need to ensure: **trust and transparency of responsibilities** between authorities, consumers and businesses; **better information for consumers**, including fighting false information; and ensuring that **consumers feel safe** and reassured about their rights.
- **Second**, consumer protection should be an integral component of the **economic recovery** balancing full respect of consumer rights and **avoiding undue burden to economic operators**.
- **Third, co-operation** between Member States, the Commission, and stakeholders, including business and consumer organisations is key. No country, institution or organisation alone can cope with such seriousness and complexity of problems.
- An **Open Public Consultation** to gather the views on the Consumer Agenda from all stakeholders will be launched by the end of June to last until end September.
- Hopefully you will participate in this consultation and encourage your individual members to do likewise.

4. Statement on RAD

- Representative Actions Directive continues to be a top priority for the Commission.

- The COVID-19 crisis has caused delays and the cancellation of several trilogues but work has continued at technical level through written exchanges. This technical work has paved the way for a **third trilogue on 22 June**.
- Thus, despite the delays, our objective remains to try to reach an agreement under the Croatian Presidency.
- We are not rushing, by any means. We have had over 2 years of intensive legislative discussions since the adoption of this proposal. Furthermore, the proposal was preceded by 2 years of evaluations with the so-called “Fitness Check of EU consumer law”. Beyond this, there have been over two decades of discussions about the creation of a European collective redress instrument and the Commission’s 2013 Recommendation was an important milestone on this journey.
- Yet, we get new evidence every day about the urgent need for this instrument. For example, we know that consumers are struggling in the situation created by the COVID-19 pandemic. They are confronted with rogue traders that conduct unfair commercial practices that take advantage of widespread coronavirus fears.
- The swift adoption of the Directive is therefore more relevant than ever. I am confident that we will strike good compromises that ensure key safeguards for consumers and businesses.

DEFENSIVES

1. Rogue trading, disinformation

What is the Commission planning to do next to address COVID-19 consumer scams?

- We keep working together with the national consumer protection authorities to address consumer scams.
- Our latest screening (“sweep”) results show that even if there is a progress in particular thanks to our work with the main platforms, rogue traders continue to find new ways to exploit consumers' vulnerabilities, circumvent algorithmic checks and set up new websites.
- In terms of next actions, which are also mentioned in the recent Commission’s Communication on disinformation which was adopted on 10 June:
- We will continue cooperation and information exchanges with the main internet platforms. I have invited them to regularly report, until the end of the crisis, on the effectiveness of their measures taken and on new trends.
- We will continue our support to national consumer protection authorities by financing their capacity to do agile monitoring of markets and online investigations. Many harmful are also found outside platforms, on independent websites, which attract consumers through advertisement.

- We will continue our cooperation and information exchanges with advertising self-regulatory bodies on the development of automatic tools to find misleading advertisements; as well as with domain registers and payment service providers to address effectively consumer scams.
- Consumers need to remain very prudent, thus we have updated our consumer advice describing most common Covid-19 related scams and how consumers can protect themselves.

It took weeks in some cases to take illicit products off the market or to block bogus websites. What can the Commission do to speed up these procedures?

- Nous sommes confrontés à une grande quantité d'arnaques et qui évoluent. C'est pourquoi nous avons fait appel aux plus grandes plateformes sur le marché européen. Elles seules ont les moyens techniques nécessaires. Nous venons de leur demander d'élargir leur champs d'action aux images utilisées pour contourner les algorithmes car ceux-ci sont basés essentiellement sur l'analyse de textes). Par exemple, des casquettes avec des longues visières transparentes, promues pour attirer les consommateurs sur des sites tiers potentiellement frauduleux, ne seront sans doute pas identifiées automatiquement.
- Mais je voudrais être clair, il y a beaucoup d'arnaques enlevées des sites des plateformes grâce aux mesures qu'elles ont mises en place. Mais il y en a encore qui

passeront entre les mailles du filet. C'est pourquoi le consommateur doit être particulièrement prudents, nous travaillons avec beaucoup de partenaires comme les centres européens des consommateurs, mais aussi les plateformes elles-mêmes et les publicitaires pour augmenter le nombre et la pertinence des messages de prudence.

What will the Commission do if platforms no longer cooperate, or if online traders do not stop harmful practices?

- The European Commission has no direct enforcement power in consumer law. However, we do have a strong coordination role and we can alert national authorities and ask them to take action.
- In the COVID-19 context, millions of misleading business practices have been detected by platforms. In such a context, enforcement actions against individual traders at the EU level would make sense only in case of a massive infringement that would have been made by one clearly identified EU level trader (and this is currently not the case).
- For their part platforms have responded adequately to the Commissioner's call, they have provided the requested communication channels for authorities, and explained the swift measures they have taken to address harmful practices.

- In case of non-satisfactory compliance by platforms, national authorities may eventually have to adopt enforcement measures (e.g. impose fines). We hope, however, that the good cooperation with platforms will continue.

Travel cancellations – package travel and passenger rights (E2)

Why did the European Commission act only two months from the onset of the crisis, when Member States have already decided to address the situation in absence of EU action?

- From the beginning, the Commission has constantly pointed out that passengers' and travellers' rights must be preserved.
- On 18 March, the Commission adopted guidance regarding the application of the EU passenger rights Regulations in relation to COVID-19 and on 19 March 2020, informal guidance on the application of the Package Travel Directive in connection with coronavirus has been published on the Commission's website.
- On 27 March, Commissioner Reynders wrote to all Member States recalling that it should always remain the travellers' choice to accept other alternatives (a voucher or a re-routing) or to request refund in money.
- The Recommendation adopted on 13 May confirms the position taken by the Commission so far and recalls that passengers' and travellers' rights under the passenger rights regulations and the Package Travel Directive to get

a full refund if their trip is cancelled apply also under the current unprecedented circumstances.

- All this time, the various Commissioners have been in close contact with all stakeholders – Member States, the European Parliament, as well as industry and consumer’s associations, and stressed the importance to find balanced solutions between the protection of consumers and the protection of the tourism, travel and transport sectors.

Were package company and transport operators consulted on the Recommendation?

- The Commission has been listening carefully to the views of the European Parliament, the Member States as well as industry and consumers’ associations. We have taken all these positions carefully into consideration. A formal consultation has not taken place, though.
- We are aware of all the difficulties passengers, travellers and industry face during these times of crisis. We understand the need to support the industry. However, many travellers and passengers are deeply hit economically by the crisis. They should not be restricted in their rights in times when they particularly need the protection.
- The Recommendation aims to strike the right balance by ensuring that consumers have an attractive and reliable choice between reimbursement in money and vouchers, and we trust that many consumers will freely avail of the alternative.

- Furthermore, a limitation of existing rights with retroactive effect would raise serious legal concerns, but also undermine citizens' trust in the EU and notably in the transport and travel sectors, thus discouraging future bookings.

What happens with the mandatory vouchers issued throughout March, April, mid-May?

- If passengers or travellers had no choice and were 'imposed' a voucher, this was contrary to EU rules. Consumers can, in any case, lodge a complaint with the relevant national authority or court, which can then turn to the carrier/organiser and follow this up.

Have you looked into the estimated economic differences between package tour operators and carriers offering reimbursement and vouchers? Do you think this will really make a difference to a company's survival?

- The more consumers accept a voucher, the more it will help to ease, at least temporarily, the liquidity problems of the industry. The acceptance will depend on the attractiveness of vouchers offered by operators.
- The Commission, however, considers that travellers should not become involuntary providers of liquidity to the affected industry. To tackle the liquidity problem is a task of the companies concerned and the Member States concerned if need be.
- Therefore, the Recommendation does not seek to interfere with the existing legal rights to reimbursement in money, and points to a number of supporting measures

available to Member States and industry to address liquidity problems.

The travel agencies face problems when recovering the money from the service providers, especially when these are from third countries. What does the Commission do to help easing the recovery process?

- In recital 13 of the Commission Recommendation, it is acknowledged that the liquidity problems of organisers are exacerbated by the fact that they have to reimburse the full price of the package to the traveller while they do not themselves always receive reimbursement of prepaid services that form part of the package in due time. This can de facto result in an unfair sharing of the burden among the operators in the travel eco-system.
- In point 14 of its Recommendation, the Commission therefore calls on the different economic operators in the transport and travel value chain to cooperate in good faith and strive towards a fair sharing of the burden caused by the COVID-19 pandemic.

Which are the instruments available at EU level to increase the liquidity of the companies?

- For example, the temporary Framework for State aid measures to support the economy in the current crisis enables Member States to ensure that sufficient liquidity remains available to businesses of all types and to preserve the continuity of economic activity during and after the COVID-19 pandemic. The European Investment Fund (EIF) provides support to SMEs and the

Commission has set up the Coronavirus Response Investment Initiative (CRII+). The CRII+ allows Member States to mobilise non-utilised support from the European Structural and Investment Funds to the fullest, by transferring the allocations for the year 2020 between funds, categories of regions and thematic objectives in favour of, for example, the tourism sector.

What about the vouchers for cancelled events or individual services?

- EU consumer law does not regulate the conditions for and consequences of cancellation of events or individual services (sports and cultural events, car rental, accommodation, etc.). Therefore, these cancellations are subject to national law and contractual specifications.

What will the Commission do to ensure compliance with EU law?

- As you probably know, Commissioners Valean and Reynders wrote, immediately after the adoption of the Recommendation, to Member States to call on them to implement it and also to ensure that EU law is respected.
- We are currently analysing the replies of Member States.
- We will not hesitate to take measures as necessary, including to launch infringement proceedings.

Why did you send letters?

- The Commission - Commissioners Vălean and Reynders - sent letters to all Member States on the issue of

vouchers, to ensure that the legislation in the area of passenger rights and package travel is respected.

- These letters were adapted to the specificities of each Member State. While these letters did not formally open infringement proceedings, they made clear that we will not hesitate to take measures if the respective Member State do not comply swiftly.
- As for the Member States where we see possible compliance issues with EU law, we also requested information to assess the legality of their measures, in light of the EU the Package Travel Directive and passenger rights.

FYI – Deadline to reply was on 28 May

On the 13 Member States that may be in breach:

Our services are constantly monitoring the situation in the Member States. We will address our concerns in the letters to Member States where we see issues of compliance with EU law, including an indication that we will consider infringement proceedings in cases where Member States do not swiftly comply with the EU legislation.

If pushed about the MS concerned:

- The Member States are BE, BG, CZ, EL, ES, FR, HR, IT, LU, MT, PL, PT; in addition also NL, where it is,

however, related to a government recommendation and not the legal situation.

Consumer finance (E1)

What can be done to help consumers service their debts in the current conditions?

- The importance of the problem is recognised. Even before the COVID-19 crisis (data from 2016), 21% of Europeans were considered at risk of not being able to make scheduled payments related to rent or mortgages, consumer credit, loans from family or friends, or utility or telephone bills. Two-thirds of them were in arrears on at least one of those payments.
- People aged 25-49 years are most at risk but the greatest financial problems, with hardest impact on well-being, are reported amongst over-indebted people aged 65+.
- The current conditions aggravate this situation significantly. In most EU countries steps have been taken to adopt measures to help distressed consumers to repay their debts, such as temporary moratoria on loan repayments.
- The EU legislation setting the rules for consumer credits (Consumer Credit Directive) does not regulate similar situations. However, none of its provisions constitute obstacles to such actions by Member States. We have collected information from the national authorities to monitor the situation, and discussed the various relief measures with the Consumer Credit Directive Member State expert group.

- The Commission and the European Banking Authority are helping the banking sector to make use of flexibility embedded in the prudential framework for banks so that the relief measures are effective and at the same time do not lead to a systemic crisis of the European banking sector. In particular, on 28 April, the Commission has published an [Interpretative Communication](#) on the application of the accounting and prudential frameworks to facilitate EU bank lending to support businesses and households amid COVID-19.
- The Commission has also launched a dialogue with stakeholders to discuss best practices to support consumers and businesses through the crisis. A first roundtable meeting took place on 28 May.

Should there not be measures at EU level? Consumers (BEUC) are asking for Commission action.

- Actions to support consumers with debt need to be taken at the level of Member States in the spirit of subsidiarity. Support to consumers implies public expenditure on financial transfers to the debtors or the creditors or to both.
- It is also at Member States and even local levels where the decision can be best made on the eligibility of the debtors for any relief scheme, which needs to be proportionate and targeted on the debtors most in need.
- Currently, the EU legislation does not prevent Member States to take measures e.g. debt moratoria, but the Consumer Credit Directive could go further and become

a tool to safeguard the interests of both lenders and borrowers in such scenario.

- In the medium term, rules on transparency and responsible lending will need to be strengthened to counter predatory practices which could put at risk consumers affected by the socio-economic and financial effects of the COVID-19 crisis.
- Moreover, we might need to introduce consumer credit rules at EU level to deal with situations of exceptional and systemic economic disruption.
- Measures to help over-indebted consumers will also need to be reinforced, because the decline in household disposable income linked to job losses or partial unemployment will increase the amount of households in financial difficulty.
- However, actions aimed at reinforcing consumers' awareness and financial literacy may be also carried out at European level. Such actions help both prevent and remedy the over-indebtedness of households and consumers. This is the case, for example, of the project on debt-advice, just launched by the Commission.
- The actions foreseen in this project will be:
 1. A quantitative analysis of the resources needed by debt-advisors in Europe.
 2. Organisation of two targeted events aimed at fostering the exchange of best practices between debt advice practitioners.

3. The organisation and implementation of capacity building events, in total 12, in EU Member States where debt-advice is not adequately provided.

2. Post-COVID recovery

The Recovery plan is focused on supporting the economic operators for the re-start of the EU economy: consumer protection should not hamper such efforts!

The EU's recovery plan¹ adopted on 27 May 2020 aims at kicking-start the European economy, boosting the green and digital transitions, and making it fairer, more resilient and more sustainable for future generations. A solid socio-economic recovery is based also on consumer protection and empowerment, as better knowledge of their rights and confidence in the effective enforcement of these rights would then pave the way for consumers taking an active role in a rapid and sustainable post-crisis recovery.

The New Consumer Agenda covers many areas, some of which clearly overlap or are contiguous to other Commission's priorities, so how could you ensure political co-ordination?

- Last February, I sent the all other Commissioners a letter announcing the agenda and asking for their expression of interest in relation to other relevant initiatives under their portfolios. Commissioners Schinas, Dalli, Suica, Ferreira, Schmitt, Johansson, and Hogan expressed their

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1590732521013&uri=COM:2020:456:FIN> Europe's moment: Repair and Prepare for the Next Generation COM(2020)456

general support and referred to coordination needs with other initiatives in their areas of interest.

How could you ensure that an agenda of such a high ambitions could concretely work, in terms of resources and practical implementation?

- The agenda is the tool to formulate our clear and long-term vision under which to identify and the funding under the new MFF. The priorities of the new Single Market Programme will have to support the objectives of the agenda.
- As well, I intend to call upon the Member States to involve key stakeholders, including businesses and consumer organisations align their funding streams to their consumer policy priorities.

Green Deal – consumer empowerment in the green transition

Should the Green Deal be put on hold so that Europe can focus on economic recovery?

- It is tempting, in the face of the damage to the economy from the pandemic, to question the need for the green transition. But we should not forget that green growth and jobs remain the best way out in the medium-long term.
- Instead of putting on hold or dampening our green ambitions we should remember that eco-design, eco-innovation, waste prevention and the reuse of raw materials can bring net savings for EU businesses of up

to EUR 600 billion. They provide opportunities for kick-starting business activity in the EU, they should not be seen as a dispensable luxury.

- We need to make sure that consumers can play an active role in stimulating the economy through sustainable consumption in line with the objectives of the European Green Deal and the measures outlined in the new Circular Economy Action Plan.
- Industry is also looking for growth in the green transition. Even now, after three months of this pandemic, we do not see companies massively abandoning their journey towards a circular economy and sustainable consumption.

BACKGROUND

CPC coordinated action on rogue traders

A particular feature of the disinformation during the COVID-19 crisis has been a focus on exploiting consumers. Manipulation, deceptive marketing techniques, fraud, and scams exploit fears in order to sell unnecessary, ineffective and potentially dangerous products under false health claims, or to lure consumers into buying products at exorbitant prices.

The Consumer Protection Cooperation (CPC) network of national authorities, with the support of the Commission, has taken actions to fight these practices in a coordinated manner. First, the Commission invited major platforms to cooperate with consumer authorities and take proactive measures to counter scams, such as detecting products in high demand marketed in a misleading manner to obtain an undue advantage and through automated means to proactively take down misleading advertisements and ‘miracle products’ with illegal health claims.

In May, the CPC network carried out the screening of websites (“sweep”) that consisted of two parts: a high-level screening of online platforms, and an in-depth analysis of specific advertisements and websites linked to products in high demand because of the virus.

Overall, the latest screening of websites (sweep) has shown that the ongoing exchange between the European Commission and the major online platforms is bearing fruit. However, even though to a lesser extent, dubious advertisements in a COVID-19 related context are still present in 1/3 of the checked cases on platforms. Further, an in-depth screening of ca.270 websites found that 2/3 have issues with EU consumer law.

Rogue traders find ways to fly under the radar of the platforms to exploit consumers' vulnerabilities, circumvent algorithmic checks and set up new websites. Such practices are also found on independent websites, which attract consumers through advertisement.

Thus the Commission has called on platforms to remain vigilant and continue with their efforts to give regular feedback to the Commission and consumer authorities. The Commission will coordinate cooperation between CPC authorities and domain registers, who can be requested to take down harmful websites.

In addition, the Commission will continue cooperation and information exchanges with advertising self-regulatory bodies on the development of automatic tools to find misleading advertisements.

Travel cancellations – package travel and passenger rights

Making vouchers a more attractive option for consumers

Letters signed by Commissioners Reynders and Valean sent to all 27 Member States on 14 May 2020:

The letters draw attention to the Recommendation and:

- explain **grounds for way forward**: it is paramount to support consumers in these challenging times. A limitation of existing rights with retroactive effect would not only raise serious legal

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concerns, but also undermine citizens' trust in the EU and notably in the transport and travel sectors, thus discouraging future bookings;

- recall Member States' important role to ensure that an **effective and robust insolvency protection system for vouchers** has to be set up by the private or the public sector;
- offer to **advise** national authorities with regard to **State aid policy** issues and other available **supporting measures**.
- ➔ Call for full cooperation for implementation and request **feedback** on measures taken, or envisaged to be taken, as soon as possible and at the latest **by 28 May 2020**.
- ➔ Urge all Member States to ensure that the Package Travel Directive and the EU passenger rights Regulations are correctly applied and that practices in violation of such rules are detected in a timely manner and effectively sanctioned.
- ➔ In addition, for Member States having legislation/practices **diverging** from the Package Travel Directive/Passenger Rights Regulations:
 - to demonstrate how **compliance** with EU law will be ensured;
 - if there is **no satisfactory follow-up**, the Commission will have to consider the opening of **formal infringement proceedings**.

The deadline to reply to the letter was 28 May.

Replies were received (at unit level JUST E2; 3/06 at 17:00) from 16 MS: BE, BG, DE, CZ, ES, FI, HR, HU, IT, LU, MT, NL, PL, PT, SK and RO.

The 13 Member States which were identified as derogating from the Package Travel Directive were BE, BG, CZ, EL, ES, FR, HR, IT, LU, MT, NL, PL, PT

The replies received from these 13 Member States will need further legal analysis before deciding on possible infringement.

Content of Recommendation on vouchers

The vouchers should be:

- **covered by insolvency protection** – in case the carrier or the organiser become insolvent, while the voucher has not yet been used, the traveller or the passenger must be reimbursed by the insolvency protection guarantor of the carrier/organiser. The insolvency protection system is to be set up at national level, either by public or private sector (for example, can be a fund or insurer).
- **refundable if not redeemed**: passengers and travellers should have the right to ask for reimbursement in money at the latest 12 months following the issuance of the voucher concerned and at any moment thereafter, subject to applicable legal provisions on time limitation. Vouchers (or the remaining amount) should be automatically reimbursed at the latest 14 days after the end of the validity period of the voucher, in case it has not (or only partially) been redeemed.

The Recommendation also sets out other key features introducing flexibility:

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- Flexibility in the range of services for which vouchers can be used.
- Extending the possibility to use the voucher for bookings with other entities that form part of the same group of companies.
- Recommending giving vouchers a higher value than reimbursement claims: for example through an additional lump sum or additional service elements.
- Transferability of vouchers to another passenger/traveller at no extra cost.
- Sufficient time available for using the voucher.
- Guarantee that the voucher will be sufficient to buy the same trip that was cancelled, irrespective of any possible fare increase.
- The voucher should indicate their validity period and specify all the rights attached to them. They should be available on a durable medium, for example through email or paper.

Specific position of organisers/travel agents

- Organisers/travel agents, including online travel platforms, have been complaining that airlines do not reimburse; therefore, they have serious difficulties reimbursing their own customers (see correspondence from ECTAA and EuTravelTech).
 - ➔ Travel agents/organisers should be fairly treated and get reimbursement allowing them to tackle the requests from consumers.
 - ➔ In addition, airlines restart their activities, while many Member States maintain travel advice limited to essential travel only. Therefore, travellers may cancel their packages due to negative travel advice, while the flight part of the package will not be cancelled. Organisers will therefore be squeezed: on the one hand, they must refund the travellers; on the other hand, they risk receiving nothing or, at best, only a voucher as allowed under Reg 261 as the flight will be operated.
 - ➔ A way forward could be that airlines allow organisers to cancel the supply of the flight (and receive reimbursement of the prepaid service) in case the traveller cancels the package travel contract in the current context.

The New Consumer Agenda

The new Commission, the new legislature as well as a new multi-annual financial framework call for a new strategic outlook for the EU's consumer policy. It should reflect the new policy priorities and respond to the calls of the European Parliament, Member States and other stakeholders for a new comprehensive vision on the role of consumers given the top priorities of the Commission. Inevitably, the Commission's position on the effect of the COV-19 epidemic and its aftermath's impact on European citizens as consumers in EU's internal market will also be of considerable influence.

In accordance with the above, a Commission Communication on a new Consumer Agenda is proposed for adoption by the College in the fourth quarter of 2020. Being a strategic, non-legislative document, the new Consumer Agenda will address several key priority areas:

- consumer empowerment in both the green and digital transitions;
- protecting vulnerable consumers;
- enforcement of consumers rights; and
- international cooperation.

Emphasis will be put on providing better information to consumers and fighting misleading information, ensuring consumers' safety and establishing clear responsibilities. The need for a new governance system with regard to consumer policy will also be addressed. International cooperation

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will be further enhanced to reflect the fact that consumer protection and product safety challenges have become more global.

This strategic Commission Communication will also serve as the chapeau for several legislative proposals which will be made reference to in the Communication and adopted in 2021:

1. Revision of Directive 2001/95/EC on general product safety (GPSD)

The aim of the revision is to ensure all non-food consumer products on the EU market are safe and to ensure a level-playing field for all businesses online and offline. This would allow to maintain the “safety net role” of the Directive. Among other aspects, it aims to address product safety issues linked to new technologies, such as Artificial Intelligence and product safety challenges in online sales. The revision also aims at making product recalls more effective to keep unsafe products away from consumers and at enhancing market surveillance.

2. Revision of Directive 2008/48/EC on consumer credit (CCD)

In 2019 an evaluation of this Directive showed that it does not fully ensure high standards of consumer protection across the EU. The objective to foster a well-functioning internal market has only been partially achieved. The revision will extend consumer protection to new (non-bank) operators (e.g. peer-to-peer lending platforms) and new products (e.g. short-term high-cost loans), which can lead to over-indebtedness. It will also update the information disclosure requirements to reflect the effects of digitalisation and shift to online contracts. It will strengthen the effectiveness of creditworthiness assessment rules to make sure the assessment is done in the interest of the consumer (as required by the Court of Justice). These revisions should provide for a more effective prevention of misusing consumer vulnerabilities in the financial sector.

3. New legislative initiative to empower consumers in the green transition

This initiative, announced in the Green Deal and Circular Economy Action Plan, aims to ensure that consumers are provided with more accurate, clearer and more reliable information in order to choose durable, repairable and sustainable products. In order for consumers to actively participate in the green transition, they need trustworthy information on the expected lifespan and reparability of products, on their sustainability and environmental impact

The scope and content of this legislative proposal will build on synergies with various work-streams that are under way in different Commission services (ENV, GROW, CNECT) in response to the Green Deal and the new Circular Economy Action Plan, notably on product standards on material efficiency (durability/reparability) and technical methodologies (e.g. Product/Organisational Environmental Footprint).

Next steps

In the revised Commission WP2020 (27 May), it has been confirmed that the new Consumer Agenda will be adopted in Q4 2020; the three above described accompanying legislative proposals will be adopted in 2021. In the course of June, the open public consultation on the whole consumer package will be launched to last until end September

Sustainable consumption - Initiative on consumer empowerment in the digital transition

The Circular Economy Action Plan announced that the Commission will propose a revision of EU consumer law to ensure that consumers receive trustworthy and relevant information on products at the point of sale, including on their lifespan and on the availability of repair services, spare parts and repair manuals. It also moreover states that the Commission will also consider further strengthening consumer protection against greenwashing and premature obsolescence, and setting minimum requirements for sustainability labels/logos and for information tools used by consumers to assess the sustainability of products. The preparatory work of this legislative initiative has been launched and will involve stakeholder consultations throughout 2020.

While the initial timing for the legislative proposal on empowering consumers assumed a Commission proposal for Q4 2020, due to the COVID-19 Crisis it has been now confirmed for Q2 2021 in the revised Commission Work Programme published end of May together with the Recovery Plan for Europe.

This initiative remains a priority as part of the growth strategy based on the Green Deal. As demonstrated by the Commission's proposal for a Farm to Fork strategy providing consumers with more sustainable food, work on Green Consumption is essential to help consumers find and chose more sustainable non-food products too. The preparatory work and stakeholder consultations have started and continue also in the present circumstances. Moreover, we are also preparing the launch of "Green Consumption Pledges" with the industry later this year. These voluntary industry pledges will complement the legislative initiative but also contribute to the post-covid-19 recovery.

Product Safety

Measures taken against COVID-19 related dangerous products

As from 20 March, Member States are receiving continuous guidance, help and urging from DG JUST to swiftly report measures they take against products with inadequate protection or with false health claim (hence causing a product safety problem) in SAFETY GATE/RAPEX, our rapid alert system for dangerous non-food products. Until 25 May, we have registered around 40 alerts from 8 Member States, most of them related to faulty safety masks.

DG JUST is also launching a joint product safety market surveillance activity to assess risks of defective protective masks, gloves and hand sanitising products available on the EU market, given the increased circulation of this type of products. Authorities from all EU/EEA countries have been invited to join this coordinated activity that should start before the summer break. Results of testing on a wide selection of such products sampled from the market of all participating countries (both from online channels and physical shops) are expected to be available by the end of the year.

Cooperation with the Chinese authorities on COVID-19

Product safety cooperation has had its own dedicated dialogue and a Memorandum of Understanding (MoU) since 2006. The MoU between DG JUST and the Chinese Customs establishes a "RAPEX-China" scheme for Chinese authorities to take actions against manufacturers and exporters based on selected information from RAPEX on dangerous products of Chinese origin.

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In the context of the current crisis all notifications about masks and other Covid-19 related products of Chinese origins are immediately shared with our Chinese counterpart for their speedy follow up.

A letter from Commissioner Reynders to the Minister of the General Administration of China Customs (GACC) is in preparation to request the Chinese authorities to follow up exceptionally quickly via RAPEX China Covid-19 related products and to be alert on claims on products that attribute protective or curative characteristics to products such as masks or cleansing gels.

We have recently launched a project to raise awareness about product safety requirements among Chinese companies exporting to the EU and EU importers. This is a 3-year project funded by the EU Foreign Policy Instrument that includes training sessions organised in cooperation with the relevant Chinese authorities, workshops with authorities as well as distance learning modules. The project also includes cooperation with online marketplaces to address the direct imports from China to EU consumers.

Community face coverings

The safety of face coverings that are not personal protective equipment or medical devices is covered by the General Product Safety Directive under DG JUST's remit. DG JUST is collaborating with Member States to exchange views on such face coverings that are becoming compulsory in many Member States after strict confinement. The European Standardisation Organisation (CEN CENELEC) has agreed to adopt a "workshop agreement" for these type of face coverings this summer.