



**MINISTRY OF INDUSTRY, BUSINESS  
AND FINANCIAL AFFAIRS**

**MINISTER FOR INDUSTRY,  
BUSINESS AND FINANCIAL  
AFFAIRS**

**Response by the Danish Government to the open public consultation  
regarding The New Consumer Agenda**

**6. October 2020**

As a part of the Danish Government's response to the public consultation, in the following a number of developments and their impact on consumer welfare and behaviour will be presented from the Danish government's point of view. The structure follows the public consultation's themes and touches upon underlying developments to be addressed:

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**I. A New Consumer Agenda**

The Danish Government welcomes the Commission's decision to update the current consumer agenda expiring in 2020. The Danish Government agrees that an update is timely in light of recent developments, especially the COVID crisis. The Danish government further gives priority to effective enforcement of consumer rights, sustainable consumption and digital transition.

*General remarks*

It is a priority for the Danish Government that consumer-oriented regulation is based on the best available knowledge of consumer behaviour and thus on empirical research. When regulation is based on documented behavioural insights in the relevant area of law, the probability that the regulation works effectively and as intended increases.

Consumer-oriented regulation should support as simple and action-oriented consumer information as possible. Consumer-oriented regulation will often impose information obligations on companies. The purpose is to support consumers in making decisions on a well-informed basis. The development in behavioural insights has demonstrated that the massive amount of information provided to the consumer might be counterproductive and that too much information very easily has the opposite effect; namely creating “information overload” so that the consumer completely refrains from reading and using the information. Therefore, if the information is to be included in consumers’ decision-making, it is crucial that this information is accurate, action-oriented and simple.

Furthermore, consumer-oriented regulation should support the right timing of consumer-oriented information in terms of the consumer decision-making process. The information must be presented at the right time during the purchase situation making it useful for the consumer to compare products and services and thus make the right choice.

Finally, better regulation requires knowledge of how regulation is utilized by companies and consumers in practice. Ideally, the utilization should be tested in the market before a new set of rules are finalized.

It is a priority for the Danish government that the above-mentioned principles are reflected in the New Consumer Agenda.

*a. The COVID-19 crisis*

Regarding the impact of the COVID-19 crisis, we have experienced disinformation entering the health arena. The COVID-19 pandemic spurred an unprecedented flood of misinformation about the virus, which undermined the public health response and caused physical harm due to false information on measures for protecting against or for curing the virus. Disinformation about the virus flourished on the internet and was especially found on social media platforms, where it was – and still is - shared and quickly distributed. Several platforms have taken action and are willingly cooperating with the health authorities in order to provide information from authoritative sources and combat disinformation. We encourage the Commission to explore the options for combating disinformation based on the experiences learned from the COVID-19 crisis.

An increased strategic focus on consumer production taking into account both the challenges of pandemics but also climate change and sustainable consumption and production is essential for the EU as a whole.

*b. The green transition and sustainable consumption*

European consumers will be a driving force in EU's green transition. The Danish government thus welcomes the Commission's initiatives to empower consumers for the green transition. It is important that new initiatives go hand in hand with an ongoing focus on ensuring effective consumer protection during the transition. It is still difficult for consumers to navigate various markets and make climate conscious decisions. The Danish government encourages the Commission to look into how consumer regulation, i.e. information disclosure requirements, legally determined defaults and similar types of choice architecture, can make it easier for consumers to choose sustainable products and services across the EU and thereby reducing CO2 emissions and the use of resources.

Elaboration on the Danish Government's view on empowering consumers in the green transition is elaborated in the separate section: II. Empowering consumers in the green transition.

*c. The digital transition and consumer rights*

With regard to the digital transition, the focus should be on how to protect consumers in the world of fast-paced new technological developments, to increase transparency and raise consumers' awareness when sharing personal information, as well as on improving their digital literacy.

An increasing number of consumers buy their products on online market places, social media platforms and so forth. The online platforms give the consumers a greater choice and reduces search costs.

However, it can be difficult for consumers to understand the business models of the platforms including how and why the consumers are exposed to certain products. Although the New Deal for Consumers is a great step in the right direction of granting consumers rights in the digital economy, challenges are still rising and need to be explored.

Consumers are often met with statements such as "only 1 left" on digital platforms. This can be very useful information for the consumers, but in some cases, such statements might also be given with the intent of leading the consumers to make purchasing decisions in a rush - thus resulting in consumers not purchasing on behalf of their actual wishes and needs. While some marketing approaches may limit consumer welfare, others also contain valuable information for consumers in the case that consumers use the information to make purchasing decisions based on actual wishes and needs well aware that these various marketing approaches exist.

The Danish Government finds it necessary to further analyse the challenge of marketing approaches such as pressure selling in order to see, whether there is a need for further regulation and better enforcement.

Furthermore, the Danish Government finds, that digitization (specifically the use of AI, data sharing and other digital tools) has the opportunity to create transparency and at the same time ensure "empowerment" of both authorities and consumers.

Enterprise-based market surveillance will also play a role in securing the future of consumer rights. Priority should be given to the companies' sustainability not only dealing with the environment and energy, but instead being based on a more holistic (360 degree) compliance with the rules - e.g. reporting of data, the ability to compare data on companies' compliance with the rules and the establishment of risk models. This way, risk-based enterprise-based market surveillance can help locate products that may be unsafe for consumers.

Finally, the Danish Government finds that transparency for European consumers and companies buying and selling online is pivotal. However, it is crucial that the Geoblocking Regulation does not place excessive burdens on companies on the pretext of transparency. The Danish Government looks forward to receiving the review of the Geoblocking Regulation and cannot support an extension of the scope of the Regulation nor an introduction of an obligation to sell cross-border. If the Commission considers a revision of the Regulation, we urge the Commission to conduct a proper impact assessment in advance.

*d. Effective enforcement in the digital economy*

The Danish government finds it important that the Consumer Agenda addresses current issues regarding effective enforcement, and in particular problems that arise in the wake of the platform economy. The Danish Government finds that the Digital Services Act should seek to strengthen enforcement of consumer legislation on digital platforms.

In this regard, it is important to analyse the challenges arising in enforcing the EU consumer protection rules such as misleading marketing or product safety on digital platforms. In this regard, we urge the Commission to analyse the options for updating and clarifying the exemptions from the principle of origin, with a view to enable national authorities to effectively enforce consumer protection.

Furthermore, we encourage the Commission to look into how the rules on commercial communication in article 6 of the E-Commerce Directive could be revised in order to address the challenges arising for especially

children and young adults in recognising whether they are exposed to marketing on platforms and especially social media.

The Danish market surveillance authorities and their European colleagues have experienced a high and growing number of unsafe products sold on platforms in third countries to consumers in Denmark and the rest of the EU. The Danish Government finds that these challenges should be addressed in the Digital Services Act by imposing the coming legislation on all digital platforms that direct their services at European consumers, regardless of whether they are established in the EU or not. Among other things, the Digital Services Act should introduce a new set of responsibilities to ensure the fast and transparent removal of illegal content upon notification, as well as a duty of care requirement, which incentivises platforms to take measures that can reasonably be expected of them in order to proactively detect and remove illegal content on their services. We refer to the Danish Government's response to the Commission's public consultation to the Digital Services Act from September 2020.

At the same time, we strongly encourage the Commission to make online marketplaces live up to their responsibility under the Product Safety Pledge and make sure that the products notified in RAPEX do not (re)appear on these platforms. It should be made sure that once a product has been listed as dangerous and removed from an online marketplace, the product should not be marketed towards consumers in the EU again.

## **II. Empowering consumers in the green transition**

The following remarks encompass the Danish position on navigation in the area of green marketing and effective enforcement of existing consumer protection rules.

### *a. Easier navigation in the area of green marketing*

In order to facilitate a green transition it is necessary to make it easier for traders to navigate within the area of green marketing. Both consumers and traders must contribute to reaching the climate targets set out by the EU. It is important to encourage traders to provide goods and services that actually are more beneficial to consumers, and regulatory efforts must not have a discouraging effect on consumers. Traders competing to deliver sustainable solutions for consumers is an important driver in the green transition. Traders should in different ways, be encouraged to take actions for sustainability and they should always be able to truthfully inform consumers about their investments and achievements in this area.

Consumers can on the other hand contribute to reach climate and green targets by strengthening the demand on green products and services so to incentivize businesses to innovate more sustainable goods and in turn

support the trader's green transition. However, this development also creates challenges, when an increasing number of traders market their products as green and sustainable. Some traders might even market their products more environmentally friendly than they really are (greenwashing). This results in an uneven level playing field for companies with real green claims and a decrease in consumer welfare.

International behavioural studies (e.g. Chen & Chang, 2013<sup>1</sup>) have shown that misleading sustainable marketing weakens the overall consumers trust in green marketing. In this regard, it is important to note that objectively correct and reliable information could also mislead consumers, if it does not provide relevant or useful information for the consumers. Consequently, it might misrepresent the products' environmental performance<sup>2</sup>. Guidelines on what can be seen as relevant and useful information within green marketing would make it easier for traders to navigate within the area, improve effective enforcement on greenwashing, and thereby improve consumer trust in green marketing.

#### *Reliable life-cycle information at the point of sale*

As pointed out previously, providing information about products' sustainability can be an effective way to make it easier for consumers to make more "green" consumption decisions. It is, however, important that there are specific requirements for the provided information in order for the information not only to be accurate and relevant, but easy for consumers to understand and act upon, i.e. by enabling comparisons between products. Information, which does not fulfil these criteria, might add to consumer confusion and mistrust in green marketing and dampen their interest in purchasing sustainable products.

An example of information that is relevant and easy to act upon for consumers is lifetime cost on energy consuming products. A yet to be published study by the Danish Competition and Consumer Authority shows that if consumers have to buy heavy energy consuming machines, such as dryers, they would choose more energy efficient machines, if informed about the total cost of ownership including lifetime energy costs. This means that even though all the machines were marked with the European energy label, adding lifetime energy costs motivated a more sustainable consumer behaviour. The study stresses that consumers in general do not automatically consider future expenses in a purchase situation. However,

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<sup>1</sup> Chen, Y. S., & Chang, C. H. (2013). Greenwash and green trust: The mediation effects of green consumer confusion and green perceived risk. *Journal of Business Ethics*, 114(3), 489-500.

<sup>2</sup> For instance, if accurate and documented reductions in the carbon footprint of the packaging of a product, which accounts for an insignificant share of the products total carbon footprint, is used to market the product "green", consumers might be misled into thinking that the product is "greener" than it actually is.

the study also shows that the challenge of encouraging consumers to consider future expenses can be overcome in cases of heavy energy consuming machines by presenting the information on lifetime energy consuming cost in the purchase situation. It could thus be considered to examine further the benefits of including requirements of such information in potential new regulation.

#### *Period of liability*

The Commission's Action Plan on Circular Economy, including the expected revision of the Sale of Goods Directive, are relevant in terms of an increased focus on product lifespans. It could be examined whether a longer period of liability for the seller could be introduced, including for products with a longer life expectancy (in addition to the minimum of two years as prescribed by the Sale of Goods Directive). The examination should also include cases where the seller markets the product as having a long life expectancy. The Danish Government notes that the Sale of Goods Directive is currently being transposed into national law by all of the member states.

Moreover, the impact assessment should examine the connection between the length of the period of liability for the seller, the length of the so-called presumption rule/reversed burden of proof and the proportion/number of repairs. As proposed amendments to the existing rules should be based on empirical research, we encourage the Commission to examine whether and to what extent a "right to repair" could have a green impact and a waste reducing effect and thus contribute to a circular economy.

In line with our position on DG ENER's Sustainable Products Policy Initiative (revision of the ecodesign directive), we find that it – depending on the results of the empirical study - might be useful to have a general and proportionate requirement for upgradeability and reparability for products placed on the EU market.

#### *A Green European Market based on PEF/OEF and type I ecolabels*

The format, in which the information is presented, can also influence the effect the information has on consumer understanding. Different presentation formats for the Product Environmental Footprint (PEF)<sup>3</sup> are currently being tested by the Commission and we find that findings should be included in the Commission's impact assessment as the basis for companies' green claims. Also, ISO type 1 ecolabels, such as the Nordic Swan label and the EU Ecolabel, offer consumers and business a solid marking on the sustainability of products verified by a third party. The

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<sup>3</sup> [https://ec.europa.eu/environment/eussd/smgp/communication/product\\_information.htm](https://ec.europa.eu/environment/eussd/smgp/communication/product_information.htm)

Government supports the use of the EU Ecolabel or the Nordic Swan as one way of substantiating green claims for products.

We encourage the Commission to prepare the necessary Product Environmental Footprint Category Rules (PEFCRs)<sup>4</sup> if PEF and OEF (Organization Environmental Footprint) are to play the intended role in the green transition. PEF and OEF are mentioned in several Commission proposals but there are currently not many category rules (PEFCR) developed, as these are necessary to introduce PEF and OEF. The PEFCR calculations could eventually allow the European Commission, public authorities and the private sector to benchmark and communicate a so called PEF profile to consumers.

We welcome the Commission's intention to develop a framework for sustainability labels so that they are more equitable and uniform across the internal market. Consumers who want to make climate and environmentally friendly choices should have this option. However, it is important that a standard is created that is useful to both consumers and producers to ensure that the labeling schemes are in fact fair and informative for the consumer, and to prevent producers from having to live up to disparate climate requirements from different labeling schemes.

We support the initiatives for the promotion of green products inspired by the European Energy Label and the European Ecolabel. The energy label is mandatory for a number of energy-related products that are placed on the market, while the EU Ecolabel is a voluntary scheme. However, it should be noted that it will be a financial burden to require documentation for a mandatory sustainability label and a possible PEF label, as it will require an LCA (life cycle assessment), or similarly, which can be costly.

In addition to EU and national ecolabels, labelling of chemicals of concern in relevant products are an important tool for the protection of consumers and for strengthening the basis for their informed choices.

### Chemicals

The transition to a more circular economy requires a coherent approach to product regulation covering all products, including the many product regulations containing requirements concerning chemicals already in place. The approach should include common principles which are generally based on the PEF in combination with generic risk management by restricting the use of certain types of chemicals of very high concern such as CMR substances and endocrine disrupters. Consistent health and envi-

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<sup>4</sup> Product Environmental Footprint Category Rules aim at identifying the most relevant environmental impact categories and activities along the life cycle for a respective product category.



ronmental impact requirements should be set across sectors and throughout the product life cycle to ensure a dynamic push towards continuously improving the best performing products and services as well as raising the bar for minimum requirements. In order to protect consumers and increase their ability to make informed choices, a future consumer policy should furthermore include the possibility to declare or label problematic chemicals in relevant products.

b. Effective enforcement of existing consumer protection rules

*Market Surveillance*

Today, there are product categories that only a few countries have the budget to control, or products that are often order-produced or only produced in small numbers. This complicates the market monitoring process, which in some cases leads to several product categories avoiding testing unless the Commission bears the cost of the test. An example of this problem is power transformers.

Effective EU-wide market surveillance in accordance with the Market Surveillance Regulation can – by removing non-compliant products from the market and thereby incentivize companies to produce better products – supports product durability, reusability, upgradeability and reparability for the benefit of consumers and companies.

*Updated guidelines to the UCPD on green claims*

Even though the Unfair Commercial Practices Directive (UCPD), including the blacklist, already apply to green claims, effective enforcement is challenged as enforcement authorities are overloaded with highly complicated documentation when they take up cases.

When combatting misleading green marketing, the Commission should not propose a ban on green claims in the UCPD blacklist. There are already certain provisions in the existing blacklist applicable to green claims; i.e. provisions establishing the unfairness in displaying trust marks, quality marks or equivalent without having obtained the necessary authorisation. Instead, the Commission should focus on updating the guidelines to the UCPD on green claims. Updated guidelines will improve effective enforcement on greenwashing and make it easier for traders to navigate.

Further, a proposal on companies substantiating green claims against a standard methodology, as proposed in the Green Deal, is a promising idea worth looking further into. Here, the PEF methodology and life cycled based ISO type I ecolabels as the EU Ecolabel and the Nordic Swan Ecolabel can be relevant to include. These labels offer consumers and business a solid marking on the sustainability of products verified by a third

party. Denmark supports the use of the EU Ecolabel or the Nordic Swan as one way of substantiating green claims for products. The Danish Consumer Ombudsman has created guidelines to prevent misleading claims.

### **III. Consumer Credit Directive**

The following remarks encompass the Danish position on the review of the Consumer Credit Directive (CCD), which the Danish government welcomes. In general, we support the Better Regulation and REFIT agenda. It is important to have an ongoing focus on ensuring effective consumer protection as well as reaping the potential benefits of the regulation in the EU.

We find that it is important that the directive continues to secure a high level of consumer protection for consumers taking loans, for example by taking new developments and other types of credits into consideration. In this regard, the Danish government welcomes initiatives aimed at reinforcing, streamlining and modernising consumer credit rules to ensure that they are future-proof and protect consumers better than is the case today.

#### *a. Protecting consumers from indebtedness*

We find that the Commission should examine whether targeted legislative action could be a way forward including:

- Extending the scope of the Directive to credits below EUR 200 and for other types of credit that are currently outside of its scope;
- simplified rules to ensure better-structured, well-timed pre-contractual information, in line with the findings of behavioural insights, and;
- harmonising standards and introducing common principles and rules for assessing creditworthiness.

We also find that the Commission should examine how to adopt initiatives corresponding with the new Danish legislation in regard to pay day loans aiming to strengthen consumer protection by:

- Banning all consumer credits with APR of more than 35 percent, that are not related to a mortgage credit;
- impose a ceiling on the total cost of 100 percent;
- limiting the ability of loan providers to market their products, and;
- ensuring consumer protection through the conclusion of private credit agreements.

With a cap on APR there are a clear limit on what a fair credit agreement is, and a ceiling on the total cost of 100 percent sets an effective limit on how much a consumer can be asked to pay for a loan. These initiatives should furthermore be enforceable for private credit agreements.

The prohibitions on advertising of consumer credit can be justified in the interests of protecting consumers, to stop the massive advertising of expensive consumer credit (pay-day loans) that we face primarily online, on TV and in public, and could contribute to the fact that fewer consumers will end up in over-indebtedness.

*b. Modernizing and updating the rules*

*Adjusting the scope of the CCD*

In Denmark, we have seen that pay day loans have caught many, particularly young and underprivileged people, in unmanageable debt. Today, the CCD does not apply to credit agreements involving a total amount of credit less than EUR 200 or more than EUR 75.000. As a result, the CCD does not apply to many "pay day loans". It has therefore been necessary to introduce national legislation in Denmark in order to secure consumer protection especially on "pay day loans". We strongly urge the Commission to adjusting the scope and thresholds of the CCD as it could contribute to better protection of consumers e.g. by committing creditors to assess the consumer's creditworthiness also on "pay day loans".

*Affecting loan behaviour through new digital solutions*

The environment in which consumers act has changed because of digitization and new technologies. The CCD is based on earlier generation technology but new business models challenge the traditional concept of creditors and consumers. Consumers often search for credits online and technology is playing an increasingly important role in the interaction between consumers and creditors. Therefore, it is important that the CCD reflects this and supports new digital solutions that empower consumers to compare credits and prices from different providers.

Moreover, the access to big data and the ability to apply big data when profiling consumers has changed and improved the methods used by the creditors to assess their customers. However, the principle of the "need to know" of the customer remains in our opinion unchanged. Future regulation should ensure that the application of new technologies and the use of data is regulated appropriately to the benefit of consumers. The fundamental rights of consumers should be ensured. Furthermore, it is important to incentivize creditors to develop new digital solutions for the benefit of consumers.

*Updating information requirements in order for the consumer to understand and act upon the information*

Today, the pre-contractual phase and the credit agreements are characterized by a large number of information requirements. This can be burdensome to the consumers, who are expected to read and understand extensive contractual information in a purchase situation. There is a need to

evaluate all information requirements in the CCD in order to ensure that consumers are not only provided with essential and beneficial information, but also that the information is presented in such a simple manner and at the right time in the purchase situation so that the consumer use the information.

The Danish government urges the Commission to look at the information requirements in the CCD with the use of behavioural insights in order to present the relevant information at the right time and in the right context for the consumers and thereby ensure effectiveness of the information requirements. In this regard, a stronger focus on digitalization is essential in order to ensure that creditors can provide information, e.g. pre-contractual information, to consumers in a sensible way that fits different devices and media, making the information more easily accessible for consumers.

Issues related to information requirements are similar in other areas of consumer regulation. Therefore, amendments in the CCD should where relevant be streamlined in other regulations to the furthest extent possible, e.g. in the Distance Marketing of Financial Services Directive and the Mortgage Credit Directive in order to ensure greater coherence in the regulation.

#### *Obligation to assess the creditworthiness of the consumer*

Pursuant to Article 8 in the CCD, the creditor has an obligation to assess the consumer's creditworthiness based on "sufficient information". However, the consumer credit directive does not contain any explicit guidelines for what "sufficient information" is.

Since the beginning of 2018, the Danish Consumer Ombudsman has been examining nine credit providers' procedures in respect of the creditworthiness assessment. The Danish Consumer Ombudsman has among others identified the following issues:

- Some of the credit providers have been assessing the consumers' ability to pay the ongoing costs in respect of the loan, and not whether the consumer is able to repay the credit amount.
- Some of the credit providers do not take the consumers existing debt into account in their creditworthiness assessment of the consumer.
- Some of the credit providers do not base the creditworthiness assessment on the consumer's individual expenses but on statistical expenses.

We believe that this is not only a Danish issue. For that reason, the Danish government finds that more specific criteria needs to be laid down, and that all creditors should be obliged to assess adequately the creditworthiness of the consumer. Identical requirements in EU in this regard

are essential in order to protect European consumers from credit agreements they cannot afford. .

Moreover, Article 8 in the CCD states that, "*member states whose legislation requires creditors to assess the creditworthiness of consumers on the basis of a consultation of the relevant database may retain this requirement*".

The Danish Authorities interpret this as a hindrance to establishing a database and requirements to use such a database in the assessment of creditworthiness. However, with better insights into consumer behavior and increased digitization there might be potential to introduce innovative, easy-to-use-and-access databases that can increase consumer protection. For instance, the Danish Gambling Authority has established a database of self-excluded persons (aimed at consumers with a gambling problem) that providers of gambling services are required to consult before accepting a customer. Such a database might be relevant to consumers who want to exclude themselves from taking loans.

#### *Clarifying the rules on early repayment*

According to article 16 (1) of the CCD, the consumer shall be entitled at any time to discharge fully or partially the obligations under a credit agreement. In such cases, the consumer shall be entitled to a reduction in the total cost of the credit.

The provision has been interpreted by the ECJ in its ruling in C-383/18. According to the ECJ this provision must be interpreted as meaning that the right of the consumer to a reduction in the total cost of the credit in the event of early repayment of the credit includes all the costs imposed on the consumer. According to the ECJ, the right of a reduction of the total cost of the credit cannot be restricted solely to costs explicitly connected with the duration of the credit. It is therefore the interpretation that the consumer is also entitled to a proportionate reduction of costs related to the setting up of the consumer credit.

We find that this interpretation gives rise to uncertainty and a range of questions for the consumer. We encourage the Commission to clarify that the right of reduction of the total cost of the credit only relates to the costs expressly connected with the duration of the contract, e.g. the interest. The Danish Government fears that the interpretation of the ECJ might lead to higher interest rates in general in order to cover the cost related to the initiation of the credit agreement.

#### *c. Evidence base, data collection and "better regulation"*

We acknowledge and welcome the Commission's existing work on behavioural insights and recommend additional testing of the effects of information requirements in the CCD on consumer behaviour.

In 2018 the Danish Competition and Consumer Authority has conducted a behavioural study to investigate how a simplification of the information requirements in advertisement of consumer credits affects consumers. The study was only concerned with advertisement of consumer credits, not information requirements at contractual levels.

Below is a summary of the results of the behavioural study by the Danish Competition and Consumer Authority:

- Consumers' ability to remember financial information is significantly enhanced with a simplified disclosure in TV media.
- The ability to recall information depends on the run time of the advertisement.
- Increasing the visual saliency of financial information has a positive effect on consumers' ability to recall important information.
- Consumers were to a large extent able to identify the better of two offers in a scenario with current as well as simplified disclosure. Yet, the simplified disclosure significantly reduced decision time and effort needed to complete the choice task.
- The choice experiment indicates that consumers use the annual percentage rate (APR) when choosing instalment plans, but fail to recognize that in cases of purchase on credit, where creditors specify a higher price for the product and appear with a lower APR, it may be a misleading comparison parameter.
- The perceived attractiveness of personal loan offers was not affected by the simplified disclosure.

On that basis, the Danish government suggest that the information requirements in Article 4, regarding standard information to be included in advertising, should be simplified. Furthermore, we suggest that the information requirements could be met by using layered information.

Reduction of the key information presented in advertising can make the initial comparison of credits across providers easier for consumers. This can also improve the competition between creditors. We encourage the Commission to further examine how the information can be structured and presented in the light of the digitalization and use of different media for advertising.

#### *Standard European consumer credit information (Annex II)*

The Standard European consumer credit information in annex II of the CCD, intends to enable consumers to compare credits and prices. Nevertheless, we find that this tool is too complicated and detailed for consumers and some of the information provided in the standardized information sheet are not relevant in all Member States.

As mentioned above, insights from behavioural studies have shown that extensive information requirements are not always beneficial for consumers. Moreover, the format of digital advertisement channels imposes restrictions in space for this information. As such, it is relevant to consider if a reduction of information is beneficial for consumers.

#### **IV. General Product Safety Directive**

The following remarks encompass the Danish position on the revision of the General Product Safety Directive (GPSD). The Danish Government supports the Commission's decision to revise the GPSD. It is the opinion of the Danish Government that there is a strong need to modernise the legal framework for non-food consumer products not covered by sector legislation.

##### *a. Harmonized interpretation and enforcement of GPSD rules*

The way in which Member States interpret, implement and enforce the GPSD differs greatly throughout the EU, which often leads to unfair competition and disadvantages for economic operators. In relation to these concerns, the Danish Government considers a revision of the GPSD a necessary step in tackling the abovementioned issues. In conjunction to these issues, the Danish Government supports “**Option 3: Full Revision of the Directive**” – as presented in the combined evaluation roadmap and impact assessment – which would repeal the Directive and ensure a uniform application of the GPSD through a Regulation. The Danish Government believes that option 3 will ensure an optimal harmonization and enforcement of the general product safety legislation throughout the EU, to the benefit of consumers and businesses alike.

Furthermore, the Danish Government would like to stress the importance of ensuring that the GPSD guarantees a similar level of protection for consumers importing products from third countries as is the case with *Regulation on market surveillance and compliance of products (2019/1020)*. Consequently, the GPSD should at least encompass the enforcement mechanisms present in the *Regulation on market surveillance and compliance of products*, e.g. powers to acquire product samples under covert identity and restriction of access to webpages in cases of infringement of the existing legislation. Further, when updating the GPSD, the legal definitions should be aligned with the definitions in other relevant EU legal acts. Different definitions create uncertain interpretations and make it more difficult for businesses to clarify their rights and obligations in the Single Market, especially for SMEs.

##### *b. Product safety in e-commerce*

The existing legislation (Directive 2001/95/EC) is nearly 20 years old and as such fails to encapsulate the intricacies of online sales channels. This is exemplified by the recent trend of consumers purchasing their products

from operators located outside the EU. The sheer size of this phenomenon, and the fact that it is difficult to enforce existing safety rules vis-à-vis the trader, makes it almost impossible for market surveillance authorities to control the safety of products before they enter the European market. This also applies to the import to the EU of non-compliant products regarding content of hazardous chemicals that are prohibited in the EU. Besides affecting consumer protection, it creates an uneven playing field between online market places and traditional importers, manufacturers and distributors who comply with existing product safety rules. The Danish Government acknowledges that the Product Safety Pledge in its current form is not proficient in its ability to prevent illegal and dangerous products from being brought into circulation on the European market. It should thus be considered how to further ensure conformity through timely updates of other EU legislation.

As to the role of platforms, it is a substantial problem that online marketplaces advertise unsafe products to consumers directly on their platform and by sending marketing e-mails to consumers after the purchase of a product on the platform. An online marketplace is the nearest party to remove unsafe products and make sure that these products are not sold on other parts of the platform.

Finally, it is important to highlight that the GPSD should be aligned with the new legislation envisioned under the Digital Service Act (DSA) in order to avoid overlaps resulting in unclear rules regarding the responsibility of platforms.

*c. Product safety and new technologies*

The existing GPSD legislation does not address or encompass new technologies, e.g. Artificial Intelligence (AI), IoT and 3D printing, which can affect product safety. This shortcoming has already been flagged by the European Commission in the *Report on safety and liability implications of AI, the Internet of Things and Robotics*. The Danish Government supports the conclusion reached in the report, namely, that it is paramount to include clear provisions in the EU product safety legislation that explicitly address safety risks linked to products incorporating or relying on new technologies.

In this respect, the Danish Government welcomes a revision of the GPSD in order to ensure a set of standards for product safety for example in regard to AI, embedded into consumer products. These should be complemented by updates to the existing sector specific legislation – when revised – to address the specific needs pertaining to different categories of products and in order to align these with the GPSD in order to avoid conflicting demands.



Furthermore, the Danish Government further finds that products have to be safe – regardless of the technology embedded in the product. In order to safeguard the relevance of the general product safety legislation, and its ability to ensure a high degree of product safety, the legislation should be technologically neutral. In this way, the general product safety legislation will be able to safeguard consumers in the future, even in areas of technological development we cannot yet envision.

The Danish Government also supports the Commission’s proposed provisions in relation to product safety in order to support responsible innovation in AI technology, including a focus on the life cycle of products, quality of data, transparency and cooperation among economic operators and public authorities. Additionally, the regulatory framework for product safety should also address possible changes in consumer behaviour, when interacting with products embedded with AI technology and ensure that existing safety requirements - such as physical or mechanical means to deactivate a product – is not compromised. Updates to the regulation must also address resilience towards external threats and be aligned with existing legislation concerning cybersecurity, e.g. the cybersecurity certification schemes under Regulation (EU) 2019/881.

Also, the Danish Government finds that manufacturers should be responsible during the lifecycle of the product. However, the responsibility of the manufacturer should have limits. This includes e.g. situations where the consumer does not make the necessary software updates, or the consumer downloads a program that neither the manufacturer nor the distributor is responsible for. In this situation, it is out of the hands of the manufacturer to ensure a safe product for the consumer during the lifecycle of the product. This should be reflected when the GDPS is updated.