



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

Didier Reynders
Commissioner for Justice
European Commission

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

Dear Commissioner Didier Reynders,

Please accept my warmest congratulations on your appointment as Commissioner for Justice.

A timely response to the challenges and seizing the opportunities posed by climate change and rapid digitalization is of critical importance to ensure a more sustainable and prosperous EU. Consumer demands play an important role in creating competitive, innovative and sustainable markets. I would like to present you with the overall Danish agenda in your area of responsibility, which I hope will be of interest to you.

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Consumer policy applicable to the digital future

With reference to your statements in the parliamentary hearing, we share your opinion that consumers should be empowered, properly informed and encouraged to make sustainable choices. Over the past few years, European consumers' consumption patterns and opportunities have been changing. Globalization and digitalization have led consumers to act in completely new ways, and consumers have been given a much wider choice, which can be challenging to navigate on bigger and more complex markets.

With the rapid digital development and the emergence of new business models, it is important to ensure that consumer protection rules are fit for the digital age. Although a political agreement on the omnibus directive from New Deal for Consumers has recently been reached and progress made on the proposal on collective redress, more needs to be done. When developing new consumer policy, it is of high importance to continue the inclusion of behavioural analysis and methods in order to secure that the proposed regulation will have the intentional effect on the market and is fit for purpose.

Strengthened enforcement with third countries

I have positively noticed that you have been tasked with ensuring consumer protection within cross-border trade with third countries. This is highly relevant as challenges in relation to consumer protection go beyond the frontiers of the Union. In order to strengthen the cross border consumer enforcement, international agreements with third countries should be negotiated. This has been made possible through the revised CPC regulation.

Moreover, I encourage you to look more online platforms and websites from third countries as they do not always comply with EU marketing rules. This implies that European companies are not competing on a level playing field with companies from third countries. Despite the fact that EU rules are applicable to third country business' marketing, it is often difficult for the consumer protection authorities to pursue cases against companies established in third countries, as there is no legally binding bilateral cooperation agreements between EU and third countries.

Company law and the SME Strategy

Providing the right regulatory framework for businesses is not just important within the digital sphere, but also for company law in general. We are facing a number of challenges posed by climate change and rapid digitalisation. I fully support your mission to ensure that company law contributes to the upcoming SME strategy so that SMEs can prosper through creating solutions to the current challenges. Businesses have a significant responsibility as well as opportunity to deliver the changes necessary to tackle the issues facing us today. We need to have the right framework in place to ensure that our companies are able to harness the opportunities as well as held accountable for their sustainable promises.

In general, I find it important to strike a balance between providing businesses a number of rights and ensuring that they comply with the corresponding obligations. Transparency around our companies' conduct is key – not only to see whether they are delivering on their promises, but also to make sure that we have efficient systems in place to address questionable practices. That is why I find the proposal on public country-by-country reporting an important step towards a fairer and more effective tax system in the EU. We will seek to revitalise the negotiations in Council, and work towards a more ambitious proposal containing global disaggregation, requiring multinational companies to report country by country for all countries.

I also see increased transparency concerning companies' social responsibility as a way of ensuring that businesses are not just talking the talk but also walking the walk towards improved practices. I look forward to working with you on updating the framework for responsible business conduct and thereby contribute to a more sustainable future.

Digital trust as an enabler of Artificial Intelligence

I have positively noticed the aim of the new Commission to deliver a European approach to artificial intelligence within your first 100 days in office. In this regard, the aim should be to make data ethics a competitive advantage for European businesses going hand-in-hand with innovation. A European approach could make us a frontrunner in the responsible use

of artificial intelligence and data. By introducing a European Data Ethics Seal we would enable consumers to easily identify companies who take data ethics seriously. Together with a requirement for the largest European companies to publish their data ethics policies, the digital economy would become more transparent for consumers. Attached you will find a non-paper explaining our suggestions to this agenda.

Ensuring consumer enforcement in the platform economy

It is time to modernize the regulatory framework of the platform economy in order to ensure digital responsibility, better cross-border consumer enforcement and to address emerging issues that are not dealt with under the current rules. We also need to address the increasing regulatory fragmentation at European and member-state level regarding the liability-regime for third party content. This has led to legal uncertainty for both businesses and consumers.

A modernized framework for the European platform economy should maintain the essence of the e-Commerce Directive, namely the country of origin principle, which the European platform economy has benefitted immensely from. At the same time, we face an important and necessary discussion regarding liability regimes and the responsibilities of especially large and influential companies in handling data versus the possibilities for smaller companies to develop new business models and scale up across the Single Market.

We should modernize the regulatory framework to find horizontal solutions that addresses the emerging issues in the platform economy, eradicates regulatory fragmentation through uniform application and enforcement of the notice and take down of illegal content such as misleading marketing and dangerous products across the EU while strengthening the competitiveness of the European platform economy.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Kollerup'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Simon Kollerup

Proposal

Data Ethics as Corporate Social Responsibility

The Commission should consider a revision of the directive as regards *disclosure of non-financial and diversity information by certain large undertakings and groups*. The revision should include provisions for certain large undertakings - to prepare a non-financial statement containing information relating to their data ethics policies as part of their annual management reports.

European Data Ethics Seal

The Commission should encourage the development of a European Data Ethics Seal by the relevant industry and standardization bodies. The seal should be awarded to companies, products and services that meet a pre-defined list of data ethical requirements e.g. companies or products that meet high standards for data security, companies or products that do not collect unnecessary data on the user, or companies or products that have been tested for bias etc. The European Data Ethics Seal could be a way to operationalize the Commission's idea of "ethics by design" and make it visible for consumers which companies, products and services to trust - and thus creating a market incentive for producers to become more data ethical.

Standards on AI Trustworthiness

The Commission should investigate the possibilities for promoting the use of technical standards on AI Trustworthiness in the European legislation. ISO/IEC and CEN/CENELEC as well as the IEEE are currently working on different aspects of standardization of AI and ethics/trust. The inherent agility of technical standards could create the necessary balance between long-term durability and short-term efficiency.

Challenge

Trust is the most important component in ensuring wide uptake of digital technology and solutions. It is thus of the utmost importance that the European Union succeeds in creating a legal and ethical framework that can ensure citizens' trust in the new technologies. Moreover, the responsible use of data has the potential to become a competitive advantage for European businesses in the competition with American and Chinese companies. In order to give EU businesses a first mover advantage, the EU should take concrete steps to strengthen data and AI ethics through transparency, and thus empowering consumers and businesses to choose products and solutions that are based on a responsible use of AI and data.

Background

Our ambition as a European community should be to break down national silos to ensure that the leading digital companies of the future will be European. EU has a very important global role in terms of promoting the responsible and ethical approach to data use. We are convinced that Europe not only could, but should lead the way for responsible use of data - and thereby potentially gain an invaluable competitive advantage on the global marketplace.