



# Consumer vulnerability across key markets in the European Union

## Executive Summary

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### Policy context

The president of the European Commission, Jean-Claude Juncker, committed to deliver change and to focus on the big political challenges in Europe. To achieve this, he created a new streamlined Commission including a "strong consumer portfolio"<sup>1</sup>. This portfolio is called upon to play a vital role in delivering on the priorities of the 2014 Commission Political Guidelines<sup>2</sup>, in particular the Digital Single Market, the Energy Union, the Internal Market, the Capital Markets Union and Jobs, Growth and Investment.

Built on the Consumer Programme 2014-2020, the EU consumer policy focuses on four key areas:

1) a single market of safe products for the benefit of citizens and as a component of competitive businesses and traders; 2) a single market where citizens are well represented by professional consumer organisations whose capacity is built to meet the challenges of today's economic environment; 3) a market where citizens are aware and exercise their rights as consumers so that they contribute to the growth of competitive markets, citizens must enjoy access to redress mechanisms in case of problems without needing to resort to court procedures which are lengthy and costly for them and the governments; 4) a concrete and effective collaboration between national bodies to support the enforcement of consumer rights, support the consumers with advice.

The broad concept of consumer vulnerability is relevant to each of these objectives, and consumer vulnerability is identified as a key challenge to be tackled within this context.

Consumer vulnerability was also identified as a key concern in the Commission Staff Working Document<sup>3</sup> on knowledge-enhancing aspects of consumer empowerment, and the European Economic and Social Committee<sup>4</sup> and consumer organisations<sup>5</sup> have also focused attention on the issue of vulnerable consumers.

Furthermore, a 2012 resolution of the European Parliament<sup>6</sup> called on the Commission to consider reinforcing the rights of vulnerable consumers as a key priority, and to include the dimension of consumer vulnerability in the work of the Consumer Scoreboard to have a clearer overview of the needs of vulnerable consumers.

While there is a substantial amount of EU consumer law and the consumer dimension is a key element of many EU policies, in 2012 the Commission acknowledged that a comprehensive framework is needed to address challenges such as those linked to the digitalisation of daily life and the specific needs of vulnerable consumers.<sup>7</sup> The second EC

<sup>1</sup> [http://europa.eu/rapid/press-release\\_IP-14-984\\_en.htm](http://europa.eu/rapid/press-release_IP-14-984_en.htm)

<sup>2</sup> [http://ec.europa.eu/priorities/docs/pg\\_en.pdf](http://ec.europa.eu/priorities/docs/pg_en.pdf)

<sup>3</sup> [http://ec.europa.eu/consumers/archive/strategy/docs/swd\\_document\\_2012\\_en.pdf](http://ec.europa.eu/consumers/archive/strategy/docs/swd_document_2012_en.pdf)

<sup>4</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:011:0054:0058:EN:PDF>

<sup>5</sup> [http://ec.europa.eu/consumers/archive/empowerment/docs/eccq\\_opinion\\_consumers\\_vulnerability\\_022013\\_en.pdf](http://ec.europa.eu/consumers/archive/empowerment/docs/eccq_opinion_consumers_vulnerability_022013_en.pdf)

<sup>6</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2012-0209&language=EN&ring=A7-2012-0155>

<sup>7</sup> [http://europa.eu/rapid/press-release\\_IP-12-491\\_en.htm](http://europa.eu/rapid/press-release_IP-12-491_en.htm)

report on consumer policy<sup>8</sup> highlights a number of activities with a focus on consumer vulnerability, such as the establishment of the Vulnerable Consumer Working Group, which brings together a range of stakeholders from many Member States in the context of the Citizens Energy Forum.

The Unfair Commercial Practices Directive (UCPD) provides for specific protection of consumers who are particularly vulnerable due to their mental or physical infirmity, age or credulity. In its 2013 assessment of the UCPD<sup>9</sup>, the Commission found it should itself take a more prominent role in monitoring and coordinating the enforcement of the UCPD by Member States, and that further efforts should be made to strengthen the enforcement of the UCPD in relation to vulnerable consumers. At present the Commission is revising the Guidance document on the application of the UCPD, including, potentially, the part on vulnerable consumers.

## The importance of the present study

This study is important because it fills a knowledge gap by adding substantially to the evidence base in the area of consumer vulnerability. In particular, the study:

- Demonstrates how consumer vulnerability can be operationalised and explored, conceptually and empirically through data collection.
- Provides insights to assist consumer policy making, such as insights into the key factors linked to consumer vulnerability, which policy measures or types of measures are most effective in mitigating consumer vulnerability, and the role of problematic commercial practices.
- Provides insights useful to help the development of the EU's consumer evidence base, including the Consumer Scoreboards, Market Studies, and Behavioural Studies.
- Provides insights relevant to the UCPD and updating of the UCPD Guidance document.

## Methodology of the study

Five different research activities were undertaken during the course of the study, namely a literature review, stakeholder consultations (national consumer associations, country experts and EU-level stakeholder organisations) a consumer survey in all EU Member States, Iceland and Norway, behavioural experiments, and biographical consumer interviews in five EU countries. The behavioural experiments were specific to the three key sectors of interest to the study, namely the energy, finance and online environment sectors, and the fourth was a cross-cutting experiment.

## Main findings

### Vulnerability definitions

In the literature there exists no single, commonly adopted definition of consumer vulnerability and most often vulnerability refers to an ex-ante assessment of the likelihood of a potential negative outcome in terms of consumer well-being. It is an assessment of risk, rather than a reflection of a negative outcome that has or is certain to materialise. Two broad vulnerability categories emerge from the literature, namely, vulnerability which relates to personal characteristics of the consumer and a broader concept which takes into account the transactional situations in which consumers find themselves. Most recent definitions also recognise that vulnerability is not a static condition. Consumers may move in and out of states of vulnerability and they may be vulnerable in respect of some categories of transaction but not others. In addition, vulnerability is best viewed as a spectrum rather than a binary state. Yet, in some policy contexts, it may be important to recognise that some personal characteristics can imply

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<sup>8</sup> [http://ec.europa.eu/consumers/strategy-programme/policy-strategy/documents/consumer\\_policy\\_report\\_2014\\_en.pdf](http://ec.europa.eu/consumers/strategy-programme/policy-strategy/documents/consumer_policy_report_2014_en.pdf)

<sup>9</sup> [http://ec.europa.eu/justice/consumer-marketing/files/ucpd\\_report\\_en.pdf](http://ec.europa.eu/justice/consumer-marketing/files/ucpd_report_en.pdf)

that vulnerability remains an enduring characteristic for particular groups of consumers.

### **Vulnerability dimensions**

Based on the findings from the literature review, five core vulnerability dimensions are used in the study:

1. *Heightened risk of negative outcomes or impacts on well-being* - interpreting vulnerability as an ex-ante assessment of the likelihood of a negative outcome, as a loss of welfare due to choices in markets, and as higher susceptibility to harm and diminished well-being.
2. *Having characteristics that limit ability to maximise well-being* - interpreting vulnerability as characteristics that limit consumers' ability to maximise their utility and well-being, as consumers' diminished capacity to understand advertising and product effects, and as consumers' certain abiding characteristics.
3. *Having difficulty in obtaining or assimilating information* - interpreting vulnerability as limitations obtaining or assimilating consumer information and 'informational vulnerability' which refers to scenarios where suppliers may have better information than consumers.
4. *Inability or failure to buy, choose or access suitable products* - interpreting vulnerability as consumer inability to choose or access products and services which are suitable for their needs or do so without disproportionate effort or as not having access to beneficial products or services, including a distinction between buying unsuitable goods or services and failing to buy suitable goods and services.
5. *Higher susceptibility to marketing practices*, creating imbalances in market interactions - interpreting vulnerability as the effect of marketing practices and consumers' special susceptibility.

### **Vulnerability incidence rates**

To operationalise the five dimensions, the study develops a number of general and sector-specific (energy, finance and online) indicators which can be populated with information from the survey and the experiments.

- The highest vulnerability incidence rates are observed EU-wide for the indicators of dimension 5 of vulnerability, namely "Higher susceptibility to marketing practices", reflecting the inability of consumers of choosing the optimal deal in the experiments.
- The second highest incidence rates are observed in the case of dimension 4 vulnerability. In particular, vulnerability arises because consumers do not compare deals or have problems comparing deals because of market-related factors or personal factors. Overall, almost 75% of EU-28 consumers exhibit at least one such dimension 4 vulnerability.
- Dimension 2 indicators, namely individual personal characteristics, do not have particularly high vulnerability incidence rates. However, overall, about 23% of consumers are vulnerable on the basis of one or several personal characteristics. Among the personal characteristics, financial and employment circumstances show the highest incidence rate.
- The incidence of dimension 1 and 3 vulnerability indicators is relatively low, generally 10% or less and never exceeds 15%. Overall, both the analysis of the incidence of vulnerability across the EU as whole and of the variation of vulnerability across EU Member States highlights that marketing practices, lack of use of information or imperfect information and access issues are the most frequent causes of vulnerability.

In terms of the variation of vulnerability incidence rates across the EU, Germany, the Netherlands and Norway are the countries where the vulnerability incidence rates are in general markedly lower than the EU-28 rates while the opposite is true in Cyprus, and to a somewhat lesser extent in Croatia and Romania.

Among the three sectors of particular interest for the study (finance, energy and online),

the incidence of vulnerability tends to be higher in the energy and financial sectors than in the online sector for the majority of the vulnerability indicators.

Each of the sectors however has important specificities. In particular, in the financial and energy sectors, complexity presents a challenge for a very wide range of consumers as they are likely to find it difficult to understand and compare offers.

### **The average consumer**

The Unfair Commercial Practices Directive distinguishes the notion of the average consumer from the vulnerable consumer. The average consumer is defined as a consumer “who is reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors”. Given the two different consumer concepts in the UCPD the study also reviews the extent to which the “average” consumer is vulnerable under one or several of the vulnerability dimensions. Overall, for each of the vulnerability indicators, the “average consumer,” as represented by the median consumer, exhibits few signs of vulnerability.

### **Vulnerability drivers**

Among the set of drivers of vulnerability (personal and demographic characteristics, behavioural drivers / characteristics, market-related drivers, access drivers and situational drivers) considered by the study, market-related drivers are found to be particularly important, since these are often consistently linked with many vulnerability indicators across multiple dimensions, and often have the strongest effects on individual indicators.

However, other types of drivers are also important, especially with respect to certain dimensions and vulnerability indicators. For example:

- Among the behavioural drivers, being trusting has particularly strong effects on feeling uniformed about prices, quality, etc. and feeling vulnerable due to the complexity of offers;
- Among the access drivers, using the internet to search for information has a strong impact on being able to choose between offers; and,
- Among the situational drivers, finding it hard to make ends meet is linked with vulnerability across many dimensions.

Using the results from the analysis of the incidence and drivers of vulnerability the study populates a theoretical framework of vulnerability developed on the basis of the literature review. Such an approach provides a concise overall picture of the most important drivers and effects of vulnerability. The key points to note are that:

- Market-related drivers are especially important, in particular being unable to read contract terms and conditions and being disengaged from markets (e.g. in terms of not knowing contract conditions, or not reading communications). This suggests that measures that ensure information is presented in a salient and accessible way, methods to raise awareness of tools that can aide comparison in markets, and measures that increase consumer awareness of market conditions, may be effective at mitigating vulnerability.
- Behavioural drivers also have important effects, in particular more impulsive consumers are, on the whole, more likely to be vulnerable on several dimensions while consumers who are willing to take risks are generally less vulnerable. These results suggest that behavioural biases such as risk aversion and cognitive limitations are relevant to vulnerability, and that measures that target these factors, for example interventions to improve the presentation of information, may be effective in reducing vulnerability.
- Among the situational drivers, finding it difficult to make ends meet and having friends who cannot make ends meet are found to be especially important. This suggests that measures to reduce financial pressure on consumers (e.g. social tariffs) may be effective in reducing vulnerability.

The study also examines the interaction between marketing practices and consumer

vulnerability. Four behavioural experiments were undertaken to assess the effect of various common marketing practices on consumer decision making, namely the level of prominence given to important information (in the financial sector), the impact of dripping prices and information (in the on-line sector), the complexity of tariffs (in the energy sector) and the impact of the use of a teaser rate (across the three sectors). On average across the four experiments, 62.5% of the consumers managed to select the best offer under the marketing practice. However, when consumers were provided with clearer information 69.2 % of the consumers selected the best offer, a statistically significant increase of almost 7 percentage points.

### **Revised definition of vulnerability**

This study explores the definitions of vulnerability used in literature, highlighting the shift from definitions focusing on personal characteristics of the consumer to definitions taking into account the overall situation in which the consumers find themselves. The consequent investigation of vulnerability drivers and marketing practices confirms that the broader market environment is an important element of vulnerability, but that temporary or permanent characteristics of the consumer also play an important role.

Based on the identified literature, the study aimed to operationalise consumer vulnerability in terms of a set of five dimensions. This operationalisation can in turn be used to update and enhance existing vulnerability definitions. A “vulnerable consumer” could therefore be defined as:

“A consumer, who, as a result of socio-demographic characteristics, behavioural characteristics, personal situation, or market environment:

- *Is at higher risk of experiencing negative outcomes in the market;*
- *Has limited ability to maximise their well-being;*
- *Has difficulty in obtaining or assimilating information;*
- *Is less able to buy, choose or access suitable products; or*
- *Is more susceptible to certain marketing practices.”*

### **Measures to address vulnerability**

Measures addressing consumer vulnerability in place at the EU and Member State level include:

- Support measures, including both financial and non-financial support;
- Protection measures targeting economic actors and aiming to eliminate problematic practices; and
- Awareness-raising measures, such as information campaigns or provision of specific advice.

Examining national approaches, measures addressing consumer vulnerability are relatively common across the EU. At the same time, a considerably smaller number of Member States appear to have developed a broader strategic approach to consumer vulnerability.

However, no clear pattern emerges from a comparison of a classification of Member States based on identified measures and strategic approaches with the observed incidences of vulnerability. This finding suggests that there is no clear link between incidence of vulnerability and the national approach to vulnerability. However, it is important to note that the analysis cannot identify the direction of potential causality (i.e. whether measures addressing vulnerability result in lower incidence, or whether high incidence of vulnerability spurs the introduction of relevant measures at national level).

### **Policy implications**

Given the complexity of consumer vulnerability, what constitutes a good practice depends on the specific driver or marketing practice to be addressed, as well as the broader market environment. Nevertheless, the study identifies a set of broad measures likely to have a positive impact. These include:

- Well targeted support measures in the energy-sector that address fuel poverty among vulnerable consumers;
- Measures addressing marketing practices that exploit consumers' vulnerable situations; and
- Measures improving the quality and transparency of information.

More specifically a range of potential policy options are proposed for mitigating the various effects of the different types of vulnerability drivers:

- Personal and demographic drivers: ensure that information is accessible to non-native speakers as not being a native speaker is among the various personal and demographic drivers and a major source of vulnerability; measures to help young people overcome the feeling of being unassertive or problems with comparing deals and to help older people overcome problems of choosing and accessing deals;
- Behavioural drivers: measures to address issues with complex, misleading or difficult to understand information and provision of simple, clear, transparent and comprehensive information;
- Market-related drivers: provision of simple, clear, transparent and comprehensive information, awareness-raising campaigns about comparison tools and existing market conditions;
- Access drivers: measures to improve access to, knowledge of and confidence in the online environment, improved physical accessibility of public and private commercial buildings and potentially redefining discriminatory treatment;
- Situational drivers: measures to alleviate or mitigate financial pressures on individuals and households (including well targeted support measures in the energy sector to address fuel poverty) and measures assisting consumers who are totally or largely confined to their home.



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