



Brussels, 24 May 2023

Dear Members of the European Parliament,
Dear Members of the Working Party on Civil Law Matters,

Re: Negotiations on the Revision of the Directive on Liability for Defective Products Cannot be Rushed

Our associations represent a broad coalition of global and European companies, including startups, SMEs and technology companies.

We are writing to you in the context of the negotiations of the EU Directive on Liability for Defective Products, also known as the Product Liability Directive (PLD). Discussions on this file have recently accelerated.

Our coalition would like to emphasise that such important discussions cannot be rushed especially when there are several concerns regarding the potential significant impact of some of the proposed measures on the technology sector. The revision of the PLD should create a balanced and proportionate consumer protection framework while at the same time avoid disincentivising innovation. To make sure the new PLD is future-proof, changes to this strict liability regime should be carefully balanced. We are urging legislators to especially consider thoroughly the following issues:

- **Software, AI applications and services** should not be included in the scope of the PLD as they must be integrated into a tangible product to create material harm. The revision

should be limited to where the current liability regime is inefficient, taking into account that other liability regimes efficiently cover defective software, to avoid insurability issues and protect innovation in the EU.

- The **definition of material harms** should be clear and actionable to avoid fragmentation in the application of the PLD across Member States, especially under a strict liability regime. Immaterial harms such as data loss/corruption, and psychological damage are appropriately addressed under other legislation.
- **Minimum and maximum damage thresholds** should be considered to ensure that this strict liability regime can be effective as intended, i.e. a last resort when other regimes fail to provide compensation to consumers. Thresholds would ensure that the PLD does not open mass claims or impossibility to insure products.
- The **disclosure obligations and the alleviation of the burden of proof** should be balanced with sufficient safeguards so that businesses operating in the European market are not risking fishing expeditions and excessive litigation.
- The **chain of liability** should remain coherent with the recently adopted Digital Services Act, as well as product safety and market surveillance legislation.

We call on the European Parliament and the Council of the European Union to not prematurely adopt their positions without carefully assessing these points.

Our coalition continues to support the overarching goals of the new PLD to bring more certainty to consumers. We are also seeking to minimise the unintended consequences this revision could have on companies' ability to bring new products to the market and for innovation to thrive in the European Union.

We thank you for your consideration and remain at your disposal to provide additional information.

Signatories (in alphabetical order):

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