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# **Increasing Systemic Legal Risks in the EU: The Economic Impacts of Changes to the EU's Product Liability Legislation**

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## ***European Commission's Proposed Changes to Product Liability Directive Increase Legal Uncertainty for Technology Companies in the EU***

**Brussels, 13 June 2023** - The recently proposed changes to the Product Liability Directive (PLD) by the European Commission have raised concerns among technology companies operating in the European Union (EU). The PLD, which determines the rules for strict product liability in the EU, aims to establish a framework for manufacturers' liability based solely on the presence of defects in their products, regardless of fault. However, the proposed changes have been criticized for increasing legal uncertainty and imposing new legal risks on technology-intensive industries.

The proposed amendments fail to adequately account for the complexities of software development and the unique risks associated with technology products and services. The inclusion of stand-alone software and digital services within the PLD's scope poses significant challenges for software developers, who may be held liable for defects beyond their control or knowledge. Additionally, the extension of compensable damage to psychological health and the loss or corruption of data further exacerbate legal risks and increase the burden on technology companies.

***"The impact assessment conducted by the European Commission does not sufficiently address the potential negative impacts on businesses, insurers, and courts"***, argues Matthias Bauer, the author of the study. The proposed changes

could deter technology companies from marketing their products and services in the EU or limit their offerings, leading to reduced consumer choice, higher prices, and a decline in innovation in the region.

To address these concerns, policymakers are urged to reconsider the proposed changes and ensure that the PLD remains proportionate and appropriate for technology-intensive industries. Specific policy recommendations include limiting the scope of strict liability for software and digital services to critical applications with significant potential harm, excluding damages related to psychological health and data loss/corruption, and exploring alternative liability regimes that are more suitable for the unique characteristics of software development.

***“The future of technology innovation and investment in the EU is at stake. It is essential to maintain a reasonable balance between consumer protection and fostering a favorable environment for technology companies to thrive – and thereby contribute to the EU's economy and its future competitiveness”***, concludes Matthias Bauer.

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