



The Consumer Voice in Europe

EU ACTION ON COLLECTIVE REDRESS

Letter sent to President José Manuel Barroso

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Ref.: X/2012/027 - 26/04/2012

Ref.: L2012_186/MGO/AMA/as

25 April 2012

Dear President Barroso,

Subject: EU action on Collective Redress

I write on behalf of BEUC to express our support for your endeavours to move forward on the key issue of collective redress. We and our members across Europe have high hopes that concrete action will finally be taken by the Commission and will fill in the current gap of access to justice for European citizens.

As you are aware, despite numerous previous consultations, studies and a considerable amount of work by various Commission services, the Commission once again consulted stakeholders in the spring of 2011 on the need for and viability of a European collective redress instrument. More than 300 stakeholders and 18,000 individual citizens submitted their responses to this consultation. However, a follow-up Commission Communication, expected to outline the EU's next steps and foreseen in the Commission's Work Programme 2011, has not yet been published.

The European Parliament expressed its views in the own initiative report adopted on February 2nd, 2012. The report explicitly "welcomes the Commission's work towards a coherent European approach to collective redress". Besides underlining the possible benefits of collective judicial actions, the report additionally notes that collective redress mechanisms currently available within the EU have not generated disproportionate economic consequences.

During discussions at the collective redress conference in March 2012 organised by the Danish Presidency, a wide variety of national cases were presented and debated - along with a number of suggestions for efficient safeguards which already exist in Member States. We have also recently produced a booklet with some examples of national collective redress cases and it is appended in the Annex of this letter.

You are well aware that those who express scepticism or even opposition to the introduction of a collective consumer redress mechanism systematically refer to the abuses which can occur under the US class action procedure. However, they often omit to say that efficient safeguards already have been identified and successfully implemented. In order to constructively contribute to this debate, we published¹ comparative research of 6 Member States' legal systems examining the powers of the judiciary which ensure appropriate use of procedure and protection of the rights of both parties to the case.

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¹ Available at <http://www.beuc.eu/Content/Default.asp?PageID=2140>

There are numerous mass claims situations in Europe. Unfortunately, in most of them consumers cannot obtain compensation and remain empty-handed. The Commission's work on ADR is insufficient to fill in this gap. We agree that the early settlement of disputes should be encouraged where possible and the courts should be viewed as a last resort. It is not our intention to foster litigation or flood the courts with cases, neither such fears are supported by the evidence from those European countries where collective redress is in place. However, consensual dispute resolution without the possibility to use a judicial collective redress procedure has proven to be insufficient in providing adequate incentive for businesses to participate and to reach a fair settlement.

Recent scandals related to defective breast implants (at least 100,000 victims throughout Europe) or dangerous medicines, as well as numerous other cross-border unfair commercial practices and infringements of consumer rights leave EU citizens stranded with little prospect of redress. It is unfortunate that the lack of action from the Commission allows some wrong-doers to retain illegal profits and fails to create incentives for fair competition.

We thus reiterate our high hopes that, alongside other steps to strengthen the Internal Market, your Commission will proceed with concrete legislative steps on collective redress.

Yours sincerely,

Monique Goyens
Director General