

FACTSHEET

Collective Redress

What is collective redress?

It's when consumers who have suffered the same loss or harm caused by the same trader come together and seek redress in court as one. Also known as a group action or class action, it enables a group of consumers who have had their rights violated to be represented by a consumer organisation which seeks fair compensation for them in situations where consumers would otherwise be left empty-handed.

Why does the EU need collective redress?

It would bring us closer to a modern, fair and balanced Single Market for many reasons, including:

Justice Even faced with breaches of their rights and having suffered damage, most consumers would not seek redress individually, as court procedures can be very long, costly and intimidating. This situation is not only unjust for consumers and fair businesses, but also indirectly encourages the rough traders (even if caught, they do not have to return illegal profits).

Scope Collective redress can deal with a wide range of issues, from defective goods, to negligent financial advice, and from flight delays to personal data protection.

Method Injunctions or ADR (Alternative Dispute Resolution) are important but insufficient answers when thousands or even millions of consumers face a collective loss.

Need The Commission found¹ that 79% of EU consumers would be more willing to defend their rights if they could join up with other consumers who suffered the same harm.

Access to redress is about justice for citizens, correcting imbalances in the Single Market, ensuring a level playing field for all business, and providing an extra reason for traders to improve their performance.

Does it exist elsewhere?

The European Parliament called for the establishment of an EU-wide system of collective redress in April 2017². Only a few EU countries provide a workable and consumer friendly form of judicial collective action. Collective redress schemes have also operated for many years in non European countries, notably in Canada, the USA and Australia.

Fears of excesses of the US system being repeated in Europe are wide of the mark. Key safeguards of collective redress schemes in place in European countries include:

- Compensation is just for the harm caused and does not include a fine as punishment for the company involved (so no punitive damages, like in the US)
- The 'loser-pays' principle helps prevent unsound cases from being brought forward
- Active court control of the case's admissibility and the entire proceedings means that the court can first rule if bringing the case is justified

¹ Eurobarometer 299, P.8: http://ec.europa.eu/consumers/strategy/docs/consumer_eurobarometer_2011_en.pdf

² European Parliament press release (April 2017): <http://www.europarl.europa.eu/news/en/news-room/20170329IPR69052/car-emissions-meps-urge-eu-commission-and-member-states-to-clean-up-their-act>



Contrary to claims by business associations, there have not been any instances of commercial bankruptcies in EU countries where there is a collective redress scheme in place.

Where collective redress works

In 2010, after the Spanish consumer organisation OCU took action, Spanish electricity providers FECSA-Endesa and REE were found guilty of serious negligence in maintaining the electricity network, which has led to an electricity blackout in 2007 and affected more than 300,000 consumers. The compensation included an automatic 10% discount on consumers' bills plus financial compensation that ranged from €122 to €300 per person depending on the length of blackout.

Why has EU business nothing to fear from fair play for consumers?

By establishing a deterrent for breaches of law, an EU collective redress scheme would help efforts to eradicate commercial malpractice and illegal profiteering in the EU market.

The Commission's impact assessment³ found in cross - border competition law breaches and cartels alone that, "the annual direct cost to consumers and other victims in the EU ranges from approximately €13 billion (the most conservative assumption) to over €37 billion (the highest-ranging)".

Millions of EU consumers bought Volkswagen cars that had been fitted with devices to cheat emissions tests. In most countries⁴, these consumers are currently unable to seek compensation because their countries do not have a collective redress scheme in place.

BEUC regrets that, despite numerous prior consultations and studies identifying a lack of possibility for consumers to obtain redress in mass claim situations, no binding measures have yet been taken at European level.

The Commission Recommendation on common principles for collective redress in 2013 was only applied by a few countries. Three-and-a-half years later, 360 million consumers still do not have access to a functioning collective redress scheme. Clearly this longstanding political inaction is costly, both in commerce and justice. The Commission will assess the implementation of the Recommendation by end of July 2017 and we strongly call that the report proposes binding legislative measures.

Ten 'Golden Rules' for EU collective redress

Any EU system of collective redress must:

- Encompass all areas of consumer harm
- Aim to obtain compensation for consumers
- Allow consumer organisations to represent claimants
- Cover both national and cross - border cases
- Give the court discretion over claim admissibility
- Involve both 'opt - in' and 'opt - out' procedures
- Be accompanied by information for consumers
- Control out - of - court settlements
- Allow compensation to be distributed fairly
- Foresee efficient funding mechanisms

³ See European Commission impact assessment, [Accompanying document to the WHITE PAPER on Damages actions for breach of the EC antitrust rules](#), page 14.

⁴ Except for in Belgium, Italy, Portugal and Spain, where BEUC member organisations have launched collective actions for compensation on behalf of Volkswagen car owners.