

Mr Jean-Claude Juncker
President of the Commission

Mrs Vera Jourová
Commissioner

European Commission
Rue de la Loi 200

B – 1049 Brussels

Ref.: BEUC-X-2017-107

10 October 2017

Subject: Time for the European Commission to legislate on collective redress

Dear President Juncker,
Dear Commissioner Jourová,

I write on behalf of BEUC, The European Consumer Organisation, to ask you to propose a binding legislative measure on collective redress.

Consumer rights at EU level have come a long way over the last 20 years. However, the inability of consumers to band together to claim their rights when they have suffered detriment is one of the missing pieces of the jigsaw for EU consumers to access justice.

As you are aware, Volkswagen has steadfastly refused to compensate consumers in Europe affected by the emissions scandal. This is in stark contrast to their response in the United States, where the threat of class action has proved decisive in delivering compensation for affected consumers.

In your State of the Union speech a few days ago, you said that you are “shocked when consumers are knowingly and deliberately misled” and that you “call on the car industry to come clean and make it right”.

We know that despite Commissioner Jourová’s efforts, which we appreciate, the company still refuses to put things right. Since the scandal broke over two years ago, VW remains adamant it will not compensate European car owners.

It is now in your hands to decide whether in the future European consumers who have been victims of fraud on a large scale, or who have suffered from a trader’s unfair or illegal practices, should have a realistic chance to be compensated. In such circumstance, consumers must not be left footing the bill.

Volkswagen’s fraudulent actions have affected the value of millions of consumers’ cars who must be compensated. Only in four Member States was it possible for BEUC members to bring collective redress claims against the company. This is because, in these four jurisdictions (Italy, Belgium, Spain, Portugal), there are relatively well-functioning collective redress systems in place, which consumer organizations can use to help consumers enforce their rights.

It is unacceptable that misled consumers in other Member States are left without an affordable and practical solution. Not only is it unfair to those consumers, but also manifestly demonstrates the lack of a Single Market.

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This is another example of where we need a Union of equals, not of first and second-class citizens or consumers – as you said in your State of the Union speech.

The most recent example of Ryanair cancelling thousands of flights and not even informing consumers about their right to compensation (deriving from EU Regulation 261/2004) is another situation where consumers today are left without an appropriate tool to collectively claim their rights.

Even where national schemes are available, there are still too many situations where procedures are overly burdensome and consumers are left *de facto* without any compensation. This is the case for example in Lithuania where several cases have failed because of very strict opt-in requirements. Furthermore, national schemes differ significantly and most are not adapted to solve cross-border cases.

There is thus a clear justification for the European Union to act. The principle based recommendation on collective redress of 2013 could serve as a starting point for a minimum harmonizing binding legislation. The European Commission has already carried out extensive studies and public consultations on collective redress¹, which all put forward strong arguments for a collective redress scheme at EU level. The Commission also recommended² to all Member States that they create collective redress mechanisms at national level for both injunctive and compensatory relief. However, the non-binding nature of the Recommendation has meant it has had little effect.

Ideas to strengthen injunction procedures *instead* of introducing a proper collective redress mechanism should be dropped. These legal tools serve different objectives (injunctions – to stop infringements that are ongoing, collective actions for compensation – to compensate victims that already suffered from the infringement), and cannot replace one another.

We urge you to put forward an instrument that will protect European consumers/citizens when the next scandal strikes.

As you know, the European Parliament has, with a clear cross-party majority, called for the establishment of an EU-wide system of collective redress in a vote on 4 April 2017 in its resolution on emission measurements in the automotive sector.³

Please see the key MEPs that support our call as co-signatories to this letter listed below.

The time to act is now. We hope that European consumers can count on you to do so.

My team and I are available for any further information you might require.

Yours sincerely,

Monique Goyens
BEUC Director General

¹ Many of them available on the website of DG Justice here:

http://ec.europa.eu/consumers/solving_consumer_disputes/judicial_redress/index_en.htm

² Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States (2013/396/EU) L 201/62, point 2.

³ European Parliament recommendation of 4 April 2017 to the Council and the Commission following the inquiry into emission measurements in the automotive sector (2016/2908(RSP)), P.59.

This letter is co-signed by (in alphabetical order):

- Lucy Anderson, S&D
- Max Andersson, The Greens/EFA
- Georges Bach, EPP
- José Blanco López, S&D
- Biljana Borzan, S&D
- Carlos Coelho, EPP
- Miriam Dalli, S&D
- Seb Dance, S&D
- Nicola Danti, S&D
- Pascal Durand, The Greens/EFA
- Bas Eickhout, The Greens/EFA
- Ismail Ertug, S&D
- Eleonora Evi, EFDD
- Evelyne Gebhardt, S&D
- Maria Grapini, S&D
- Sergio Gutiérrez Prieto, S&D
- Liisa Jaakonsaari, S&D
- Arndt Kohn, S&D
- Merja Kyllönen, GUE/NLG
- Philippe Lamberts, The Greens/EFA
- Marlene Mizzi, S&D
- Massimo Paolucci, S&D
- Serpa Pietikäinen, EPP
- Julia Reda, The Greens/EFA
- Evelyn Regner, S&D
- Frédérique Ries, ALDE
- Bronis Ropé, The Greens/EFA
- Virginie Rozière, S&D
- Alfred Sant, S&D
- Christel Schaldemose, S&D
- Olga Sehnalová, S&D
- Igor Soltes, The Greens/EFA
- Catherine Stihler, S&D
- Marc Tarabella, S&D
- Martina Werner, S&D
- Kerstin Westphal, S&D
- Francis Zammit Dimech, EPP
- Marco Zullo, EFDD

C/c:

- Martin Selmayr, Head of cabinet President Juncker
- Michael Shotter, member of cabinet President Juncker
- Stefano Grassi, member of cabinet President Juncker
- Renate Nikolay, Head of cabinet Commissioner Jourová
- Simona Constantin, member of cabinet Commissioner Jourová
- Eduard Hulicius, member of cabinet Commissioner Jourová