



COLLECTIVE REDRESS FOR CONSUMERS
—
PUBLIC STATEMENT TO PUT DOSSIER ON
HOLD BY VICE-PRESIDENT REDING

Contact: grouppaction@beuc.eu

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BEUC, the European Consumers' Organisation

80 rue d'Arlon, 1040 Bruxelles - +32 2 743 15 90 - www.beuc.eu

 EC register for interest representatives: identification number 9505781573-45 

Mr. José Manuel Barroso
President
European Commission
Rue de la Loi 200

B - 1049 Brussels

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29 September 2010

**Collective redress for consumers –
Public statement to put dossier on hold by Vice-President Reding**

Dear President,

We are writing on behalf of the Executive of the European Consumers' Organisation (BEUC) to express their regret and profound disappointment with the reported announcement by Vice-President Reding in the German press (Financial Times Germany of 17 September 2010) that the work of the European Commission on collective redress would be put on hold.

This statement raises serious concerns both in terms of the decision-making process within the College and in terms of its content.

First of all, it is unclear whether Vice-President Reding in her press statement was talking on behalf of the whole College or not. In any case however, her statement contradicts with the position of Commissioner Dalli and Vice-President Almunia, who have both committed to using the forthcoming public consultation as the basis for further legislative proposals on a European style of collective redress, leaving behind *"the hesitations and resistance on this file with respect to guarding against US type class actions"*¹.

Vice-president Reding's statement also appears not to be in line with your commitment in your political guidelines for this Commission, to put citizens and consumers' needs centre stage in the policy making during your second term of office. Furthermore, it seemingly ignores the recommendations of Professor Monti on the re-launch of the Single Market. Indeed, what is the value of a "better" Single Market for EU citizens and what is the worth of EU consumer rights if, in practice, consumers are left without realistic means to enforce these rights?

Secondly, the statement occurs only a few days before the official launch of the consultation on the common principles of collective redress, the credibility of which is seriously undermined now.

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1 Speech by Commissioner Dalli to the IMCO Committee of the European Parliament, 28 April 2010:
http://ec.europa.eu/commission_2010-2014/dalli/docs/ep-imco-committee-28042010_en.pdf

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2

How can the College fulfil its Treaty obligations to consult widely on policy issues and ensure a democratic and transparent process where all stakeholders have the opportunity to present their arguments, if on the other hand, the most senior Vice-President of the European Commission pre-judges its outcome?

Furthermore, we are surprised by the reasons put forward by the Vice-President as justification for abandoning the Commission's work on collective redress. Despite the fact that over the past five years, the intense work of the European Commission has succeeded in focusing the debate on the need for a European mechanism away from the excesses of the US class action system, and identified solutions to do so, Vice-President Reding has brought the whole debate back to the starting point.

It is dismaying to read that it was US business representatives who have prompted the Vice-President's decision. Since the publication of the Green Paper on Consumer Collective Redress in 2008, the position of your previous College has been that the introduction of a European collective redress instrument is *"not in any way a blue print for an American style system of class actions for damages"*.

Any reference to the risk of abuse of the US class action system is contradictory to the national experiences from those EU Member States, where a judicial collective action is already available to consumers. Not only it has not led to the bankruptcy of any reputable business, but it has also provided consumers with the necessary tool to claim compensation when they have suffered damages as a result of an illegal behaviour. The example of Portugal and Spain should be used as the basis for further work of the European Commission². We urge the Commission and most importantly Vice-President Reding, holding the portfolio for Justice in Europe to stop looking at the other side of the Atlantic and get inspiration from the national systems and legal traditions in Europe.

Any decision to refrain from the introduction of a collective actions instrument in Europe, disregards the 73% of European consumers who call for the means to defend their rights in court by way of a collective action mechanism. This strikingly clear statistic is recorded in the Commission's own 'Consumer Markets Scoreboard'³.

In times of economic crises, it is the confidence of European consumers in the market place which needs to be strengthened, rather than business practices which violate the law and avoid compensating those who have suffered economic losses. The European Commission has itself estimated that the annual direct cost to consumers and other victims of cartels ranges from approximately €25 to €69 billion annually⁴.

The adoption of legislative proposals in the field of collective redress would give teeth to the ambitious objective of *"building a citizens' agenda which would put people at the heart of European action and ensuring that access to justice should be made easier, particularly in cross-border proceedings"*⁵

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2 Evaluation of the effectiveness and efficiency of collective redress mechanisms in the European Union, Study by Civic Consulting and Oxford Economics, commissioned by DG SANCO Part 1 p.78-80.

3 Second edition of the Consumer Markets Scoreboard, Commission staff working document: http://ec.europa.eu/consumers/strategy/facts_en.htm

4 Impact Assessment accompanying the White Paper on Damages Actions for Breach of the EC Antitrust Rules, SEC(2008) 405, p. 15.

5 European Commission Work Programme 2010: http://ec.europa.eu/atwork/programmes/docs/cwp2010_en.pdf

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3

We urge you, as President of the European Commission to ensure that the decisions of your College are made on the basis of a genuine dialogue with all stakeholders and a transparent and democratic decision-making process, which addresses the needs of European citizens / consumers as you promised. The forthcoming consultation on collective redress should provide for the opportunity for all stakeholders to engage in a public debate and leave behind the “phantoms of the past” based on unfounded fears by businesses.

We remain available to discuss this issue at your convenience.

Yours sincerely,

Paolo Martinello
BEUC President

Monique Goyens
BEUC Director General