

DAMAGES ACTIONS FOR BREACHES OF ANTITRUST LAW – BEUC SUPPORT FOR THE EUROPEAN COMMISSION’S REGULATORY INITIATIVE

Letter sent to the Vice-President of the European
Commission Mr. Joaquín Almunia

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Mr. Joaquín Almunia
Vice-President
EUROPEAN COMMISSION
1049 BRUSSELS

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Brussels, 13th July 2012

**Damages actions for breaches of antitrust law –
BEUC support for the European Commission’s regulatory initiative**

Dear Vice-President Almunia,

BEUC would like to express its strong support for the European Commission’s initiative on the private enforcement of European Union competition law rules, as foreseen in the Commission’s Work Programme 2012.

We would like to encourage the European Commission to issue a binding legislative instrument which would allow victims of anti-competitive practices to claim compensation for the damage they have suffered, including the possibility of collective actions for compensation. We strongly believe that a specific collective action mechanism is needed in the field of competition.

As a result of anti-competitive practices, consumers across Europe suffer disparate and, most frequently, low value damage. The nature of the damage suffered, in combination with both the cost of litigation and inherent complexity of competition cases, acts as a major deterrent to individual legal actions.

In the absence of effective private actions, significant harm to consumers and businesses will continue to go unchecked and the positive impact of competition on productivity, growth and innovation will not be fully achieved.

On the contrary, an effective system of private actions incentivises business to comply with competition law. BEUC believes that the compliance with EU competition rules will be clearly reinforced if collective redress in the field of competition is covered by the instrument in question. This legislation will also be beneficial to SMEs who are so often the victims of anti-competitive practices, but cannot afford individual actions.

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BEUC supports the right for qualified entities (such as consumer or trade associations) to bring representative actions for compensation on behalf of victims. Such a system echoes the principle of consumer justice and responds to the demand of the majority of consumers (79%)¹ who would be willing to defend their rights in court if they could join a collective action.

The European Court of Justice has ruled that any victim affected by an anti-competitive practice has the right to bring an action before court to obtain damages. However, the situation in practice is very different.

As just one example, consider the significant, cumulative losses suffered by consumers affected by the mobile network operators' cartel in France. Every mobile phone owner in France was a potential victim of the cartel (i.e. approximately 30 million people). Despite the considerable efforts made by our member organisation, UFC-Que Choisir, it has not been possible to obtain compensation for that harm. The rules that you build into the instrument currently in preparation will be very helpful in securing restitution for victims in such cases.

Consumer organisations' views on the need for specific measures to improve the legal rules and procedures governing collective private damages actions are also reflected in the ECCG² opinion on private damages actions in competition³. The opinion sets out concrete proposals for ensuring consumers who are victims of competition violations can enforce their right to compensation.

We urge the European Commission to proceed with a legislative proposal on the private enforcement of competition law in order to provide victims with the opportunity to use collective actions to get compensation for the damage suffered. The establishment of pan-European rules in this field will boost competitor and consumer confidence which they badly need in these times of financial crisis and economic downturn.

We would very much welcome the opportunity to further discuss our views with your services.

Yours sincerely,

Monique Goyens
Director General

C/c: Mr Johannes Laitenberger, Head of Barroso's Cabinet
Mr Carlos Martinez Mongay, Head of Almunia's Cabinet

¹ Flash Eurobarometer 299 'Consumer attitudes towards cross-border trade and consumer protection', March 2011.

² The European Consumer Consultative Group (ECCG) is a consultative group set up by the European Commission and entrusted to represent the interests of consumers to the Commission.

³ Available at:

http://ec.europa.eu/consumers/empowerment/docs/ECCG_opinion_on_actions_for_damages_18112_010.pdf