



The Consumer Voice in Europe

## Re-directing justice

Competition fines as a source of funding for consumer related projects and organisations.

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Ref.: X/2012/069 - 17/09/2012

## Summary

BEUC believes the time has come for the institutions of the European Union to consider **redirecting portions of fines** collected by the Commission in response to infringements of EU competition law and **allocating them to consumer organisations or consumer-related projects**.

This would enable even if indirectly, activities aimed at enhancing consumer protection to be funded by those who infringe the laws.

Currently, the fines imposed by the Commission in instances of competition law infringements are fully deposited in the Community budget. From cartels alone, the EU collected more than €614 million in 2011<sup>1</sup>.

This paper provides several examples of mechanisms operating in various Member States which could inspire the EU.

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<sup>1</sup> EU Cartel Fine Statistics, source:  
<http://ec.europa.eu/competition/cartels/statistics/statistics.pdf>

Yearly fines imposed (not adjusted for Court judgments):

2008	€2,264,343,900
2009	€1,540,651,400
2010	€2,868,676,432
2011	€614,053,000

Consumer policy has long suffered from inadequate funding, whilst at the same time being promoted as key to economic growth. As recently as September 2012, while voting on the 2014-2020 Consumer Programme report, the European Parliament expressed concerns that the budget proposed for the Programme was “not enough to meet the new challenges that will face EU consumer policy in 2020”<sup>2</sup>.

In parallel, consumers are often directly or indirectly affected by the consequences of anticompetitive commercial practices. Unfortunately, due to the absence of effective collective redress mechanisms, they are rarely compensated for the harm or loss they have suffered. While competition infringements occur every day, very few compensation cases are reported and it is estimated that the unrecovered damages of infringements of EU antitrust law amount to over a €20 billion per year.

Although the fines imposed on those who infringe competition laws today serve another purpose than compensating the victims, a part of the funds collected from fines could be used for consumer-related projects or the activities of consumer organisations. Below we provide several examples of similar mechanisms available in various Member States.

## I. Fines in competition cases/other fines for consumer-related infringements

In [Italy](#), the law 388/2000 provides that administrative sanctions imposed on undertakings by the Competition and Market Authority can be allocated to initiatives for the benefit of consumers. The initiatives are identified on a case by case basis, by the Ministerial decree and after consultation with appropriate Parliamentary committees. The funds can be given to the regions (to promote consumer initiatives in collaboration with consumer organisations), chambers of commerce, consumer organisations or other bodies. To be eligible to apply, consumer organisations must be included in the national list of consumer organisations.

Thanks to this funding, our Italian member Altroconsumo, together with 3 other organisations have developed consumer information site <http://www.checkupdiritti.it>. The website provides information about consumer rights in a number of important domains: privacy and telemarketing; unfair commercial practices; tourism; consumer credit; after sales guarantees. Alongside the website, the organizations involved ran awareness campaign throughout Italy, produced videos on youtube, various press articles, delivered miniguides in Italian and English together with free toll numbers etc.

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<sup>2</sup> EP press release of 6 September, 2012, REF.: 20120903IPR50347, available at <http://www.europarl.europa.eu>

In [Greece](#), the Act for Consumer Protection (2251/1994 with subsequent amendments) states that after a successful collective action, consumer organisations are entitled to receive a percentage of pecuniary compensation due to moral damage. The amount granted by court is directed for the purposes of education and protection of consumers and, after the subtraction of court expenses, it is given at the following rates:

- a) 35% to the plaintiff consumers' union,
- b) 35% to consumers' unions of second degree and
- c) 30% to the State budget. Issues pertaining to the application of the above and every relevant detail are settled by decision of the Minister of Development. Unfortunately, as the ministerial decree for this effect has not been adopted, the mechanism does not work in practice.

In [Portugal](#) a specific fund was recently established as a result of the government decision to ban an overcharge on certain consumer bills by public service providers. As most providers had already charged the consumers, they were obliged to reimburse them. However, most affected consumers did not have the evidence required and so did not request the reimbursement. As a result, the government created a specific fund for the promotion of consumer rights to which the remainder of the amount was transferred. All NGOs can apply for money from this fund, provided the funding will be used for the promotion of consumer rights (including promotion of ADR, consumer education etc.).

Rover case in the [UK](#)

For some years, Rover the car manufacturer had been preventing car dealers from cutting the prices of their cars. When the European Commission was made aware of it, they decided formal proceedings were inappropriate or unnecessary, but nevertheless that Rover had to enter into negotiations with Which?, the UK consumer association, on how to compensate those harmed by this practice.

In theory Rover could have been asked to compensate all those who had bought the relevant cars during the period in question, but the details had since been lost. In any event, no-one could have known which customers would have held out for a discount. Therefore, the compensation was set at £1 million and it was agreed that the money should go to two projects: one on car security (on behalf of all consumers) and one on the accessibility of cars for people with disabilities (carried out by Which? sister organisation RICA, now Ricability).

## II. Other funding measures

### - Available at the moment

[Consumer Focus](#) in the UK is partly funded by levies imposed on energy companies and Royal Mail. The organisation has received such funding since it was set up in 2008. Before this, the two sector-specific consumer organisations Energywatch and Post Watch were funded in the same way. It is required by law - the Consumer, Estate Agents and Redress Act 2007 - which also sets out the powers and duties of Consumer Focus.

The [Danish Consumer Council](#) receives payback on citizens' tax contributions. The amount is approximately 20% of the organisation's turnover.

[Slovenian](#) taxpayers can dedicate 0.5% of their personal income tax to certain non-governmental organisations, societies etc. The list of beneficiaries is approved by the Government after proposal by the Ministry of Finance. ZPS, our Slovenian member, is among the organisations to which Slovenian taxpayers can donate. In 2010, ZPS received approximately €17,000. This award is quite high in a national context, as it places ZPS 17<sup>th</sup> among the 3,500 beneficiaries of the scheme thus far.

Similar mechanisms of tax donations are also available at least in [Slovakia](#), [Romania](#) and [Italy](#).

#### **- Called for by consumer organisations**

In [The Netherlands](#), Consumentenbond has proposed to give representative consumer organisations the possibility to make use of governmental funds, in the form of subsidised legal aid, when they start a collective case. Individual victims can ask the government for help if they cannot afford to pay for a lawyer themselves. This funding with which the government provides legal aid for several individual victims, could be used more efficiently if one qualified lawyer handles the case on behalf of the group. The Minister of Justice is looking into this matter at the moment.

In [Germany](#), a legal procedure can be taken to skim-off illegal profits. However, as the compensation would go back to the public purse and not even a percentage is allocated to the organisation which brings such claim (while the organisation bears full financial risk if losing a case), there are not many incentives to use this procedure. VZBV (who had initiated and won skimming-off cases on several occasions) is calling for the system to be improved.

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