



JOINT STATEMENT

Collective Redress Mechanisms A call to avoid the introduction of a litigation culture in Europe

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The American Chamber of Commerce to the EU, BUSINESSEUROPE, EUROCHAMBRES, the European Justice Forum and the US Chamber Institute for Legal Reform have grave concerns regarding the proposed legislative instrument being prepared by DG Competition on the basis of the White Paper on damages actions for breach of EC antitrust rules.

While this proposal purports to be narrowly aimed at the enforcement of competition policy, it will have a wider impact on Member States' legal frameworks and civil procedure law as it focuses on litigation as the privileged mechanism of collective redress.

This approach has the potential to foster a litigation culture in Europe that is alien to national legal traditions and open to abuse without necessarily achieving effective redress. It will also conflict with many Member States' policies aimed at minimising judicial proceedings.

Regulating civil procedure law is within the Member States' competence. Changing legal frameworks in Member States is a complex undertaking that requires a thorough assessment of the possible impact it will have on national legal systems' internal balances. Whilst being supportive of effective redress for genuine loss resulting from antitrust infringements, we do not believe that it can be best achieved through more litigation.

In addition, we do not understand the apparent rush at a time when collective redress mechanisms are still being assessed by DG SANCO in a parallel initiative, as well as DG MARKT in yet another initiative on the issue which is sector-specific. This consultation finished on 1 March and its findings are not yet known. There is a strong risk that DG Competition's proposal will set a precedent that will prejudice the conclusion of DG SANCO's initiative. This is exacerbated by the fact that there has not been sufficient time to appreciate the functioning of legislative measures addressing similar issues, such as the Small Claims Procedure and the Mediation Directive.

We have concerns that this type of initiative is being undertaken now, with imminent changes over the coming months in both the European Commission and European Parliament.

We therefore call upon the European Commission to avoid adopting in haste a measure that will have such a major impact on the legislative frameworks of the 27 Member States and could introduce in the EU a litigation culture that is alien to European legal traditions.

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