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COMMISSION'S PUBLIC HEARING ON CONSUMER COLLECTIVE REDRESS – 29 MAY 2009, BRUSSELS

ADDRESS BY JÉRÔME CHAUVIN DIRECTOR, LEGAL AFFAIRS AND INTERNAL MARKET

Thank you for the opportunity to kick off this debate. We are happy to be present today and that this first panel focuses on the **problems at stake**

- Defining well the problem is key since we can only discuss the solutions efficiently when the problem has been well defined. We all want to ensure that any option discussed will provide consumers who have suffered harm with quick, efficient redress and at a reasonable cost.
- When defining the problem, the first question is: the European dimension and the existence of a cross-border element that justifies EU action. If we look at the data produced so far the the cross-border dimension is small :
 - The two existing Commission studies have evidenced a small number of mass problems with a very low portion of cross-border cases.
 - Figures of actual cases put the situation into perspective. The Commission in its latest document refers to 326 cases in 8 Member States collected over 10 years which makes on average less than 33 cases per year. Only 10% of these have a cross-border element, which means an average of 0.4 cases with a cross-border element per country per year.
 - This shows that cross border mass claim is not the main problem.
- In our view and in light of the data produced, the REAL problem is how to deal with claims too small for an individual consumer to use traditional, mainly judicial mechanisms which are too costly, lengthy and too complex.
- The reality is that in those countries where the option between judicial (collective or not) redress and ADRs exist, consumers prefer to go for ADRs because they are faster and more efficient. Sweden provides interesting data that our Swedish member will raise later on.



- By nature court actions will remain complex and will not respond to the problems of cost and length of time to obtain redress.
- The document sent in advance of this meeting also defines as a problem, I quote, that “businesses throughout the EU currently are not able to benefit from a more level playing field and are confronted with the uncertainty created by the current difference between national legal system in case of mass claim”.
- If we agree for the need of a level playing field in terms of legislation and efficiency of enforcement, this does not apply to the type of redress instruments. What matters is that whatever instrument in place, it meets the criteria of efficiency, rapidity and reasonable cost and this is something to be dealt with best at Member States’ level.
- Civic Consulting’s assessment of the Green Paper’s consultation recognises extremely divergent positions, in particular regarding EU involvement in this matter.
- the only consensus that emerges from the green paper replies is on the need to evaluate how the measures already in place work.
- Still we are surprised that this dimension of the problem is almost not dealt with in the latest Commission document.

We want more time to be spent to discuss the

- Assessment of newly introduced instruments: the small claims procedure which is providing consumers with simpler, faster and cheaper procedure for cross-border small claims. The mediation directive.
- How to improve the enforcement and efficiency of existing instruments:
 - Efficiency of the consumer protection network
- How companies can do more to improve the way they deal with consumer claims and how they offer redress to harmed consumers.
- Improve information and assistance to consumers.
- The general objective of the Commission should not be to try to harmonise national judicial procedures by imposing mass claim procedures but to work on means to increase availability, efficiency, awareness and low cost of means of redress mainly for small claims.
- Diversity of instruments is not in our opinion a problem. We are not in favour of a one-size-fits-all approach but of flexibility, pragmatism and efficiency. National legal traditions and specificities have to be respected.



- A last remark: we regret that this latest document does not help to sufficiently further define the problem. A few figures are presented deriving mostly from national cases with no attempt to better understand what is behind. If you take the figures produced in paragraph 47 of the document, which says that out of 80 million consumer complaints twenty are abandoned after first contact, what does it mean, what kind of complaints are we talking about, is it the problem of cost, of language, of complexity of procedure? We would like the Commission to better analyse what is behind these data to be made in order to be able to better assess the problems at stake.
- So we look forward to the discussion we will have today on this.

Thank you.
