



ENFORCEMENT OF CONSUMER RIGHTS

KEY MESSAGES

- 1** Consumer protection and confidence is important for the well functioning of the Single Market and the competitiveness of companies.
- 2** This cannot be accomplished without adequate and effective enforcement of the laws setting the rights and obligations between consumers and traders.
- 3** BUSINESSEUROPE supports effective and easy access to redress to increase consumers' confidence.
- 4** BUSINESSEUROPE is opposed to the EU legislating on judicial collective actions and proposing a one-size-fit-all model. Subsidiarity and diversity need to be respected.
- 5** Action should focus on exploiting the full potential of Alternative Dispute Resolution mechanisms (ADRs) rather than the judicial route that remains too costly, lengthy and complex to provide rapid and cost-effective redress.

BACKGROUND

In November 2008, the Commission published its Green Paper on consumer collective redress looking at whether a lack of collective redress mechanisms in domestic legal systems and across the EU is generally detrimental to consumers. The general problem is how to deal with claims that are too small for an individual to use traditional judicial mechanisms that are too costly, lengthy and complex.

On 2 July 2009, the Commission published its Communication on the enforcement of the consumer acquis. The Commission emphasised that addressing the challenges that enforcers face is critical to delivering tangible benefits to consumers. To achieve this objective, the Commission identified five priority action areas:

- ⇒ Developing stronger and more effective cross-border enforcement cooperation mechanisms;
- ⇒ Strengthening the transparency and visibility of market surveillance and enforcement activities;
- ⇒ Improving knowledge sharing and developing a common understanding of the rules;
- ⇒ Better market monitoring including developing a more strongly evidence-based approach;
- ⇒ Stepping up international cooperation.

On 9 March 2010, the European Parliament adopted a resolution on consumer protection. It notes that enforcement across the EU is far from uniform and urges Member States to increase resources in order to ensure that laws protecting consumers and guaranteeing competition are enforced in retail markets. It encourages Member States to establish independent consumer protection agencies and to consider the benefits of introducing a Consumer Ombudsman. It also points to the need for improvement in terms of redress mechanisms, calling on the Commission to provide follow-up to its Green Paper on Consumer Collective Redress.

During the hearings at the EP and in recent speeches, both Commissioners Viviane Reding and John Dalli have stressed the importance of consumer enforcement to improve the functioning of the internal market. They highlighted Alternative Dispute Resolution mechanisms (ADRs) as important contributors to ensure better enforcement and to getting the most out of the single market.

WHAT DOES BUSINESSEUROPE AIM FOR?

- We support effective enforcement of consumer laws namely through:
 - ⇒ Better public enforcement, streamlining and raising awareness of existing instruments (e.g. injunctions directive, mediation directive, small claims regulation).
 - ⇒ Improving the dialogue between companies and consumers and complaint handling mechanisms;
 - ⇒ Stronger cooperation between national public enforcers through the consumer protection cooperation network;
 - ⇒ Promotion of out-of-court dispute resolution tools like mediation, arbitration and SOLVIT;
 - ⇒ Improving consumer information, education and assistance;
 - ⇒ Improving the quality of new laws and their national transposition.
- We do not believe that there is justification for EU legislative action obliging Member States to introduce judicial collective redress mechanisms. In the light of the principle of subsidiarity and the complexity and diversity of national judicial systems, this decision should be left to Member States.
- We support the promotion of ADRs in Europe. Compared with judicial means, ADRs can provide faster, cheaper and easier settlement of disputes whilst avoiding risk of abuses.