

New Deal For Consumers

Legal Affairs Committee

Rom, 4 October 2018



New Deal For Consumers

Proposals for two directives of the European Parliament and of the Council:

1. Directive on representative actions for the protection of the collective interests of consumers and amending Directive 2009/22/EC (Speaker: Ms. Freise, VdpB)
2. Directive introducing targeted amendments to EU consumer law Directives (Speaker: Ms. Holler, EFBS)



Directive on Representative Actions

Reasons for the proposal

- Resolution of the European Parliament “Towards a Coherent European Approach to Collective Redress” (2012)
- Recommendation 2013/396/EU of the European Commission on common principles for injunctive and compensatory collective redress mechanisms in the Member States (2013)
- REFIT Fitness Check of EU consumer and marketing law (2017)
- Report of the European Commission on the implementation of concerning violations of rights granted under Union Law (2018)

⇒ Need for collective compensatory redress mechanisms

⇒ Replacement of the Directive 2009/22/EC



Directive on Representative Actions

Subject matter of the proposal

“This Directive sets out rules enabling **qualified entities** to seek **representative actions** aimed at the protection of the collective interests of consumers, while ensuring appropriate **safeguards to avoid abusive litigation.**”



Directive on Representative Actions

Subject matter of the proposal

1. Qualified entities
2. Possible representative actions
3. Safeguards to avoid abusive litigation



Directive on Representative Actions

1. Qualified Entities

Proposal:

- legitimate interest in ensuring that provisions of Union law are complied with
 - non-profit making character
 - sufficient financial resources
- ⇒ in particular: consumer organisations and independent public bodies

Any qualified entity may apply to the courts or administrative authorities of another Member State.



New Deal – Representative Actions

1. Qualified Entities

Position paper of EFBS:



- restriction to consumer organisations and public bodies
- minimum number of members and minimum period in operation
- exclusion of “ad hoc entities”
- transparency in relation to funding and members



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2. Possible Representative Actions

Proposal:

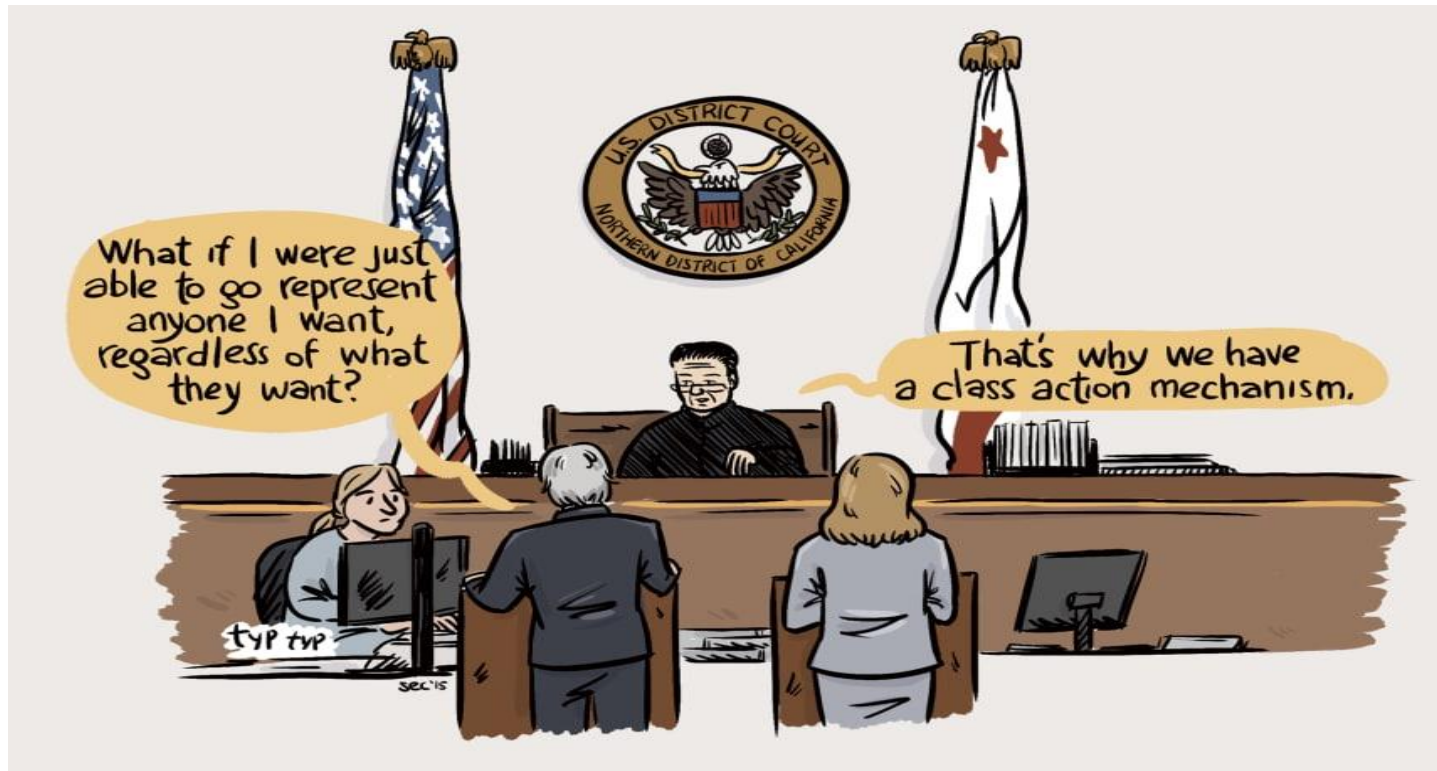
- **injunction orders** = prohibition of practices that constitute an infringement
- **declaratory decisions** - only justified cases where the quantification of individual redress is complex
- **redress orders** = elimination of continuing effects of an infringement, p.e. compensation or contract determination:
 - consumers **concerned are identifiable and suffered comparable harm**, a mandate shall not be required; 
 - consumers **suffered a small amount of loss**, mandate may not be required; redress shall be directed to public purpose serving collective interests of consumers. 



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2. Possible Representative Actions

Position paper of EFBS:



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2. Possible Representative Actions

Position paper of EFBS:

- No action without mandate
- Deletion of special regulations for redress orders in case of low-value losses; redress for consumers instead of redress directed to public purposes



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3. Safeguards to avoid abusive litigation /to ensure fair trial

Position paper of EFBS:

- Binding effects of settlements and decisions
- No preferential treatment for qualified entities
- No obligation for the defendant to provide evidence at the request of qualified entities



New Deal – Representative Actions

Next stages of the legislative process

- **Rapporteur: Mr. Didier Geoffroy**
European People's Party, France



- **European Parliament**

- Consideration of a draft report: 10-11.10.2018
- Deadline for amendments: 29.10.2018
- JURI vote: 6.12.2018
- Plenary: 2019



- **European Council**

- 2018: “The Austrian Council Presidency wishes to conduct the negotiations on the reorganization of these consumer rights constructively.”
- 2019 / 2020?



New Deal – EU consumer protection rules

- **Unfair Commercial Practices Directive 2005/29/EC**
- **Consumer Rights Directive 2011/83/EU**
- **Unfair Contract Terms Directive 93/13/EEC**
- **Price Indication Directive 98/6/EC**



New Deal – EU consumer protection rules

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penalties



New Deal – EU consumer protection rules

- **Unfair Commercial Practices Directive 2005/29/EC**

- individual remedies
- off-premises sales

- **Consumer Rights Directive 2011/83/EU**

- Right of withdrawal

- **Unfair Contract Terms Directive 93/13/EEC**

- **Price Indication Directive 98/6/EC**

penalties

