

Stakeholder Workshops on Consumer Collective Redress

Following the stakeholders' consultation on the benchmarks that should be respected by effective and efficient collective redress systems in order to ensure satisfactory redress for consumers, the Commission held three separate workshops on 21 May 2008, 29 May 2008 and 6 June 2008 (one with consumer organisations, one with the industry and one for legal practitioners) in Brussels. The aim of the three workshops was to inform stakeholders on the results of the benchmark consultation and on the progress of the two ongoing studies but also to discuss substantive and technical issues relating to consumer collective redress, which were of specific interest to each specific group of stakeholders.

At the first workshop on collective redress with consumer organisations issues such as funding of the collective redress action, the status of representative parties and the distribution of proceeds were discussed. Regarding the issue of funding, consumer organisations assessed from their perspective the advantages and disadvantages of the different funding systems (e.g. own resources, sharing the damages awarded to consumers, legal expenses insurance, litigation financing, funds, pro bono schemes, legal aid and loans). Concerning the status of representative parties participants discussed which entity should decide if a claim is admissible and on which criteria. Consumer organisations finally debated how and by whom proceeds could be distributed amongst affected consumers and if a surplus quota for the representatives should be calculated in the total amount of the proceeds.

At the second workshop with business representative topics such as costs of proceedings, out-of-court settlements, compensation and unmeritorious claims were discussed. Concerning the costs of proceedings, participants discussed which expense would influence most the cost of a collective redress action and how this cost could be reduced. They also examined the advantages and disadvantages of in-court and out-of-court collective redress. Regarding compensation, it was discussed whether compensation should be limited to economic loss and to monetary compensation means (e.g. product substitution or vouchers). Finally, different options to avoid unmeritorious claims (e.g. loser pay principle, security deposit, preliminary ruling sanctions) were also debated.

Finally at the third workshop with legal practitioners, participants discussed topics such as admission of the claims, compensation and other types of possible remedies, distribution of proceeds and length of proceedings. Participants debated who should decide on the admissibility of claims and factors to be taken into account when deciding on admissibility. Regarding compensation the debate focused on whether it should also include, for example, non economic loss and be provided by other means (e.g. product substitution or vouchers). The modalities of distributing proceeds in an appropriate manner amongst plaintiffs and possible case management measures to reduce the length of proceedings were also discussed, alongside with the advantages and disadvantages and disadvantages of in-court and out-of-court collective redress.