



EUROPEAN COMMISSION

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*Mr Ondřej BENEŠÍK
Chair of the Committee for European Affairs
of the Poslanecká sněmovna
Sněmovní 3
CZ – 118 26 PRAGUE 1*

*cc: Mr Radek VONDRÁČEK
President of the Poslanecká sněmovna
Sněmovní 4
CZ – 118 26 PRAGUE 1*

Dear Chair,

The Commission would like to thank the Poslanecká sněmovna for its Opinion on the Communication ‘A New Deal for Consumers’ {COM(2018)183 final}, the proposal for a Directive of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers, and repealing Directive 2009/22/EC {COM(2018)184 final} and the proposal for a Directive of the European Parliament and of the Council amending Directive 93/13/EEC, Directive 98/6/EC, Directive 2005/29/EC and Directive 2011/83/EU as regards better enforcement and modernisation of EU consumer protection rules {COM(2018)185 final}.

In line with the objectives of the ‘New Deal for Consumers’ announced by President Juncker in his State of the Union address 2017¹ and included in the Commission Work Programme 2018², the two above-mentioned proposals aim at improving compliance with European Union consumer protection legislation, modernising the Union’s consumer legislation in light of market developments and alleviating burdens on businesses where appropriate.

As regards improving compliance, these proposals introduce collective redress possibilities for duly designated qualified entities to protect the collective interests of consumers and modernise the already existing injunctions procedure enabling such entities to stop consumer law infringements. The proposals also further harmonise rules on penalties for breaches of consumer law and provide for rights to individual remedies for victims of unfair commercial practices. The Commission’s evaluations, on which these proposals are based, show that many consumers are still confronted with and suffer

¹ https://ec.europa.eu/commission/priorities/state-union-speeches/state-union-2017_en

² https://ec.europa.eu/info/sites/info/files/cwp_2018_en.pdf

detriment due to insufficient compliance by traders. This is the background for the Commission's proposals for more effective individual and collective consumer redress and more deterrent public enforcement powers.

The Commission welcomes the support of the Poslanecká sněmovna for the proposed amendment to the Unfair Commercial Practices Directive³ concerning 'Dual quality' products, which clarifies the national authorities' power to prohibit and eliminate misleading marketing of a product as being identical to the same product in other Member States when these products have significant differences.

At the same time, the Commission notes the reservations of the Poslanecká sněmovna regarding the proposed rules on further harmonisation of penalties. The Commission is pleased to have this opportunity to provide the following clarifications regarding its proposal and trusts that these will allay the concerns of the Poslanecká sněmovna .

In accordance with Article 114 (6) of the Treaty on the Functioning of the European Union and the objectives set out in its Article 169 to promote the interests of consumers and to ensure a high level of consumer protection in the context of the completion of the internal market, the proposal includes (minimum) harmonisation of the national rules that establish maximum fines for widespread cross-border infringements. The Commission considers that such harmonisation of the levels of maximum fines, which currently vary significantly between Member States, is necessary for effectively enabling coordinated enforcement action by the Member States' authorities in the context of the Consumer Protection Co-operation network in accordance with Regulation (EU) 2017/2394⁴, while at the same time ensuring the deterrent effect of those fines. The proposed rule does not affect the organisation of the public enforcement of consumer law in the Member States, which can for example rely on administrative or judicial procedures for the imposition of penalties, depending on national preferences. The Commission therefore considers that such a harmonisation measure is compatible with the Union's competence to support, coordinate or supplement the actions of the Member States in the area of administrative cooperation under Article 6 of the Treaty on the Functioning of the European Union.

As regards the proposal on representative actions, the Commission notes the importance attached by the Poslanecká sněmovna to the Member States' right to adopt or maintain their own collective redress laws, which may differ in certain aspects from the rules contained in the proposal. In this respect, the Commission wishes to reassure the Poslanecká sněmovna that the proposal would not replace national collective redress mechanisms. It would leave it to the discretion of the Member States whether to integrate

³ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive').

⁴ Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004; OJ L 345, 27.12.2017, p. 1–26.

the representative action set out by the proposal in their existing or future collective redress mechanisms or to transpose it as an alternative to these mechanisms.

The Opinion of the Poslanecká sněmovna has been made available to the Commission's representatives in the ongoing negotiations with the European Parliament and the Council, and will inform these discussions.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Poslanecká sněmovna and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Pierre Moscovici
Member of the Commission*