

Consultation Strategy

A New Deal for Consumers – revision of the Injunctions Directive

Context

The results from the Commission [Fitness Check](#) of EU consumer law and from the [evaluation of the Consumer Rights Directive](#) 2011/83/EU (CRD) were published in May 2017. All of the evaluated EU directives, except the [Injunctions Directive](#) 2009/22/EC (ID), lay down substantive rights and obligations for both consumers and traders through the whole cycle of business-to-consumer (B2C) transactions. The ID sets out procedural rules for injunctions actions initiated by qualified entities (in particular independent public bodies and consumer organisations). Injunctions, under the ID, aim at stopping infringements harming collective consumer interests as protected by key EU substantive consumer law directives.

The evidence gathered during the Fitness Check and the evaluation of the CRD indicate that, overall, the current EU consumer law *acquis* is still fit for purpose and does not require a major overhaul. However, findings also point to a need to improve awareness, enforcement of the rules and redress opportunities to make the best of the existing legislation. Building on the above findings, in June 2017 the Commission published an [Inception Impact Assessment](#) (IIA) on a "Targeted revision of EU consumer law directives" which outlines possible improvements to the substantive EU consumer law.

The Fitness Check made also clear that there is a need to make the ID more effective. The cost, length and lack of direct effect on affected consumers as well as the lack of precise mandatory provisions on procedural modalities of injunctions within the ID, have been identified as major obstacles to the effective use of the injunctions procedure across the EU. It was however considered that a possible revision of the ID needs to take due account of the Commission assessment of the implementation the 2013 Commission [Recommendation on collective redress](#), which covered both injunctive and compensatory relief in all areas of EU law. The first results of the Commission assessment of the above recommendation (the Commission Report will be published soon) demonstrate that the impact of the Recommendation has been limited. Only few Member States have introduced or amended their relevant legislation since the adoption of the Recommendation and nine Member States still do not provide for any possibility of claiming compensation collectively. In the Member States where compensatory redress exists in the area of consumer law, it is reported to be too complex, costly and lengthy to fully reach its objectives.

In line with the above findings, the Commission plans to complement the initiative for a "Targeted revision of EU consumer law directives" with a possible proposal for the revision of the Injunctions Directive as key deliverable of the 'New Deal for Consumers' listed in the Commission Work Programme 2018 (Annex II, no. 8). The [Inception Impact Assessment](#) published on 31 October 2017 outlines main policy options.

Consultation objectives and scope

The preparation of the revision of the ID will largely rely on existing data, mainly the evidence gathered in the context of 2017 Fitness Check and the 2017 assessment of the implementation of the Recommendation on Collective Redress. The results of wide-reaching stakeholder consultations carried out by the Commission in the past, in particular the 2011

Open public consultation on collective redress and the stakeholders' consultation supporting the [2012 Commission Report on the application of the ID](#) will be duly taken into account.

This consultation strategy explains the additional consultation activities carried out by the Commission to prepare the Impact Assessment and the legislative proposal. The objective is to collect views and additional facts and figures on the problem definition, policy options and their likely impacts.

Relevant stakeholders

Building on the wide consultations carried out within the 2017 Fitness Check and the assessment of the implementation of the Recommendation on Collective Redress, the Commission will consult in particular:

- Citizens/consumers via consumers organisations;
- National consumer associations and their EU umbrella organisations;
- Businesses (both SMEs and larger businesses) via business organisations;
- National business organisations and their EU umbrella organisations;
- National authorities (the relevant ministries, consumer protection enforcement authorities, competition authorities, and European Consumer Centres);
- Judiciary and lawyers' associations.

Stakeholders will be consulted on the following aspects of the revision of the ID:

Stakeholders	Key aspects of consultation
Consumers (via consumer organisations)	<ul style="list-style-type: none"> - collect additional data on the typology and prevalence of problems to be addressed - collect opinions and evidence to assess likely impacts of policy options (costs and benefits, strengths and weaknesses in reaching the policy objectives)
Consumer organisations (European and national level)	<ul style="list-style-type: none"> - collect additional data on the typology and prevalence of problems to be addressed - collect opinions and evidence to assess likely impacts of policy options (costs and benefits, strengths and weaknesses in reaching the policy objectives)
Businesses (via business organisations)	<ul style="list-style-type: none"> - collect additional data on the typology and prevalence of problems to be addressed - collect opinions and evidence to assess likely impacts of policy options (costs and benefits, strengths and weaknesses in reaching the policy objectives) - collect information on the compliance costs and further impacts of different options - collect information on potential for simplification and burden reduction
Business organisations (European and national level)	<ul style="list-style-type: none"> - collect additional data on the typology and prevalence of problems to be addressed - collect opinions and evidence to assess likely impacts of policy options (costs and benefits, strengths and weaknesses in reaching the policy objectives) - collect information on the compliance costs and further impacts of different options

Stakeholders	Key aspects of consultation
Member States authorities (relevant ministries, consumer protection enforcement authorities and judiciary networks) European Consumer Centres (ECCs): judiciary and lawyers' associations	<ul style="list-style-type: none"> - collect additional data on the typology and prevalence of problems to be addressed - collect opinions and evidence to assess likely impacts of policy options (costs and benefits, strengths and weaknesses in reaching the policy objectives) - collect information on the implementation costs and impacts of different options - collect information on potential for simplification and burden reduction

Consultation methods, accessibility and planning

The consultation activities carried out in the context of the [Fitness Check and CRD evaluation](#) included:

- [online public consultation](#) (12 May – 12 September 2016);
- high-level conference ([2016 'Consumer Summit'](#));
- consultation of the main consumer and business stakeholders via the [REFIT Stakeholder Consultation Group](#) and via a broad interview process performed by the Commission's external contractors;
- Targeted Stakeholders' consultation carried out within the [Study supporting the Fitness Check](#). This consultation has covered an extended data collection activities based on tailored questionnaires developed for each target group in coordination with the Commission, in particular the online survey of qualified entities enabled to seek injunctions across the EU.

The consultation activities carried out in the context of the assessment of the implementation of the 2013 Recommendation on Collective Redress, included:

- Commission call for evidence (28 March 2017 - 15 August 2017), the result will be published soon;
- Targeted Stakeholders' consultation carried out within the Study supporting the assessment of the implementation of the 2013 Commission Recommendation on Collective Redress (the study will be published soon). This consultation has covered an extended data collection activities based on tailored questionnaires developed for each target group in coordination with the Commission, in particular an online survey and qualitative individual interviews.

In addition, the Commission has financed a Study on the evaluation of national procedural laws and practices in terms of their impact on the free circulation of judgments and on the equivalence and effectiveness of the procedural protection of consumers under EU consumer law (the study will be published soon). The above report, prepared by a Consortium of European universities led by the Max Planck Institute for Procedural Law in Luxembourg, has been also supported by stakeholders consultation activities, in particular an online survey and qualitative individual interviews.

Moreover, the following types of consultation activities are organised by the Commission:

- Targeted written consultation in the form of a web survey in November 2017 of the following networks:
 - Qualified entities as listed in the Official Journal of the EU, under article 4 of the Injunctions Directive;
 - Consumer Policy Network (CPN – national ministries);
 - European Judicial Network (EJN);
 - Group of contact persons on national justice systems (Commission expert group);
 - Consumer Protection Co-operation network (CPC – consumer protection enforcement authorities);
 - European Consumer Centres (ECCs);
 - European Consumer Consultative Group (ECCG – national consumer associations);
 - Consumer Markets Expert Group (CMEG);
 - Financial Service Users Group (FSUG);
 - Expert Group on the Implementation of Directive 2008/48/EC on Consumer Credit (CCD);
 - European Network of Councils for the Judiciary (ENCJ);
 - Network of the Presidents of the Supreme Judicial Courts (NPSJC);
 - Association of the Councils of State and Supreme Administrative Jurisdictions of the EU (ACA-Europe);
 - Council of Bars and Law Societies of Europe (CCBE);
 - Enterprise Europe Network (EEN);
 - several business networks and associations (Cooperatives Europe, Cecop Cicopa, Europe, European Small Business Alliance (ESBA), European Association of Development Agencies (EURADA), Eurochambres, Eurocommerce, European Association of Craft, Small and Medium-sized Enterprises (UEAPME), BusinessEurope, European Confederation of Young Entrepreneurs (YES), Zentralverband des Deutschen Handwerks (ZDH), European Confederation of Junior Enterprises (JADE), European Council of the Liberal Professions (CEPLIS), European Family Businesses European Start-up Network);
 - [REFIT Stakeholder Consultation Group](#).
- Structured discussions planned for meetings with Member States authorities within CPN, CPC and EJN networks (November 2017 – January 2018);
- Continuation of structured discussions with the consumer and business organisations in the framework of the REFIT Stakeholder Consultation Group (November 2017 – January 2018); members have been selected through a call for applications for organisations and requiring the applicants to be registered in the [Transparency Register](#).

Ways to publicise the targeted consultation

The following targeted communication tools will be used:

- The policy webpage will inform about the targeted consultation activities. It will also contain background documents on this initiative and links to background information;
- Members of the above-mentioned networks will be alerted about the consultation activities;
- Member States' authorities as well as European and national organisations (consumer and business) will be invited to inform and promote the Commission web survey among their members;

- Regular speeches delivered by the Commissioner and high-level Commission officials will be announcing the targeted consultation activities.

Ways to publicise the results of the consultation activities

The output of all consultation activities will be summarised in a synopsis report and reported in the Impact Assessment report and at the relevant Commission webpage.