European Commission

EU consumer and marketing law: still fit for purpose? Achievements and challenges

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EUROPEAN CONSUMER SUMMIT

BRUSSELS

Justice and Consumers

Workshop 3
Enhancing the effectiveness of the injunction procedure

Main findings: what works well/1

- Most stakeholders agree that the injunctions procedure is beneficial to consumers
- Business stakeholders and public authorities consider the injunctions directive already sufficient
- Injunctions work well in MS with focus on private law enforcement where consumer organisations have sufficient resources and experience (e.g. Germany)

Main findings: what works well/2

- Well-functioning national varieties of the injunctions procedure
  - Option for swift out of court settlement
  - Belgium: final decision according to the rules applicable to summary proceedings (but consumer association lacks means)
  - Several MS: erga omnes effect of injunction decisions
  - Several MS: individual's right to rely on the injunction decision in later proceedings
  - Periodic penalties or criminal fines in case of non-compliance with an injunction order
  - Several MS complement injunctions with a duty to remove the consequences of the breach

What should be improved/1

I. How to improve the effectiveness of the injunctions procedure?

- Increase legal certainty (same rules for all injunction proceedings)
- Integrate injunctions into a consistent systems of mechanisms for the enforcement of consumer law
- Extend injunctions to consumer law in general
- Raise awareness about the availability of national and cross-border injunctions

What should be improved/2

I. How to improve the effectiveness of the injunctions procedure?

- Reduce costs and risk by exempting claimants from court fees and putting caps on lawyers' fees, especially where claims are brought by consumer associations / Ensure budget for consumer associations
- Binding & clear minimum standards on summary proceedings, publication, sanctions for non-compliance
- Award penalty payments for non-compliance with an injunction to the claimant

What should be improved/3

I. How to improve the effectiveness of the injunctions procedure?

- Broader erga omnes effect of injunction decisions
- Complementary remedy of removal of the consequences of the breach e.g. through compensation
- Suspend limitation periods during injunction proceedings

What should be improved/4

II. How to encourage the use of the injunction procedure in cross-border cases?

- Improve cooperation between qualified entities e.g. best practice sharing
- Facilitate litigation in other MS e.g. with a claims form
- Cross-border enforcement of injunction orders and complementary sanctions must be simplified and clarified