

## The new deal for consumers or how to open the door for abuses: an example of needless overshooting?

Contrary to what the title of today's legislative package may suggest it opens the door for very little consumer benefits but holds a great harm potential for businesses. Unfortunately, the European Commission did not draw the lessons from other jurisdictions such as the United States, where a litigation culture has emerged with collective redress cases lurking at every corner. This has led to the emergence of an extremely profitable business for a category of lawyers whose interest are not necessarily matching the ones of the consumers they are supposedly representing.

Christoph Leidl, the President of EUROCHAMBRES, declared: *"The Commission's 'New Deal' with its proposed elements of representative actions violates fundamental rights of businesses. Businesses are not fundamentally opposed to collective actions, as these could promote fair competition. Nevertheless, all elements of this proposal unbalancing civil procedures to the detriment of businesses must be rejected."*

Many of the safeguards which were included in the Commission's own Recommendation on collective redress of 2013 were discarded. One example is the introduction of an opt-out regime, whereas the Recommendation was championing an opt-in system.

President Christoph Leidl added: *"The opt-in principle as a procedural guarantee must be retained. This is the only way that companies can legally defend themselves effectively. Such imbalanced and business-hostile attitudes have to be replaced by a balanced civil procedure system. We are always willing to take part in a constructive discussion."*

### Amendments to four consumer protection directives

The REFIT fitness check of EU Consumer Law concluded last year that the current rules are still fit for purpose. Nevertheless, the Commission believes it necessary to introduce a repressive system with maximum fines that can reach at least 4% of the trader's annual turnover in a certain Member State. Whether this will lead to a better enforcement of EU consumer laws is questionable. It is however clear that such measures are disproportionate and unnecessarily touch upon the legal traditions of the Member States which have each developed different deterrent mechanisms for consumer laws to be respected.

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