

I support all initiatives for better consumer protection and hold that consumers should be given the possibility to assert their proven damage collectively as well. In this regard, I principally welcome the Commission's proposal as part of their 'New Deal for Consumers'. However, the introduction of a US-style class action system in Europe does not add to better consumer protection and is very prone to abuses and discrimination. Such a system is not in line with our legal traditions and fosters mass litigation that prioritises profits over the interests of consumers. Instead, I am asking for a collective redress system that actually improves consumer protection, while at the same time respecting strong safeguards, most notably those that the European Commission itself suggested in a recommendation in 2013. Based on these preliminary considerations, I strongly suggest to:

1. **Prohibit US-style discovery approaches, changes in the burden of proof and punitive damages [Art. 13]:** punitive damages, intrusive pre-trial discovery procedures are foreign to the legal traditions of most Member States and thus, have to be avoided.
2. **Define a coherent and precise scope [Art 1-3]:** require the existence of a serious infringement with a broad public impact as this directive should not be the tool for small and isolated claims. Demand an impact assessment for all non-consumer laws listed in Annex I and an evaluation of the effects of this directive on existing European law as well as national law (e.g. CPC regulation). Prevent the overruling of already existing European laws (e.g. Art 80 GDPR).
3. **Prevent any forum shopping [Art 1, 4, 10, 16]:** clear and unambiguous terms that do not allow for forum shopping with regards to the standards for qualified entities, the effects of a judgment in other Member States, the jurisdiction / applicable law when consumers from more than one Member States are part of a representative action.
4. **Set strict standards and demand a transparent setup of qualified entities [Art 4]:** only well-established consumer organisations and independent public bodies that fulfil strict criteria (such as legitimate interest in consumer protection, non-profit character, sufficient capacity in human resources and legal expertise, establishment for a certain number of years prior to the representative action) should be able to register as qualified entities in Member States.
5. **Rule out representative action without explicit mandates [Art 6]:** the qualified entity needs to have the explicit mandate of all involved consumers they want to represent in the representative action before the lawsuit begins (opt-in-model).
6. **Forbid any private third-party litigation funding [Art 7]:** hedge funds or other private actors should not 'invest' in ad-hoc qualified entities, do not fund their representative actions or do not exercise any influence on legal actions of those entities. No contingency fees as this law should only serve the interest of consumers.
7. **Demand that every settlement is binding [Art 8]:** a settlement irrevocably terminates the legal dispute for all parties that have agreed to it and forbids any individual procedures afterwards.
8. **Stick to the 'loser pays principle' [Art 14, 15]:** the party that loses a collective redress action has to reimburse all the necessary legal costs, as it is tradition in the legal systems of European Member States.