



2018/0089(COD)

16.10.2018

AMENDMENTS

23 - 85

Draft opinion

Georg Mayer

(PE627.831v01-00)

Representative actions for the protection of the collective interests of consumers

Proposal for a directive

(COM(2018)0184 – C8-0149/2018 – 2018/0089(COD))

Amendment 23
Nicola Caputo

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The purpose of this Directive is to enable qualified entities, which represent the collective interest of consumers, to seek remedy through representative actions against infringements of provisions of Union law. The qualified entities should be able to ask for stopping or prohibiting an infringement, for confirming that an infringement took place and to seek redress, such as compensation, repair or price reduction as available under national laws.

Amendment

(1) The purpose of this Directive is to enable qualified entities, which represent the collective interest of consumers, to seek remedy through representative actions against infringements of provisions of Union law. The qualified entities should be able to ask for stopping or prohibiting an infringement, for confirming that an infringement took place and to seek redress, such as compensation, repair, ***replacement, removal*** or price reduction, ***contract termination or reimbursement of the price paid*** as available under national laws.

Or. en

Amendment 24
Jacqueline Foster

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) The Commission has adopted legislative proposals for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air³⁰ and for a Regulation of the European Parliament and of the

Amendment

deleted

Council on rail passengers' rights and obligations.³¹ It is therefore appropriate to provide that, one year after the entry into force of this Directive, the Commission assesses whether the Union rules in the area of air and rail passengers' rights offer an adequate level of protection for consumers, comparable to that provided for in this Directive, and draws any necessary conclusions as regards the scope of this Directive.

³⁰ COM(2013) 130 final.

³¹ COM(2017) 548 final.

Or. en

Justification

The criteria used by the European Commission to select these legal acts are unclear and take insufficient account of the practical implications it could have. Rail and air passenger rights Regulations and their ongoing review would considerably strengthen the enforcement mechanism and the way passenger's complaints would be handled. The rail and air passengers regulations foresee comprehensive individual redress mechanisms. When such a mechanism exists, there can be no requirement for inclusion in the collective redress proposals. The logic for collective redress should be to provide redress where individual redress is not available.

Amendment 25 **Marian-Jean Marinescu**

Proposal for a directive **Recital 7**

Text proposed by the Commission

(7) The Commission has adopted legislative proposals for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of

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passengers and their baggage by air³⁰ and for a Regulation of the European Parliament and of the Council on rail passengers' rights and obligations.³¹ It is therefore appropriate to provide that, **one year** after the entry into force of **this Directive**, the Commission assesses whether the Union rules in the area of air and rail passengers' rights offer an adequate level of protection for consumers, comparable to that provided for in this Directive, and draws any necessary conclusions as regards the scope of this Directive.

³⁰ COM(2013) 130 final.

³¹ COM(2017) 548 final.

passengers and their baggage by air³⁰ and for a Regulation of the European Parliament and of the Council on rail passengers' rights and obligations.³¹ It is therefore appropriate to provide that, **two years** after the entry into force of **the mentioned revised regulations**, the Commission assesses whether the Union rules in the area of air and rail passengers' rights offer an adequate level of protection for consumers, comparable to that provided for in this Directive, and draws any necessary conclusions as regards the scope of this Directive.

³⁰ COM(2013) 130 final.

³¹ COM(2017) 548 final.

Or. en

Amendment 26 **Nicola Caputo**

Proposal for a directive **Recital 16**

Text proposed by the Commission

(16) Qualified entities should be able to seek measures aimed at eliminating the continuing effects of the infringement. These measures should take the form of a redress order obligating the trader to provide for, inter alia, compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate and as available under national laws.

Amendment

(16) Qualified entities should be able to seek measures aimed at eliminating the continuing effects of the infringement. These measures should take the form of a redress order obligating the trader to provide for, inter alia, compensation, repair, replacement, **removal**, price reduction, contract termination or reimbursement of the price paid, as appropriate and as available under national laws.

Or. en

Amendment 27 **Nicola Caputo**

Proposal for a directive
Recital 21

Text proposed by the Commission

(21) In low-value cases most consumers are unlikely to take action in order to enforce their rights because the efforts would outweigh the individual benefits. However, if the same practice concerns a number of consumers, the aggregated loss may be significant. In such cases, a court or authority may consider that it is disproportionate to distribute the funds back to the consumers concerned, for example because it is too onerous or impracticable. Therefore the funds received as redress through representative actions would better serve the purposes of the protection of collective interests of consumers and should be directed to a relevant public purpose, such as a consumer legal aid fund, awareness campaigns or consumer movements.

Amendment

(21) In low-value cases most consumers are unlikely to take action in order to enforce their rights because the efforts would outweigh the individual benefits. However, if the same practice concerns a number of consumers, the aggregated loss may be significant. In such cases, ***notwithstanding the right of individual consumers to claim compensation***, a court or authority may consider that, it is disproportionate to distribute the funds back to the consumers concerned, for example because it is too onerous or impracticable. Therefore the funds received as redress through representative actions would better serve the purposes of the protection of collective interests of consumers and should be directed to a relevant public purpose, such as a consumer legal aid fund, awareness campaigns or consumer movements. ***The funds should not be assigned to the qualified entity having brought the action, to avoid conflicts of interest.***

Or. en

Amendment 28
Nicola Caputo

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) This Directive provides for a procedural mechanism, which does not affect the rules establishing substantive rights of consumers to contractual and non-contractual remedies in case their interests have been harmed by an infringement, such

Amendment

(23) This Directive provides for a procedural mechanism, which does not affect the rules establishing substantive rights of consumers to contractual and non-contractual remedies in case their interests have been harmed by an infringement, such

as the right to compensation for damages, contract termination, reimbursement, replacement, repair or price reduction. A representative action seeking redress under this Directive can only be brought where Union or national law provides for such substantive rights.

as the right to compensation for damages, contract termination, reimbursement, replacement, **removal**, repair or price reduction. A representative action seeking redress under this Directive can only be brought where Union or national law provides for such substantive rights.

Or. en

Amendment 29 **Nicola Caputo**

Proposal for a directive **Recital 25**

Text proposed by the Commission

(25) Qualified entities should be fully transparent about the source of funding of their activity in general and regarding the funds supporting a specific representative action for redress in order to enable courts or administrative authorities to assess whether there may be a conflict of interest between the third party funder and the qualified entity and to avoid risks of abusive litigation as well as to assess whether the funding third party has sufficient resources in order to meet its financial commitments to the qualified entity. The information provided by the qualified entity to the court or administrative authority overseeing the representative action should enable it to assess whether the third party may influence procedural decisions of the qualified entity in the context of the representative action, including on settlements and whether it provides financing for a representative action for redress against a defendant who is a competitor of the fund provider or against a defendant on whom the fund provider is dependant. If any of these circumstances is confirmed, the court or administrative authority should be empowered to require

Amendment

(25) Qualified entities should, ***throughout each phase of the process***, be fully transparent about the source of funding of their activity in general and regarding the funds supporting a specific representative action for redress in order to enable courts or administrative authorities to assess whether there may be a conflict of interest between the third party funder and the qualified entity and to avoid risks of abusive litigation as well as to assess whether the funding third party has sufficient resources in order to meet its financial commitments to the qualified entity. The information provided by the qualified entity to the court or administrative authority overseeing the representative action should enable it to assess whether the third party may influence procedural decisions of the qualified entity in the context of the representative action, including on settlements and whether it provides financing for a representative action for redress against a defendant who is a competitor of the fund provider or against a defendant on whom the fund provider is dependant. If any of these circumstances is confirmed, the court or administrative

the qualified entity to refuse the relevant funding and, if necessary, reject standing of the qualified entity in a specific case.

authority should be empowered to require the qualified entity to refuse the relevant funding and, if necessary, reject standing of the qualified entity in a specific case.

Or. en

Amendment 30
Nicola Caputo

Proposal for a directive
Recital 32

Text proposed by the Commission

(32) To be effective, the information should be adequate and proportional to the circumstances of the case. The infringing trader *should* adequately inform all consumers concerned of a final injunction and redress orders issued within the representative action as well as of a settlement approved by a court or administrative authority. Such information may be provided for instance on the trader's website, social media, online market places, or in popular newspapers, including those distributed exclusively by electronic means of communication. If possible, consumers should be informed individually through electronic or paper letters. This information should be provided in accessible formats for persons with disabilities upon request.

Amendment

(32) To be effective, the information should be adequate and proportional to the circumstances of the case. The infringing trader *must* adequately inform all consumers concerned of a final injunction and redress orders issued within the representative action as well as of a settlement approved by a court or administrative authority. Such information may be provided for instance on the trader's website, social media, online market places, or in popular newspapers, including those distributed exclusively by electronic means of communication. If possible, consumers should be informed individually through electronic or paper letters. This information should be provided in accessible formats for persons with disabilities upon request.

Or. en

Amendment 31
Keith Taylor

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

Amendment

1. This Directive sets out rules enabling qualified entities to seek representative actions aimed at the protection of the collective interests *of consumers*, while ensuring appropriate safeguards to avoid abusive litigation.

1. This Directive sets out rules enabling qualified entities to seek representative actions aimed at the protection of the collective interests *and thereby in particular achieve and enforce a high level of protection and of access to justice and mediation for affected citizens*, while ensuring appropriate safeguards to avoid abusive litigation.

Or. en

Amendment 32
Jacqueline Foster

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive sets out rules enabling qualified entities to seek representative actions aimed at the protection of the collective interests of consumers, while ensuring appropriate safeguards to avoid abusive litigation.

Amendment

1. This Directive sets out rules enabling qualified entities to seek representative actions aimed at the protection of the collective interests of consumers *in case of mass harm*, while ensuring appropriate safeguards to avoid abusive litigation.

Or. en

Justification

The objective of this proposed directive is to tackle “mass harm situations”. This is confirmed both in the explanatory memorandum (on several occasions). Therefore, there should also be a reference to mass harm in Article 1.

Amendment 33
Keith Taylor

Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive shall not prevent Member States from adopting or

Amendment

2. This Directive shall not prevent Member States from adopting or

maintaining in force provisions designed to grant qualified entities or any other persons concerned ***other*** procedural means to bring actions aimed at the protection of the collective interests of consumers at national level.

maintaining in force provisions designed to ***ensure a higher level of protection of any affected citizen or to*** grant qualified entities or any other persons concerned ***more favourable*** procedural means to bring actions aimed at the protection of the collective interests of consumers at national level.

Or. en

Amendment 34
Matthijs van Miltenburg

Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive shall not prevent Member States from adopting or maintaining in force provisions designed to grant qualified entities or any other persons concerned other procedural means to bring actions aimed at the protection of the collective interests of consumers at national level.

Amendment

2. This Directive ***aims at minimum harmonisation and*** shall not prevent Member States from adopting or maintaining in force provisions designed to grant qualified entities or any other persons concerned other procedural means to bring actions aimed at the protection of the collective interests of consumers at national level.

Or. en

Amendment 35
Keith Taylor

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to representative actions brought against infringements by traders of provisions of the Union law listed in Annex I that harm or may harm the collective interests ***of consumers***. It shall apply to domestic and

Amendment

1. This Directive shall apply to representative actions brought against infringements by ***manufacturers and/or suppliers of goods and services as well as*** traders of provisions of the Union law listed in Annex I that harm or may harm

cross-border infringements, including where those infringements have ceased before the representative action has started or before the representative action has been concluded.

any public interest, including, but not limited to, the collective interests ***listed in Annex 1***. It shall apply to domestic and cross-border infringements, including where those infringements have ceased before the representative action has started or before the representative action has been concluded.

Or. en

Amendment 36
Jacqueline Foster

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to representative actions brought against infringements by traders of provisions of the Union law listed in Annex I that ***harm or may harm*** the collective interests of consumers. It shall apply to ***domestic and cross-border*** infringements, including where those infringements have ceased before the representative action has started or before the representative action has been concluded.

Amendment

1. This Directive shall apply to representative actions brought against infringements by traders of provisions of the Union law listed in Annex I that ***does or is likely to do mass harm to*** the collective interests of consumers. It shall apply to infringements ***with a Union dimension***, including where those infringements have ceased before the representative action has started or before the representative action has been concluded.

Or. en

Justification

The objective of this proposed directive is to tackle “mass harm situations” affecting consumers in several member states/across the EU. This is confirmed in the explanatory memorandum.

Amendment 37
Marian-Jean Marinescu

Proposal for a directive
Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The representative action shall not replace the right of consumer to receive individual compensation, provided by specific Union law, in case of infringement by traders of provisions of Union law.

Or. en

Amendment 38
Keith Taylor

Proposal for a directive
Article 2 – paragraph 2

Text proposed by the Commission

2. This Directive shall not affect rules establishing contractual and non-contractual remedies available **to consumers** for such infringements under Union or national law.

Amendment

2. This Directive shall not affect rules establishing contractual and non-contractual remedies available for such infringements under Union or national law.

Or. en

Amendment 39
Jacqueline Foster

Proposal for a directive
Article 2 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. This Directive shall not apply to Union law under revision as listed in Annex III (new).

Or. en

Amendment 40

Keith Taylor

Proposal for a directive

Article 3 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘consumer’ means any natural person who is acting for purposes which are outside their trade, business, craft or profession;

Amendment

(1) ‘consumer’ means any natural person who is acting for purposes which are outside their trade, business, craft or profession ***or who is a user of the offered products and services;***

Or. en

Amendment 41

Keith Taylor

Proposal for a directive

Article 3 – paragraph 1 – point 6

Text proposed by the Commission

(6) ‘***final decision***’ means a decision by a Member State’s court that cannot or can no longer be appealed or a decision by an administrative authority that can no longer be subject to judicial review.

Amendment

deleted

Or. en

Amendment 42

Jacqueline Foster

Proposal for a directive

Article 3 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

(6a) ‘Mass harm’ means a widespread infringement with a Union dimension by traders of provisions of the Union law listed in Annex I that harm or may harm the collective interest of a considerable number of consumers;

Justification

The objective of this proposed directive is to tackle mass harm situations affecting consumers in several member states/across the EU. This is confirmed in the explanatory memorandum. Therefore, there should also be a definition of mass harm which reflects the true intentions of the legislator.

Amendment 43
Jacqueline Foster

Proposal for a directive
Article 3 – paragraph 1 – point 6 b (new)

Text proposed by the Commission

Amendment

(6b) ‘widespread infringement with a Union dimension’ means a widespread infringement that has done, does or is likely to do harm to the collective interests of consumers in at least two-thirds of the Member States, accounting, together, for at least two-thirds of the population of the Union.

Or. en

Justification

This is the definition of widespread infringement with a Union dimension as per article 3(4) of Regulation 2017/2394 (CPC Regulation). It must be read together with the definition of mass harm.

Amendment 44
Isabella De Monte

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

Amendment

(a) it is properly constituted according to the law of a Member State;

(a) it is properly constituted according to the law of a Member State **and is registered on a list at the competent ministry of the company's Member State;**

Or. it

Amendment 45
Rolandas Paksas

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

Amendment

(a) it is properly constituted according to the law of a Member State;

(a) it is properly constituted according to the law of a Member State ***and limited to independent public bodies' consumer organisations and business associations;***

Or. en

Amendment 46
Isabella De Monte

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) it has been established for at least three years and has been active continuously over the preceding three years;

Or. it

Amendment 47
Isabella De Monte

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2 – point c

Text proposed by the Commission

Amendment

(c) it has ***a non-profit making character.***

(c) ***its statutes are founded on democratic principles and they seek solely to protect consumers and users, and it has no less than (...) registered members,***

keeps a list of members (updated yearly to include membership contributions to the company), it prepares an annual report setting out its income and expenditure, and does not operate for profit.

Or. it

Amendment 48
Isabella De Monte

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) Member States communicate to the Commission the list of qualified entities and any updates.

Or. it

Amendment 49
Keith Taylor

Proposal for a directive
Article 4 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall ensure that in particular consumer organisations and independent public bodies are eligible for the status of qualified entity. Member States may designate as qualified entities **consumer** organisations that represent members from more than one Member State.

3. Member States shall ensure that **established or ad-hoc organisations defending a public interest**, in particular consumer organisations and independent public bodies are eligible for the status of qualified entity. Member States may designate as qualified entities organisations that represent members from more than one Member State.

Or. en

Amendment 50

Keith Taylor

**Proposal for a directive
Article 4 – paragraph 4**

Text proposed by the Commission

Amendment

4. Member States may set out rules specifying which qualified entities may seek all of the measures referred to in Articles 5 and 6, and which qualified entities may seek only one or more of these measures.

deleted

Or. en

**Amendment 51
Nicola Caputo**

**Proposal for a directive
Article 4 – paragraph 5**

Text proposed by the Commission

Amendment

5. The compliance by a qualified entity with the criteria referred to in paragraph 1 is without prejudice to the *right* of the court or administrative authority to examine whether the purpose of the qualified entity justifies its taking action in a specific case in accordance with Article 5(1).

5. The compliance by a qualified entity with the criteria referred to in paragraph 1 is without prejudice to the *duty* of the court or administrative authority to examine whether the purpose of the qualified entity justifies its taking action in a specific case in accordance with Article 5(1).

Or. en

**Amendment 52
Jacqueline Foster**

**Proposal for a directive
Article 5 – paragraph 2 – subparagraph 2**

Text proposed by the Commission

Amendment

In order to seek injunction orders, qualified entities shall *not* have to obtain the mandate of the individual consumers

In order to seek injunction orders, qualified entities shall have to obtain the mandate of the individual consumers concerned or

concerned or provide proof of actual loss or damage on the part of the consumers concerned or of intention or negligence on the part of the trader.

provide proof of actual loss or damage on the part of the consumers concerned or of intention or negligence on the part of the trader.

Or. en

Amendment 53
Matthijs van Miltenburg

Proposal for a directive
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. A redress order, which obligates the trader to provide for, inter alia, compensation, repair, replacement, removal, price reduction, contract termination or reimbursement of the price paid, as appropriate.

Or. en

Amendment 54
Matthijs van Miltenburg

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall ensure that qualified entities are entitled to bring representative actions seeking measures eliminating the continuing effects of the infringement. These measures shall be sought on the basis of any final decision establishing that a practice constitutes an infringement of Union law listed in Annex I harming collective interests of consumers, including a final injunction order referred to in paragraph (2)(b).

deleted

Or. en

Amendment 55
Matthijs van Miltenburg

Proposal for a directive
Article 5 – paragraph 4

Text proposed by the Commission

4. Without prejudice to Article 4(4), Member States shall ensure that qualified entities are able to seek the measures ***eliminating the continuing effects of the infringement together with measures*** referred to in paragraph 2 within a single representative action.

Amendment

4. Without prejudice to Article 4(4), Member States shall ensure that qualified entities are able to seek the measures referred to in paragraph 2 within a single representative action.

Or. en

Amendment 56
Keith Taylor

Proposal for a directive
Article 6 – paragraph 1 – subparagraph 1

Text proposed by the Commission

For the purposes of Article 5(3), Member States shall ensure that qualified entities are entitled to bring representative actions seeking a redress order, which obligates the trader to provide for, inter alia, compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate. A Member State may require the mandate of the individual consumers concerned before a declaratory decision is made or a redress order is issued.

Amendment

For the purposes of Article 5(3), Member States shall ensure that qualified entities are entitled to bring representative actions seeking a redress order ***for material or consequential damage (including physical or mental health)***, which obligates the ***manufacturers, suppliers of goods and services*** or trader to provide for, inter alia, compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate. A Member State may require the mandate of the individual consumers concerned before a declaratory decision is made or a redress order is issued.

Or. en

Amendment 57

Nicola Caputo

Proposal for a directive

Article 6 – paragraph 1 – subparagraph 1

Text proposed by the Commission

For the purposes of Article 5(3), Member States shall ensure that qualified entities are entitled to bring representative actions seeking a redress order, which obligates the trader to provide for, inter alia, compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate. A Member State may require the mandate of the individual consumers concerned before a declaratory decision is made or a redress order is issued.

Amendment

For the purposes of Article 5(3), Member States shall ensure that qualified entities are entitled to bring representative actions seeking a redress order, which obligates the trader to provide for, inter alia, compensation, repair, replacement, **removal**, price reduction, contract termination or reimbursement of the price paid, as appropriate. A Member State may require the mandate of the individual consumers concerned before a declaratory decision is made or a redress order is issued.

Or. en

Amendment 58

Rolandas Paksas

Proposal for a directive

Article 6 – paragraph 1 – subparagraph 1

Text proposed by the Commission

For the purposes of Article 5(3), Member States shall ensure that qualified entities are entitled to bring representative actions seeking a redress order, which obligates the trader to provide for, inter alia, compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate. A Member State **may** require the mandate of the individual consumers concerned before a declaratory decision is made or a redress order is issued.

Amendment

For the purposes of Article 5(3), Member States shall ensure that qualified entities are entitled to bring representative actions seeking a redress order, which obligates the trader to provide for, inter alia, compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate. A Member State **should** require the mandate of the individual consumers concerned before a declaratory decision is made or a redress order is issued.

Or. en

Amendment 59
Jacqueline Foster

Proposal for a directive
Article 6 – paragraph 1 – subparagraph 1

Text proposed by the Commission

For the purposes of Article 5(3), Member States shall ensure that qualified entities are entitled to bring representative actions seeking a redress order, which obligates the trader to provide for, inter alia, compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate. A Member State *may* require the mandate of the individual consumers concerned before a declaratory decision is made or a redress order is issued.

Amendment

For the purposes of Article 5(3), Member States shall ensure that qualified entities are entitled to bring representative actions seeking a redress order, which obligates the trader to provide for, inter alia, compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate. A Member State ***shall*** require the mandate of the individual consumers concerned before a declaratory decision is made or a redress order is issued.

Or. en

Amendment 60
Jacqueline Foster

Proposal for a directive
Article 6 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The qualified entity shall provide sufficient information as required under national law to support the action, including a description of the consumers concerned by the action and the questions of fact and law to be resolved.

Amendment

The qualified entity shall provide sufficient information as required under national law to support the action, including a description of the consumers concerned by the action and the questions of fact and law to be resolved ***and a demonstration that the claim procedure has been exhausted where consumers rights are protected by pre-defined claim-based regulations.***

Or. en

Justification

Regulation (EC) No 261/2004 establishes a pre-defined rights and claim-based system offering redress in case of events that are not constitutive of infringements of the law. It is therefore legitimate to request a qualified entity to demonstrate that the claim procedure has been exhausted in application of Regulation 261 since only large scale systematic non-compliance with the Regulation 261 would fall into the scope of this Directive.

Amendment 61 **Jacqueline Foster**

Proposal for a directive **Article 6 – paragraph 2**

Text proposed by the Commission

2. *By derogation to paragraph 1, Member States may empower a court or administrative authority to issue, instead of a redress order, a declaratory decision regarding the liability of the trader towards the consumers harmed by an infringement of Union law listed in Annex I, in duly justified cases where, due to the characteristics of the individual harm to the consumers concerned the quantification of individual redress is complex.*

Amendment

2. Member States *shall ensure that qualified entities can only lawfully receive the mandate from an individual consumer, after the qualified entity has fully informed those individual consumers in writing about: (i) all relevant aspects of the collective procedure; (ii) the possibility for consumers to first claim directly with the trader without intervention of the qualified entity or represented by their lawyer or another representative allowed by national law; and (iii) any available options for individual recourse, including those under the Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution.*

Or. en

Justification

Consumers should under no circumstance be involved in a collective procedure against their full informed consent. In order to make an informed choice, consumers should not only be made aware of the specific impact on their rights by joining a collective claim, but also on available options for individual recourse as this may better suit their situation where damage is individualised, or they may incur lower costs or receive a quicker settlement claiming directly.

Amendment 62

Jacqueline Foster

Proposal for a directive

Article 6 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) consumers concerned by the infringement are identifiable and suffered comparable harm caused by the same practice in relation to a period of time or a purchase. In such cases the requirement of the mandate of the individual consumers concerned shall not constitute a condition to initiate the action. The redress shall be directed to the consumers concerned;

deleted

Or. en

Amendment 63

Jacqueline Foster

Proposal for a directive

Article 6 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) consumers have suffered a small amount of loss and it would be disproportionate to distribute the redress to them. In such cases, Member States shall ensure that the mandate of the individual consumers concerned is not required. The redress shall be directed to a public purpose serving the collective interests of consumers.

deleted

Or. en

Amendment 64

Nicola Caputo

Proposal for a directive

Article 6 – paragraph 3 – point b

Text proposed by the Commission

(b) consumers have suffered a small amount of loss and it would be disproportionate to distribute the redress to them. In such cases, Member States shall ensure that the mandate of the individual consumers concerned is not required. The redress shall be directed to a public purpose serving the collective interests of consumers.

Amendment

(b) consumers have suffered a small amount of loss and it would be disproportionate to distribute the redress to them. In such cases, Member States shall ensure that the mandate of the individual consumers concerned is not required. The redress shall be directed to a public purpose serving the collective interests of consumers, ***notwithstanding the right of consumers to claim individual compensation. Payments to individual consumers for compensation purposes shall be deducted from the redress directed to a public purpose. Member States must ensure that the qualified entity having brought the action and the institution receiving the redress are separate and independent bodies.***

Or. en

Amendment 65
Jacqueline Foster

Proposal for a directive
Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The information to be provided by the qualified entities further to article 6.2.ii shall include the following: (i) the identity of the qualified entity and its legitimate interest in the relevant provisions of Union law; (ii) all possible steps of the collective procedure and their expected duration; (iii) ways or the lack thereof for the involved consumers to influence the decisions of the qualified entity with regard to the collective procedure individually or collectively; (iv) clear information on any costs related to the collective procedure which may be charged to or withheld in any way from

the individual consumers, including a calculation example of how such costs may impact the possible compensation or other form of redress which individual consumers may receive; and (v) detailed information on how and when the individual consumers will receive their compensation or other form of redress in case the collective procedure proves to be successful.

Or. en

Amendment 66
Keith Taylor

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

1. The qualified entity seeking a redress order as referred in Article 6(1) shall declare at an early stage of the action the source of the funds used for its activity in general and the funds that it uses to support the action. It shall demonstrate that it has sufficient *financial* resources to represent the best interests of the *consumers concerned and to meet any adverse costs should the action fail*.

Amendment

1. The qualified entity seeking a redress order as referred in Article 6(1) shall declare at an early stage of the action the source of the funds used for its activity in general and the funds that it uses to support the action. It shall demonstrate that it has sufficient resources to represent the best interests of the *affected citizen*.

(The change of 'consumer' to 'affected citizen' should apply to the entire text)

Or. en

Amendment 67
Nicola Caputo

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

1. The qualified entity seeking a

Amendment

1. The qualified entity seeking a

redress order as referred in Article 6(1) shall declare at an early stage of the action the source of the funds used for its activity in general and the funds that it uses to support the action. It shall demonstrate that it has sufficient financial resources to represent the best interests of the consumers concerned and to meet any adverse costs should the action fail.

redress order as referred in Article 6(1) shall declare at an early stage of the action the source of the funds used for its activity in general and the funds that it uses to support the action ***throughout the whole procedure***. It shall demonstrate that it has sufficient financial resources to represent the best interests of the consumers concerned and to meet any adverse costs should the action fail.

Or. en

Amendment 68
Keith Taylor

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the court or administrative authority shall require the infringing trader to inform affected consumers at its expense about the final decisions providing for measures referred to in Articles 5 and 6, and the approved settlements referred to in Article 8, by means appropriate to the circumstance of the case and within specified time limits, including, where appropriate, through notifying all consumers concerned individually.

Amendment

1. Member States shall ensure that the court or administrative authority shall require the infringing trader to inform affected consumers ***and workers, as well as the general public*** at its expense about the final decisions providing for measures referred to in Articles 5 and 6, and the approved settlements referred to in Article 8, by means appropriate to the circumstance of the case and within specified time limits, including, where appropriate, through notifying all consumers concerned individually.

Or. en

Amendment 69
Matthijs van Miltenburg

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that the court or administrative authority shall require the *infringing trader* to inform affected consumers at its expense about the final decisions providing for measures referred to in Articles 5 and 6, and the approved settlements referred to in Article 8, by means appropriate to the circumstance of the case and within specified time limits, including, where appropriate, through notifying all consumers concerned individually.

1. Member States shall ensure that the court or administrative authority shall require the *qualified entity* to inform affected consumers at its expense about the final decisions providing for measures referred to in Articles 5 and 6, and the approved settlements referred to in Article 8, by means appropriate to the circumstance of the case and within specified time limits, including, where appropriate, through notifying all consumers concerned individually.

Or. en

Amendment 70
Isabella De Monte

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the court or administrative authority shall require the infringing trader to inform affected consumers at its expense about the final decisions providing for measures referred to in Articles 5 and 6, and the approved settlements referred to in Article 8, by means appropriate to the circumstance of the case and within specified time limits, including, where appropriate, through notifying all consumers concerned *individually*.

Amendment

1. Member States shall ensure that the court or administrative authority shall require the infringing trader to inform affected consumers at its expense about the final decisions providing for measures referred to in Articles 5 and 6, and the approved settlements referred to in Article 8, by means appropriate to the circumstance of the case and within specified time limits, including, where appropriate, through notifying all consumers concerned.

Or. it

Amendment 71
Keith Taylor

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. The information referred to in paragraph 1 shall include in ***intelligible*** language an explanation of the subject-matter of the representative action, its legal consequences and, if relevant, the subsequent steps to be taken by the ***consumers concerned***.

Amendment

2. The information referred to in paragraph 1 shall include in ***easy understandable*** language an explanation of the subject-matter of the representative action, its legal consequences and, if relevant, the subsequent steps to be taken by the ***affected citizens***.

Or. en

Amendment 72

Keith Taylor

Proposal for a directive

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that information is provided to the public in an accessible way on upcoming, ongoing and closed collective action, i.e. on a public website.

Or. en

Amendment 73

Matthijs van Miltenburg

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall ensure that, at the request of a qualified entity that has presented reasonably available facts and evidence sufficient to support the representative action, and has indicated further evidence which lies in the control of the defendant, the court or administrative authority may order, ***in accordance with national procedural***

Member States shall ensure that, at the request of a qualified entity that has presented reasonably available facts and evidence sufficient to support the representative action, and has indicated further evidence which lies in the control of the defendant, the court or administrative authority may order that such evidence be presented by the

rules, that such evidence be presented by the defendant, subject to the applicable Union and national rules on confidentiality.

defendant. ***This order should be based on an assessment of the need, scope and proportionality of the requested disclosure, in accordance with national procedural rules and*** subject to the applicable Union and national rules on confidentiality.

Or. en

Amendment 74
Keith Taylor

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

Amendment

2. No later than one year after the entry into force of this Directive, the Commission shall assess whether the rules on air and rail passenger rights offer a level of protection of the rights of consumers comparable to that provided for under this Directive. Where that is the case, the Commission intends to make appropriate proposals, which may consist in particular in removing the acts referred to in points 10 and 15 of Annex I from the scope of application of this Directive as defined in Article 2.

deleted

Or. en

Amendment 75
Jacqueline Foster

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

Amendment

2. No later than one year after the entry into force of this Directive, the Commission shall assess whether the

deleted

rules on air and rail passenger rights offer a level of protection of the rights of consumers comparable to that provided for under this Directive. Where that is the case, the Commission intends to make appropriate proposals, which may consist in particular in removing the acts referred to in points 10 and 15 of Annex I from the scope of application of this Directive as defined in Article 2.

Or. en

Justification

The criteria used by the European Commission to select these legal acts are unclear and take insufficient account of the practical implications it could have. Rail and air passenger rights Regulations and their ongoing review would considerably strengthen the enforcement mechanism and the way passenger's complaints would be handled. The rail and air passengers regulations foresee comprehensive individual redress mechanisms. When such a mechanism exists, there can be no requirement for inclusion in the collective redress proposals. The logic for collective redress should be to provide redress where individual redress is not available.

Amendment 76 **Marian-Jean Marinescu**

Proposal for a directive **Article 18 – paragraph 2**

Text proposed by the Commission

2. *No later than one year* after the entry into force of **this Directive, the Commission shall assess whether the** rules on air and rail passenger rights offer a level of protection of the rights of consumers comparable to that provided for under this Directive. Where that is the case, the Commission **intends** to make appropriate proposals, which may consist in particular in **removing** the acts referred to **in points 10 and 15 of Annex I from the scope of application** of this Directive as defined in Article 2.

Amendment

2. *After two years* after the entry into force of **the revised** rules on air and rail passenger rights **the Commission shall assess whether they** offer a level of protection of the rights of consumers comparable to that provided for under this Directive. Where that is **not** the case, the Commission **shall evaluate the necessity** to make appropriate proposals, which may consist in particular in **introducing** the acts referred to **above in the** Annex I of this Directive as defined in Article 2.
No later than one year after the entry into force of this Directive, the Commission shall assess whether the rules concerning

the rights of passengers in bus and coach transport and of passengers when travelling by sea and inland waterway offer a level of protection of the rights of consumers comparable to that provided for under this Directive. Where that is not the case, the Commission shall evaluate the necessity to make appropriate proposals, which may consist in particular in introducing the acts referred to above in the Annex I of this Directive as defined in Article 2.

Or. en

Amendment 77
Jacqueline Foster

Proposal for a directive
Annex I – point 10

Text proposed by the Commission

Amendment

(10) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. 1).

deleted

Or. en

Justification

The criteria used by the European Commission to select these legal acts are unclear and take insufficient account of the practical implications it could have. Rail and air passenger rights Regulations and their ongoing review would considerably strengthen the enforcement mechanism and the way passenger's complaints would be handled. The rail and air passengers regulations foresee comprehensive individual redress mechanisms. When such a mechanism exists, there can be no requirement for inclusion in the collective redress proposals. The logic for collective redress should be to provide redress where individual redress is not available.

Amendment 78
Marian-Jean Marinescu

Proposal for a directive
Annex I – point 10

Text proposed by the Commission

Amendment

(10) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. 1). **deleted**

Or. en

Amendment 79
Jacqueline Foster

Proposal for a directive
Annex I – point 15

Text proposed by the Commission

Amendment

(15) Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14). **deleted**

Or. en

Justification

The criteria used by the European Commission to select these legal acts are unclear and take insufficient account of the practical implications it could have. Rail and air passenger rights Regulations and their ongoing review would considerably strengthen the enforcement mechanism and the way passenger's complaints would be handled. The rail and air passengers regulations foresee comprehensive individual redress mechanisms. When such a mechanism exists, there can be no requirement for inclusion in the collective redress proposals. The logic for collective redress should be to provide redress where individual redress is not available.

Amendment 80
Marian-Jean Marinescu

Proposal for a directive
Annex I – point 15

Text proposed by the Commission

Amendment

(15) Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14). **deleted**

Or. en

Amendment 81
Marian-Jean Marinescu

Proposal for a directive
Annex I – point 31

Text proposed by the Commission

Amendment

(31) Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ L 334, 17.12.2010, p. 1). **deleted**

Or. en

Amendment 82
Marian-Jean Marinescu

Proposal for a directive
Annex I – point 32

Text proposed by the Commission

Amendment

(32) Regulation (EU) No 181/2011 of the European Parliament and of the **deleted**

***Council of 16 February 2011 concerning
the rights of passengers in bus and coach
transport and amending Regulation (EC)
No 2006/2004 (OJ L 55, 28.2.2011, p. 1).***

Or. en

**Amendment 83
Keith Taylor**

**Proposal for a directive
Annex I – point 59 a (new)**

Text proposed by the Commission

Amendment

***(59a) EU legislation based on the UN
charter of accessibility for persons with
disabilities as well as the 'accessibility act'
for persons with disabilities and persons
with reduced mobility (PRMs)***

Or. en

**Amendment 84
Jacqueline Foster**

**Proposal for a directive
Annex II a (new)**

Text proposed by the Commission

Amendment

***ANNEX III LIST OF UNION LAW
REFERRED TO IN ARTICLE 2(4)***

Or. en

**Amendment 85
Jacqueline Foster**

**Proposal for a directive
Annex II b (new)**

(1) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. I).

Or. en