OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Legal Affairs


Rapporteur for opinion: Dennis de Jong

(*) Associated committees – Rule 54 of the Rules of Procedure
SHORT JUSTIFICATION

The Rapporteur agrees with the underlying principles of the Commission proposal and is of the opinion that the Commission strikes the right balance of facilitating representative actions, without opening the doors to abusive practices. In particular, the Rapporteur considers it vital that only not-for-profit organisations can act as ‘qualified entities’ in the sense of the Directive.

Minimum harmonisation

In Article 1, the current formulation is rather vague. The Rapporteur therefore suggests making it very clear that the Directive aims at minimum harmonisation and that Member States remain free to adopt or maintain provisions that are more favourable to consumers.

Qualified entities and representative measures

Although most Member States have independent bodies dealing with consumer rights, this is not the case in, for example, Germany. This Directive is not the suitable tool to require all Member States to establish such bodies. Hence, the Rapporteur added the words ‘where applicable’ in Article 4.

With respect to Article 5, the launch of representative actions for redress should not have to wait until the final decision establishes that a practice constitutes an infringement of Union law. Otherwise, procedures may take so long that the actual evidence of damage may be lost.

Redress measures

In Article 6, the Rapporteur suggests to limit the possibility for Member States to empower a court or administrative authority to issue a declaratory decision in order to prevent that cases will too easily be marked as complex. Secondly, the Rapporteur proposes to give all consumers the right to receive their compensation, regardless of the amount of loss. A small amount of loss is a subjective term, since a small amount for one consumer can mean a lot for another.

Scope

Although the Rapporteur would not be in favour of taking out passengers’ rights from the scope of the Directive, he refrained from deleting the references to an evaluation of this aspect, as the latest Commission legislative proposals on air and rail passenger rights are still under negotiation. Once these negotiations have been finalised, a more complete picture will emerge. Re-assessment after one year after the entry into force of the Directive, seems too soon, however, to establish whether the new rules on passenger rights offer an adequate level of protection comparable to that provided in the Directive.

In the Annex I the Rapporteur included a number of legislative instruments which have proven to be important for consumers, thus broadening the material scope of the Directive.
AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) A representative action should offer an effective and efficient way of protecting the collective interests of consumers. It should allow qualified entities to act with the aim of ensuring compliance with relevant provisions of Union law and to overcome the obstacles faced by consumers within individual actions, such as the uncertainty about their rights and available procedural mechanisms, psychological reluctance to take action and the negative balance of the expected costs and benefits of the individual action.

Amendment

(3) A representative action should offer an effective and efficient way of protecting the collective interests of all consumers, without discrimination. It should allow qualified entities to act with the aim of ensuring compliance with relevant provisions of Union law and to overcome the obstacles faced by consumers within individual actions with regard to their generally weaker position, such as the uncertainty about their rights and available procedural mechanisms, psychological reluctance to take action and the negative balance of the expected costs and benefits of the individual action.

Amendment 2

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) This Directive should cover a variety of areas such as data protection, financial services, travel and tourism, energy, telecommunications and environment. It should cover infringements of provisions of Union law which protect the interests of consumers, regardless of whether they are referred to as consumers or as travellers, users, customers, retail investors, retail clients or other in the relevant Union law. To ensure adequate response to infringement to Union law, the form and scale of which is quickly

Amendment

(6) This Directive should cover a variety of areas such as data protection, financial services, travel and tourism, energy, telecommunications, environment and health. It should cover infringements of provisions of Union law, which protect the collective interests of consumers, regardless of whether they are referred to as consumers or as travellers, users, customers, retail investors, retail clients or other in the relevant Union law, as well as the collective interests of data subjects within the meaning of the GDPR.
evolving, it should be considered, each time where a new Union act relevant for the protection of the collective interests of consumers is adopted, whether to amend the Annex to the present Directive in order to place it under its scope.

Regulation. To ensure adequate response to infringement to Union law, the form and scale of which is quickly evolving, it should be considered, each time where a new Union act relevant for the protection of the collective interests of individuals is adopted, whether to amend the Annex to the present Directive in order to place it under its scope.

Amendment 3
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 air and for a Regulation of the European Parliament and of the Council on rail passengers' rights and obligations. 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.

Amendment 4
Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission


Amendment 5
Proposal for a directive
Recital 10

Text proposed by the Commission

(10) As only qualified entities can bring the representative actions, to ensure that the collective interests of consumers are adequately represented the qualified entities should comply with the criteria established by this Directive. In particular, they would need to be properly constituted according to the law of a Member State, which could include for example requirements regarding the number of members, the degree of permanence, or transparency requirements on relevant aspects of their structure such as their constitutive statutes, management.

Amendment

(10) As only qualified entities can bring the representative actions, to ensure that the collective interests of consumers are adequately represented the qualified entities should comply with the criteria established by this Directive. In particular, they should be registered in a Member State of the European Union as having been properly constituted according to the law of that Member State. In particular, they should have a non-profit making character and a governance structure ensuring that no excessive salaries or fees or reimbursement of excessive office costs
structure, objectives and working methods. They should also be not for profit and have a legitimate interest in ensuring compliance with the relevant Union law. These criteria should apply to both qualified entities designated in advance and to ad hoc qualified entities that are constituted for the purpose of a specific action.

Amendment 6

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Independent public bodies and consumer organisations in particular should play an active role in ensuring compliance with relevant provisions of Union law and are all well placed to act as qualified entities. Since these entities have access to different sources of information regarding traders' practices towards consumers and hold different priorities for their activities, Member States should be free to decide on the types of measures that may be sought by each of these qualified entities in representative actions.

Amendment

(11) Independent public bodies, consumer organisations, and citizens' advice groups in particular should play an active role in ensuring compliance with relevant provisions of Union law and are all well placed to act as qualified entities. Since these entities have access to different sources of information regarding traders' practices towards consumers and hold different priorities for their activities, Member States should be free to decide on the types of measures that may be sought by each of these qualified entities in representative actions.

Amendment 7

Proposal for a directive
Recital 11 a (new)

Text proposed by the Commission

(11 a) Qualified entities should have no structural or financial interrelationship with a third person or organisation that financially benefits of the action by providing legal assistance or financial support.

Amendment

(11 a) Qualified entities should have no structural or financial interrelationship with a third person or organisation that financially benefits of the action by providing legal assistance or financial support.
Amendment 8
Proposal for a directive
Recital 13

Text proposed by the Commission

(13) To increase the procedural effectiveness of representative actions, qualified entities should have the possibility to seek different measures within a single representative action or within separate representative actions. These measures should include interim measures for stopping an ongoing practice or prohibiting a practice in case the practice has not been carried out but there is a risk that it would cause serious or irreversible harm to consumers, measures establishing that a given practice constitutes an infringement of law and, if necessary, stopping or prohibiting the practice for the future, as well as measures eliminating the continuing effects of the infringement, including redress. If sought within a single action, qualified entities should be able to seek all relevant measures at the moment of bringing the action or first seek relevant injunctions order and subsequently and if appropriate redress order.

Amendment

(13) To increase the procedural effectiveness of representative actions, qualified entities should have the possibility to seek different measures within a single representative action or within separate representative actions. These measures should include interim measures for stopping an ongoing practice or prohibiting a practice in case the practice has not been carried out but there is a risk that it would cause serious or irreversible harm to consumers, measures establishing that a given practice constitutes an infringement of law and, if necessary, stopping or prohibiting the practice for the future, as well as measures eliminating the continuing effects of the infringement, including redress. If sought within a single action, qualified entities should be able to seek all relevant measures at the moment of bringing the action.

Amendment 9
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

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 for a material or non-material damage obligating the trader to provide for, inter alia, compensation, repair, replacement, removal, price reduction, contract termination or
available under national laws.

reimbursement of the price paid, as appropriate and as available under national laws.

Amendment 10
Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Where consumers concerned by the same practice are identifiable and they suffered comparable harm in relation to a period of time or a purchase, such as in the case of long-term consumer contracts, the court or administrative authority may clearly define the group of consumers concerned by the infringement in the course of the representative action. In particular, the court or administrative authority could ask the infringing trader to provide relevant information, such as the identity of the consumers concerned and the duration of the practice. For expediency and efficiency reasons, in these cases Member States in accordance with their national laws could consider to provide consumers with the possibility to directly benefit from a redress order after it was issued without being required to give their individual mandate before the redress order is issued.

Amendment 11
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 12

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) Measures aimed at eliminating the continuing effects of the infringement may be sought only on the basis of a final decision, establishing an infringement of Union law covered by the scope of this Directive harming collective interest of consumers, including a final injunction order issued within the representative action. In particular, measures eliminating the continuing effects of the infringement may be sought on the basis of final decisions of a court or administrative authority in the context of enforcement activities regulated by Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004.

Amendment

(22) Measures aimed at eliminating the continuing effects of the infringement may be sought only on the basis of a final decision, establishing an infringement of Union law covered by the scope of this Directive harming collective interest of consumers, including a final injunction order issued within the representative action. In particular, measures eliminating the continuing effects of the infringement may be sought on the basis of final decisions of a court or administrative authority in the context of enforcement activities regulated by Regulation (EU) 2017/2394 of the European Parliament and of the Council. However, in order not to prolong procedures and not to increase the risk that consumers may lose evidence which supports their case and may cease to have an interest in the case, the actions for those measures may be launched in parallel with the actions seeking injunction orders and decided upon simultaneously with the decision establishing an infringement of Union law.
Amendment 13

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) This Directive does not replace existing national collective redress mechanisms. Taking into account their legal traditions, it leaves it to the discretion of the Member States whether to design the representative action set out by this Directive as a part of an existing or future collective redress mechanism or as an alternative to these mechanisms, insofar as the national mechanism complies with the modalities set by this Directive.

Amendment

(24) This Directive does not replace existing national collective redress mechanisms. Taking into account their legal traditions, it leaves it to the discretion of the Member States whether to design the representative action set out by this Directive as a part of an existing or future collective redress mechanism or as an alternative to these mechanisms, insofar as the national mechanism complies with the minimum standards established by this Directive.

Amendment 14

Proposal for a directive
Recital 26

Text proposed by the Commission

(26) Collective out-of-court settlements aimed at providing redress to harmed consumers should be encouraged both before the representative action is brought and at any stage of the representative action.

Amendment

(26) Collective out-of-court settlements, such as mediation, aimed at providing redress to harmed consumers should be encouraged both before the representative action is brought and at any stage of the representative action.

Amendment 15

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) Member States may provide that a qualified entity and a trader who have

Amendment

(27) Member States may provide that a qualified entity and a trader who have
reached a settlement regarding redress for consumers affected by an allegedly illegal practice of that trader can jointly request a court or administrative authority to approve it. Such request should be admitted by the court or administrative authority only if there is no other ongoing representative action regarding the same practice. A competent court or administrative authority approving such collective settlement must take into consideration the interests and rights of all parties concerned, including individual consumers. Individual consumers concerned shall be given the possibility to accept or to refuse to be bound by such a settlement and file or pursue their corresponding individual action.

Amendment 16
Proposal for a directive
Recital 29

Text proposed by the Commission

(29) In order to facilitate redress for individual consumers sought on the basis of final declaratory decisions regarding the liability of the trader towards the consumers harmed by an infringement issued within representative actions, the court or administrative authority that issued the decision should be empowered to request the qualified entity and the trader to reach a collective settlement.

Amendment

deleted

Amendment 17
Proposal for a directive
Recital 31

Text proposed by the Commission

(31) Ensuring that consumers are informed about a representative action is crucial for its success. Consumers should
be informed of ongoing representative action, the fact that a trader's practice has been considered as a breach of law, their rights following the establishment of an infringement and any subsequent steps to be taken by consumers concerned, particularly for obtaining redress. The reputational risks associated with spreading information about the infringement are also important for deterring traders infringing consumer rights.

Amendment 18
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 should adequately inform all individuals concerned as well as the general public 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, individuals should be informed individually through electronic or paper letters. This information should be provided in accessible formats for persons with disabilities upon request.

Amendment 19
Proposal for a directive
Recital 33
(33) To enhance legal certainty, avoid inconsistency in the application of Union law and to increase the effectiveness and procedural efficiency of representative actions and of possible follow-on actions for redress, the finding of an infringement established in a final decision, including a final injunction order under this Directive, issued by an administrative authority or a court should not be relitigated in subsequent legal actions related to the same infringement by the same trader as regards the nature of the infringement and its material, personal, temporal and territorial scope as determined by that final decision. Where an action seeking measures eliminating the continuing effects of the infringement, including for redress, is brought in a Member State other than the Member State where a final decision establishing this infringement was issued, the decision should constitute a rebuttable presumption that the infringement has occurred.

Amendment 20
Proposal for a directive
Recital 34 a (new)

Text proposed by the Commission

(34 a) Members States should ensure that individuals are allowed to apply for a suspension of their own action for redress until the final decision of a corresponding representative action.

Amendment 21
Proposal for a directive
Article 1 – paragraph 1
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.

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.

1 a. This Directive shall not prevent Member States from adopting or maintaining additional areas of consumer protection than those to which this Directive shall apply.
Amendment 24
Proposal for a directive
Article 2 – paragraph 1 b (new)

Text proposed by the Commission

1 b. The Commission shall be empowered to adopt delegated acts in accordance with Article 17a to amend Annex I for the purposes of adding to it provisions of the Union law to which article 2(1) refers.

Amendment 25
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;

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

Amendment 26
Proposal for a directive
Article 3 – paragraph 1 – point 3

Text proposed by the Commission

(3) ‘collective interests of consumers’ means the interests of a number of consumers;

(3) ‘collective interests of consumers’ means the interests of a number of consumers or of data subjects as defined in Regulation(EU)2016/679 (General Data Protection Regulation);

Amendment 27
Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2 – introductory part
Member States shall designate an entity as qualified entity if it complies with the following criteria:

**Amendment 28**

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

**Text proposed by the Commission**

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

**Amendment**

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

**Amendment 29**

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

**Text proposed by the Commission**

(b) it has a legitimate interest in ensuring that provisions of Union law covered by this Directive are complied with;

**Amendment**

(b) its statute or another relevant governance document demonstrates its legitimate interest in ensuring that provisions of Union law covered by this Directive are complied with;

**Amendment 30**

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

**Text proposed by the Commission**

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

**Amendment**

(c) it has a non-profit making character and a governance structure ensuring the non-profit criterion;

**Amendment 31**

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

Text proposed by the Commission  
Amendment

(c a) it is, at all times, fully transparent about the source of funding of its activity in general and the funds that it uses to support the action;

Amendment 32

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

Text proposed by the Commission  
Amendment

(c b) it has in place due procedures to identify, prevent and resolve conflicts of interest;

Amendment 33

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

Text proposed by the Commission  
Amendment

(c c) it has a proper communication policy in place, through which it informs consumers in a general manner of costs and risks that could arise from a collective action;

Amendment 34

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

Text proposed by the Commission  
Amendment

(c d) it has no structural or financial interrelationship with a third person or organisation that financially benefits of the action by providing legal assistance or
financial support.

Amendment 35
Proposal for a directive
Article 4 – paragraph 3

Text proposed by the Commission

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.

Amendment

3. Member States shall ensure that consumer organisations and, where applicable, 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.

Amendment 36
Proposal for a directive
Article 5 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that representative actions can be brought before national courts or administrative authorities by qualified entities provided that there is a direct relationship between the main objectives of the entity and the rights granted under Union law that are claimed to have been violated in respect of which the action is brought.

Amendment

1. Member States shall ensure that representative actions according to Article 1 can be brought before national courts or administrative authorities by qualified entities.

Amendment 37
Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

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).

Although the decision on these representative actions can only be taken after it has been formally established that a practice constitutes an infringement of Union law, however, in order not to prolong procedures, the actions can be launched in parallel with the actions for injunction orders referred to in paragraph 2 or as part of a single representative action in accordance with national law.

Amendment 38

Proposal for a directive
Article 5 – paragraph 4

4. **Without prejudice to Article 4(4), deleted**

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 39

Proposal for a directive
Article 5 – paragraph 4 a (new)

4 a. **Member States shall ensure that the 'loser pays' principle applies for all types of representative actions.**

*Justification*

The 2013 Commission Recommendation stipulates that the party that loses a collective
redress action reimburses necessary legal costs borne by the winning party.

**Amendment 40**

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>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.</td>
<td>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 the economic and non-economic damages, 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. Moreover, Member States may ensure that, in strictly exceptional, duly justified cases, qualified entities can seek a declaratory decision instead of a redress order. A Member State may require the mandate of the individual consumers concerned before a declaratory decision is made or a redress order is issued, including, where applicable, on the type of remedies sought. Other affected consumers, including those who are not habitually resident in the Member State where the action occurs, shall be able to join the representative action seeking a declaratory decision or a redress order.</td>
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**Amendment 41**

**Proposal for a directive**  
**Article 6 – paragraph 1 – subparagraph 2 a (new)**

<table>
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<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>The redress resulting from a representative action shall normally be allocated to affected consumers.</td>
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Amendment 42

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 43

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Paragraph 2 shall not apply in the cases where:

(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;

(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 44
Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission

4. The redress obtained through a final decision in accordance with paragraphs 1, 2 and 3 shall be without prejudice to any additional rights to redress that the consumers concerned may have under Union or national law.

Amendment

4. The redress obtained through a final decision in accordance with paragraph 1 shall be without prejudice to any additional rights to redress that the consumers concerned may have under Union or national law.

Amendment 45
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 in detail at the stage of admissibility of the action the source of the funds used for its activity in general and the funds that it uses to support the action. This may include a guarantee or indemnity from a third party subject also to the provisions of paragraphs 2 and 3 of this Article.

Amendment 46
Proposal for a directive
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

1 a. The unsuccessful party shall bear the costs of the proceedings subject to the
conditions provided for in the relevant national law.

Amendment 47
Proposal for a directive
Article 7 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that in cases where a representative action for redress is funded by a third party, it is prohibited for the third party:

Amendment

2. Member States shall ensure that in cases where a representative action for redress is funded by a third party, *transparency as to the origin of the funds is ensured and that* it is prohibited for the third party:

Amendment 48
Proposal for a directive
Article 7 – paragraph 2 – point a

Text proposed by the Commission

(a) to influence decisions of the qualified entity in the context of a representative action, including on settlements;

Amendment

(a) to influence decisions of the qualified entity in the course of a representative action, including on settlements;

Amendment 49
Proposal for a directive
Article 7 – paragraph 2 – point a a (new)

Text proposed by the Commission

(a a) to receive any direct or indirect financial benefit through the litigation process or decision;

Amendment

(a a) to receive any direct or indirect financial benefit through the litigation process or decision;

Amendment 50
Proposal for a directive
Article 7 – paragraph 3
3. Member States shall ensure that courts and administrative authorities are empowered to assess the circumstances referred to in paragraph 2 and accordingly require the qualified entity to refuse the relevant funding and, if necessary, reject the standing of the qualified entity in a specific case.

Amendment 51

Proposal for a directive
Article 8 – paragraph 6

Text proposed by the Commission

6. Individual consumers concerned shall be given the possibility to accept or to refuse to be bound by settlements referred to in paragraphs 1, 2 and 3. The redress obtained through an approved settlement in accordance with paragraph 4 shall be without prejudice to any additional rights to redress that the consumers concerned may have under Union or national law.

Amendment

6. Individual consumers concerned shall be given the possibility to accept or to refuse to be bound by settlements referred to in paragraphs 1, 2 and 3 and file or pursue their corresponding individual action. The redress obtained through an approved settlement in accordance with paragraph 4 shall be without prejudice to any additional rights to redress that the consumers concerned may have under Union or national law.

Amendment 52

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

Amendment

1. Member States shall ensure that the court or administrative authority shall require the infringing trader to inform affected in particular 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
appropriate, through notifying all consumers concerned individually.

the case and within specified time limits, including, where appropriate, through notifying all consumers concerned individually. In addition to the channels of the trader who committed the infringement, this information may also be provided via relevant public authority channels or through the channels of designated qualified entities, in every case at the expense of the trader who committed the infringement.

Justification

The channels of the party who committed the infringement may not be regarded by the injured party as worthy of confidence. It would therefore be appropriate for consumers to be informed through channels perceived as reliable.

Amendment 53

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 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. The modalities and timeframe of the information shall be designed in agreement with the court or administrative authority.

Amendment 54

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that a final decision referred to in paragraph 1, taken in another Member State is

Amendment

2. Member States shall ensure that a final decision referred to in paragraph 1, taken in another Member State is
considered by their national courts or administrative authorities as a rebuttable presumption that an infringement has occurred.

Amendment 55

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

Member States shall ensure that the submission of a representative action as referred to in Articles 5 and 6 shall have the effect of suspending or interrupting limitation periods applicable to any redress actions for the consumers concerned, if the relevant rights are subject to a limitation period under Union or national law.

Amendment

In accordance with national law, Member States shall ensure that the submission of a representative action as referred to in Articles 5 and 6 shall have the effect of suspending or interrupting limitation periods applicable to any redress actions for the consumers concerned, if the relevant rights are subject to a limitation period under Union or national law.

Amendment 56

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

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

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 that such evidence be presented by the defendant. This decision 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.
Amendment 57
Proposal for a directive
Article 15 – paragraph 1
Text proposed by the Commission
1. Member States shall take the necessary measures to ensure that procedural costs related to representative actions do not constitute financial obstacles for qualified entities to effectively exercise the right to seek the measures referred to in Articles 5 and 6, such as limiting applicable court or administrative fees, granting them access to legal aid where necessary, or by providing them with public funding for this purpose.

Amendment
1. Member States shall take the necessary measures to ensure that procedural costs related to representative actions do not constitute financial obstacles for qualified entities to effectively exercise the right to seek the measures referred to in Articles 5 and 6, in particular limiting applicable court or administrative fees, granting them access to legal aid where necessary, or by providing them with public funding for this purpose.

Amendment 58
Proposal for a directive
Article 15 – paragraph 2
Text proposed by the Commission
2. Member States shall take the necessary measures to ensure that in cases where the qualified entities are required to inform consumers concerned about the ongoing representative action the related cost may be recovered from the trader if the action is successful.

Amendment
2. Member States shall take the necessary measures to ensure that the party that loses a collective redress action reimburses necessary legal costs borne by the winning party, subject to the conditions provided for in the relevant national law. In cases where the qualified entities are required to inform consumers concerned about the ongoing representative action the related cost may be recovered from the trader if the action is successful.

Amendment 59
Proposal for a directive
Article 16 – paragraph 1
Text proposed by the Commission
1. Member States shall take the measures necessary to ensure that any

Amendment
1. Member States shall take the measures necessary to ensure that any
qualified entity designated in advance in one Member State in accordance with Article 4(1) may apply to the courts or administrative authorities of another Member State upon the presentation of the publicly available list referred to in that Article. The courts or administrative authorities shall accept this list as proof of the legal standing of the qualified entity without prejudice to their right to examine whether the purpose of the qualified entity justifies its taking action in a specific case.

Amendment 60
Proposal for a directive
Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16 a

In order to make the possibility of cross-border injunctions more visible, Member States shall ensure that the relevant domestic administrative authorities set up a registry of unlawful acts which have been subject to injunction orders in order to provide a basis for best practice and information to other Member State authorities.

Amendment 61
Proposal for a directive
Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17 a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts

referred to in Article 2 shall be conferred on the Commission for five years from ... [insert the date of entry into force of this Directive]. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 2 maybe revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 2 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment 62

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 deleted

EN
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 63
Proposal for a directive
Annex I – point 59 a (new)

Text proposed by the Commission

Amendment


Amendment 64
Proposal for a directive
Annex I – point 59 b (new)

Text proposed by the Commission

Amendment

Amendment 65
Proposal for a directive
Annex I – point 59 c (new)

Text proposed by the Commission

Amendment


Amendment 66
Proposal for a directive
Annex I – point 59 d (new)

Text proposed by the Commission

Amendment


Amendment 67
Proposal for a directive
Annex I – point 59 e (new)

Text proposed by the Commission

Amendment


Amendment 68
Proposal for a directive
Annex I – point 59 f (new)
Amendment 69
Proposal for a directive
Annex I – point 59 g (new)

Text proposed by the Commission


Amendment 70
Proposal for a directive
Annex I – point 59 h (new)

Text proposed by the Commission


Amendment 71
Proposal for a directive
Annex I – point 59 i (new)

Amendment 72
Proposal for a directive
Annex I – point 59 j (new)


Amendment 73
Proposal for a directive
Annex I – point 59 k (new)


Amendment 74
Proposal for a directive
Annex I – point 59 l (new)
Text proposed by the Commission  

Amendment


Amendment 75

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

Text proposed by the Commission  

Amendment


Amendment 76

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

Text proposed by the Commission  

Amendment


Amendment 77

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

Amendment 78
Proposal for a directive
Annex I – point 59 p (new)


Amendment 79
Proposal for a directive
Annex I – point 59 q (new)


Amendment 80
Proposal for a directive
Annex I – point 59 r (new)
Text proposed by the Commission


Amendment 81

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

Text proposed by the Commission


Amendment 82

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

Text proposed by the Commission

Amendment 83

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

Text proposed by the Commission

Amendment


Amendment 84

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

Text proposed by the Commission

Amendment

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the opinion, until the adoption thereof in committee:

<table>
<thead>
<tr>
<th>Entity and/or person</th>
</tr>
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<tbody>
<tr>
<td>BEUC (European Consumers Organisation)</td>
</tr>
<tr>
<td>Ursula Pachl (Deputy Director)</td>
</tr>
<tr>
<td>Augusta Maciuleviciuté (Senior Legal Officer)</td>
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<tr>
<td>MKB Nederland (Dutch Association of Small and Medium Enterprises)</td>
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<tr>
<td>Fried Kaanen (Vice Chair)</td>
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<tr>
<td>Egbert Roozen (Vice chair)</td>
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<tr>
<td>VNO-NCW (Dutch Confederation of Netherlands Industry and Employers)</td>
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<td>BUSINESSEUROPE</td>
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<tr>
<td>Winand Quaedvlieg (Head Brussels’ Office)</td>
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<tr>
<td>VZBV (Federatin of German Consumer Organisation)</td>
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<tr>
<td>Otmar Lell (Team leader Legal Affairs and Trade)</td>
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<td>Isabelle Buscke (Leader Team Brussels)</td>
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<tr>
<td>Julian Gallash (Policy Officer Team Legal Affairs and Trade)</td>
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<td>Christiane Seidel (Policy Officer Team Brussels)</td>
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<td>ETNO-GSMA</td>
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<td>Pierantonio Rizzo</td>
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<tr>
<td>Malte Firlus</td>
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<tr>
<td>Kristina Olausson</td>
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<tr>
<td>BitKom</td>
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<tr>
<td>Torben David</td>
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**PROCEDURE – COMMITTEE ASKED FOR OPINION**

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<tr>
<th>Title</th>
<th>Representative actions for the protection of the collective interests of consumers</th>
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<tr>
<td>Committee responsible</td>
<td>JURI</td>
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<tr>
<td>Date announced in plenary</td>
<td>2.5.2018</td>
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<tr>
<td>Committee responsible</td>
<td>IMCO</td>
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<td>Date announced in plenary</td>
<td>2.5.2018</td>
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<td>Associated committees - date announced in plenary</td>
<td>13.9.2018</td>
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<tr>
<td>Rapporteur</td>
<td>Dennis de Jong</td>
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<tr>
<td>Date appointed</td>
<td>16.5.2018</td>
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<td>22.11.2018</td>
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<td>-: 10</td>
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<td>Members present for the final vote</td>
<td>Carlos Coelho, Sergio Gaetano Cofferati, Daniel Dalton, Nicola Danti, Dennis de Jong, Evelyne Gebhardt, Maria Grapini, Robert Jaroslaw Iwaszkiewicz, Liisa Jaakonsaari, Philippe Juvin, Antonio López-Istúriz White, Morten Lokkegaard, Eva Maydell, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Jasenko Selimovic, Ivan Štefanec, Catherine Stihler, Anneleen Van Bossuyt, Marco Zullo</td>
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<td>Substitutes present for the final vote</td>
<td>Birgit Collin-Langen, Julia Reda, Adam Szejnfeld, Marc Tarabella, Sabine Verheyen</td>
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<td>Substitutes under Rule 200(2) present for the final vote</td>
<td>Salvatore Cici, Mady Delvaux, Czeslaw Hoc, Jean Lambert, Anne-Marie Mineur</td>
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### FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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<td></td>
<td>Carlos Coelho</td>
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**Key to symbols:**
- + : in favour
- - : against
- 0 : abstention