



Be Sued or Fined: European Commission Proposes Consumer Protections Expanding Class Actions and Enforcement Powers

A proposal released by the European Commission for tightening consumer protection regulations in the European Union includes an expansion of both class actions and enforcement powers. The proposal, titled "The New Deal for Consumers," covers both substantive and procedural matters.

Substantive provisions include harmonization of remedies against unfair commercial practices, transparency in online marketplaces (focusing on identity of private sellers appearing on company-maintained platforms), protection against aggressive doorstep-selling practices, and termination rights for digital services.

On the procedural side, the proposal creates a framework for a European representative action under which it will be possible for a qualified entity, such as a consumer organization, to seek collective redress on behalf of a group of consumers who have been harmed by an illegal commercial practice. While a set of requirements aims at containing the entities qualified to bring suit, the framework would enable consumers from across the European Union to benefit from a collective action. If implemented, such European-style class actions will certainly and significantly increase litigation risks for consumer-facing companies.

In addition, the proposal aims at increasing the enforcement powers of national consumer authorities, allowing them to impose penalties of up to four percent of a company's annual turnover. This is structurally similar to enforcement powers under European competition and privacy regulations, and it would put compliance risks resulting from consumer business practices on par with competition law violations or data protection breaches.

Apparently to sweeten the bitter pills of the deal for companies, the proposal also aims at removing some burden on businesses. For instance, concerning consumers' withdrawal rights, consumers will no longer be allowed to return products that they have already used, and companies will no longer have to reimburse consumers before receiving the returned goods.

We will discuss the substantive provisions, the procedural framework, the enforcement mechanisms, and the relief for business on certain terms in further detail in upcoming Jones Day *Commentaries*.

The proposal is open to public consultation, and industry representatives should make their voices heard.

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