



PRODUCT LIABILITY BULLETIN

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EU "NEW DEAL FOR CONSUMERS"

EU Commission Announces its “New Deal for Consumers”: Heavier Sanctions, Stronger Enforcement and New Rules on Collective Redress

The EU Commission announced a raft of proposals on April 11, 2018, with the aim of enhancing EU laws on consumer rights. The changes have arisen from reviews undertaken in recent months focusing on whether EU consumer law is “fit for purpose” particularly in the context of the digital economy. Car emissions cases have also provided unprecedented momentum for change—especially with the perception that U.S. consumers have been compensated but EU consumers have not.

The plans to strengthen consumer laws are wide-ranging and include proposals for two new directives. The first would in fact amend a number of existing consumer-protection laws, including the Consumer Rights Directive and Directives governing unfair terms in consumer contracts and unfair business-to-consumer commercial practices. The intention of the Commission is to modernise consumer protection in the EU and to ensure better enforcement. For example, sanctions for infringements in certain contexts would be increased significantly, with some penalties set at a minimum of 4 percent of the annual turnover of the company in question in the relevant Member State.

The second proposed directive would introduce representative actions for the protection of the collective interests of consumers. This directive would build on an existing framework—previously limited to injunctive relief—to allow specific public bodies and organisations (such as consumer groups) to bring an action

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against a trader if the trader has infringed specified consumer laws. These consumer laws include the directive governing liability for defective products, the data protection directive (and associated regulation), and general consumer-protection legislation. The laws also cover regulations in a number of industries, including the financial services, energy, telecommunications, health and environment sectors. Beyond injunctive relief and compensation, the organisations could pursue other remedies against traders such as replacement, repair or reimbursement. The EU has emphasised that this method of seeking collective redress is deliberately different from the U.S. approach in order to safeguard against frivolous or abusive class actions. The new Directive on representative actions will only apply to alleged infringements that begin after the Directive has been passed.

Commissioner for Justice, Consumers and Gender Equality Věra Jourová stated at the launch:

"In a globalized world where the big companies have a huge advantage over individual consumers we need to level the odds. Representative actions in the European way, will bring fairness to consumers, not more business for law firms. And with stronger sanctions linked to the annual turnover of a company, consumer authorities will finally get teeth to punish the cheaters. **It cannot be cheap to cheat.**"

The announcement marks the start of the legislative process—the European Parliament and Member States must approve the proposed directives. The Commission's stated aim is to secure this approval in the coming year so that the directives are on EU statute books by May 2019. The directives would then need to be implemented by Member States at national level.

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