

### EC collective redress proposal fails to follow its own recommendations against potential abuse

Insurance Europe is concerned about the implications of the European Commission's proposal for a Directive on representative actions for the protection of the collective interests of consumers, which was published yesterday. The proposal would repeal the 2009 Injunctions Directive, and govern how consumers launch collective legal actions against organisations, such as insurers.

William Vidonja, head of conduct of business at Insurance Europe, commented: "While welcoming the Commission's focus on strengthening the enforcement of EU consumer law, it is disappointing that the Commission's own 2013 recommendations, which set out a strong basis to develop collective mechanisms in member states, have not been adhered to.

"In the latest proposals, good principles that the Commission promoted to safeguard against the potential abuse of collective mechanisms — such as that the loser pays the costs of litigation and that consumers should actively choose to participate in collective actions — are compromised."

Ensuring proper safeguards exist is important in light of the proposal's wide-reaching implications. A successful application establishing a breach of EU law covered by the proposal can be relied on in any subsequent redress action.

The Commission's proposals address concerns that collective actions could become investment opportunities for third-party funders with no interest in the outcome of proceedings, other than the return on investment. However, it underestimates the risk that awards can be diverted to third-party funders, instead of to claimants seeking redress.

Without proper safeguards, there could be a proliferation in collective actions motivated by the potential return on investment, rather than the legitimacy of a claim. This could increase business operating costs, to the detriment of both European consumers and insurers.

Vidonja adds: "Insurance Europe is not yet persuaded of the need for such a wide-ranging proposal. This is because many member states have only recently introduced, or are in the process of introducing, collective redress mechanisms. More time is therefore necessary to see how these mechanisms function in different legal systems and how effective the safeguards against possible abuse are."

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#### Notes for editors

1. For further information, or to be added to our mailing list, please contact Richard Mackillican, policy advisor communications & PR (tel: +32 2 894 30 69, [mackillican@insurancееurope.eu](mailto:mackillican@insurancееurope.eu)).
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