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OPINION

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OPINION / FOLLOW UP (discussion paper) TO THE GREEN PAPER ON CONSUMER COLLECTIVE REDRESS

This opinion paper is an answer to the discussion paper concerning the follow up to the green paper on consumer collective redress.

This opinion is an opinion of an individual citizen and does not represent any official position of any official organisation.

Generally speaking consultation of this important matter is highly valuable, and I thank Commission for this opportunity to present this opinion paper.

Annex 1 holds information of copyright, licence and disclaimer.

Best Regards,

Jukka Rannila
citizen of Finland

signed electronically

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Focus of this opinion

This opinion will focus on paragraphs 21-26 (pages 9-10) in the consultation paper ¹.

Identification of a trader

Sometimes it might be hard to define a trader; this means that a trader must have some identification. Normally we speak about traders with their trade name, i.e. name of the company.

However, there are subsidiaries, etc. which are actually independent companies, even though their ownership might be complicated. In Finland we have an identification number for every company (Business Identity Code in Finnish Business Information System ²).

In cross-border trade there should be an unambiguous identification method for companies. If there is not this this identification, it should be possible to make a complaint of missing identification.

In the EU level we have Value added tax Information Exchange System ³ (VIES) where it is possible to assess the validity of the value added tax information.

Proposals

1. In receipts, especially in cross-border trade, there could be both Business Identity Code and Value added tax Information code.
2. If there is not national Business Identity Code in receipts, it should be the basis to make a complaint.

Large amount of consumers

The problem with collective redress is the information distribution of collective action. Like mentioned in the consultation paper, it is even more complicated with cross-border trade. And when there is large amount of consumers, information distribution is even more complicated.

This problem could be partially solved, if there is information centre of ongoing cross-border collective redresses. I do not mean huge high-tech information solution. A simple web site with the list of ongoing and new collective redresses could be a starting point.

Proposal

3. When collective redress is started/initiated, information of that collective

1 The consultation document can be downloaded electronically from the following web site:
http://ec.europa.eu/consumers/redress_cons/collective_redress_en.htm(checked 28 June 2009)
2 <http://www.ytj.fi/english/> (checked 28 June 2009)
3 http://ec.europa.eu/taxation_customs/vies/ (checked 28 June 2009)

redress must be added to EU-wide list of collective redresses.

4. There should be information about legal actions of an individual collective redress; naturally some personal information must be protected.
5. Information of collective redresses should be published in Official Journals or Official Gazettes of member states.

Information distribution problem / Part 1

The information distribution problem still persist, since an individual web page and/or Official Journal will not solve all information distribution problems.

Therefore we have look the mass media for distributing information. The best way of course is that mass media institutions, both for-profit and non-profit, make stories about collective redresses.

However, freedom of speech and journalistic independence must be valued, and mass media institutions can not be forced to make stories about collective redresses. Therefore, there can be list of mass media institutions of member states, and information of collective redresses are provided to them.

Proposal

6. There should be official list of mass media institutions, which will have information about collective redresses.

In practical terms this does not need much effort, since there are unions, associations, etc. for these mass media institutions, and they can provide official lists of mass media institution.

Information distribution problem / Part 2

In practical terms there might be need for publish information in the form of commercials, even though information about collective redress is not a traditional commercial. However, publishing commercials can be costly, especially if there is a lot of consumers to be contacted.

On the other hand it could be said that some collective redresses can have significant social/political/public meaning.

However, freedom of speech and journalistic independence must be valued, and mass media institutions can not be forced to make commercials/announcement about collective redresses.

However, there could be a voluntary procedure, when a mass media institution publishes voluntarily a commercials/announcement about collective redress.

In the ramp-up/rallying phase of a collective redress these voluntary commercials/announcement

about collective redress could be collected, and their monetary value can be collected.

If a collective redress results a solution favourable to consumers in the collective redress, then the mass media institutions, which published a commercials/announcement about collective redress, could have their monetary compensation afterwards.

Once again, freedom of speech and journalistic independence must be valued, and mass media institutions can not be forced to this voluntary procedures. And since mass media institutions are free to make stories about collective redresses, they might not be interested to this voluntary procedure.

But as an idea to distribute information, the proposal of voluntarily a commercials/announcement about collective redress by mass media institutions could be considered.

Proposal

7. There could be official list of mass media institutions, which will have information about collective redresses. (repeat of proposal 6)
8. These mass media institutions can publish commercials/announcements of collective redresses.
9. The monetary value of these published commercials/announcements can be gathered.
10. There might be a limit for monetary valuation for published commercials/announcements.
11. After juridical proceedings, if the case is favourable to consumers, monetary compensations are provided for the mass media institutions.

In practical terms this procedure can be very simple. The collective redress is described in the form of commercial/announcement, and every mass media institution can decide if they publish this commercial/announcement. Then it is easy to calculate monetary compensations based on size and nature of the commercial. And if there is limits, then this even easier.

When thinking freedom of speech and journalistic independence, some collective redresses might have significant social/political/public meaning, and there is wide public interest to follow collective redress in the form of stories. On the other hand, there is a need to publish some very detailed information of the specific collective redress.

With this voluntary procedure it might be possible to balance these principles: freedom of speech, journalistic independence and publication need of collective redress.

Standardisation of forms, etc.

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When information distribution problem is solved somehow, there might be a large amount of consumers – once again. Then there is need to keep consumers informed during a collective redress.

Therefore some parts of the collective redress process should be standardised. In practical terms this means forms to fill, etc. paperwork from the consumer side. With these forms, etc. it is possible to move forward in the collective redress.

Nowadays it is possible to have electronic communications, and consumer in the collective redress can be in electronic information list. However, in the forms there should be possibility to inform, if a consumer wants to be informed in traditional forms, e.g. letters.

Proposal

12. Some of the forms to be used in a collective redress should be standardised beforehand and they should be translated to all official languages of member states.
13. A consumer has to have possibility to electronic and traditional forms of communication during a collective redress.

Thank you

Generally speaking consultation of this important matter is highly valuable, and I thank Commission for this opportunity to present this opinion paper.

Hopefully this opinion can trigger some thinking.

Best Regards,

Jukka Rannila
citizen of Finland

signed electronically

ANNEX 1

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⁴ Based on the Finnish three-party system there is phenomenon called extreme-centre in Finland.