



## Antitrust: Commission welcomes Council adoption of Directive on antitrust damages actions

Brussels, 10 November 2014

The European Commission welcomes today's formal adoption by the EU Council of Ministers of a Commission proposal for a Directive on antitrust damages actions. The Directive will help citizens and companies claim damages if they are victims of infringements of EU antitrust rules, such as cartels or abuses of dominant market positions. Among other things, it will give victims easier access to evidence they need to prove the damage suffered and more time to make their claims. The Directive is designed to achieve a more effective enforcement of the EU antitrust rules overall: it will fine-tune the interplay between private damages claims and public enforcement, and preserve the attractiveness of tools used by European and national competition authorities, in particular leniency and settlement programmes. In April, the European Parliament had already approved a compromise text of the Commission's initial proposal (see [IP/14/455](#) and [MEMO/14/310](#)). The Directive is expected to be formally signed during the Parliament's plenary session at the end of November. Member States will have two years to implement it.

EU Commissioner in charge of competition policy Margrethe Vestager said, "*We need a more robust competition culture in Europe. So I am very glad that the Council has now also formally approved the Directive on antitrust damages actions. I am very pleased that it will be easier for European citizens and companies to receive effective compensation for harm caused by antitrust violations.*"

The EU Court of Justice has acknowledged the right for victims of antitrust infringements to be compensated for the harm suffered. However, due to national procedural obstacles and legal uncertainty, only few victims currently obtain compensation. Moreover, national rules are widely diverging across Europe and, as a result, the chances of victims to obtain compensation greatly depend on which Member State they happen to live in.

Main improvements introduced by the Directive include:

- National courts can order companies to disclose evidence when victims claim compensation. The courts will ensure that such disclosure orders are proportionate and that confidential information is duly protected.
- A final decision of a national competition authority finding an infringement will automatically constitute proof of that infringement before courts of the same Member State in which the infringement occurred.
- Victims will have at least one year to claim damages once an infringement decision by a competition authority has become final.
- If an infringement has caused price increases and these have been "passed on" along the distribution chain, those who suffered the harm in the end will be entitled to claim compensation.
- Consensual settlements between victims and infringing companies will be made easier by clarifying their interplay with court actions. This will allow a faster and less costly resolution of disputes.

Private damages actions before courts and public enforcement of antitrust rules by competition authorities are complementary tools. The Directive seeks to fine-tune the interplay between them and to ensure that while victims are fully compensated, the key role of competition authorities in investigating and sanctioning infringements is preserved. In particular, cooperation between companies and competition authorities under so-called "leniency" programmes plays a key role in detecting infringements. The Directive therefore contains safeguards to ensure that facilitating damages actions does not reduce companies' incentives to cooperate with competition authorities (see [MEMO/14/310](#)).

### Next Steps

The Directive is expected to be formally signed during the Parliament's plenary session at the end of November. It will then be published in the EU Official Journal and enter into force 20 days after its

publication. Member States will have two years to implement it.

The Commission will proactively assist Member States in their implementation efforts. Furthermore, as required by the Directive and to assist national courts and parties to antitrust damages actions, the Commission will draft guidelines on the passing-on of overcharges.

The Commission will review the Directive and submit a report to the Parliament and the Council in six years from the entry into force.

The Commission's 2013 [Recommendation on collective redress](#) also invited Member States to introduce by July 2015 collective actions, including actions for damages, in line with the principles set out in the Recommendation. The availability of collective damages actions is particularly important for consumers harmed by antitrust violations. As the Directive applies to any damages actions in the antitrust field, it applies also to collective actions in those Member States where they are available.

## **Background**

The Directive is based on a proposal submitted by the Commission in June 2013 to the Parliament and the Council (see [IP/13/525](#) and [MEMO/13/531](#)).

After both co-legislators discussed the proposal and suggested amendments, informal meetings between the three institutions (so-called trilogues) were launched in February 2014 to achieve a political compromise. Representatives of the European Parliament and of Member States' governments agreed on a final compromise text at the end of March and the Parliament approved the text in April (see [IP/14/455](#) and [MEMO/14/310](#)).

All language versions of the Directive and other relevant documents are available at <http://ec.europa.eu/competition/antitrust/actionsdamages/documents.html>.

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