

NEON Welcomes the European Commission's Proposal for a Directive on Collective Redress

Brussels, 11 April 2018

NEON, the National Energy Ombudsmen Network, welcomes the Proposal for a Directive on representative actions for the protection of the collective interest of consumers, presented today by the European Commission. By allowing consumers to join up to defend their case collectively before a court, this proposal sets the framework for national legal landscapes allowing for an enhanced cooperation between public interest out-of-court settlement bodies –which are already dealing with cases of mass harm on a daily basis– and the judiciary.

As independent national and regional ombudsmen and mediators, **our members defend consumer interests by rebalancing the relationship between energy consumers and other energy-market actors.** As it stands today, **the Commission proposal would thus allow them to be designated as “qualified entities” by Member States,** allowing them to bring a case to court whenever the mediation process leads to a dead end. We welcome this move, but would like to point out that, for the proposal to be fully effective, **the relationship between courts and public interest out-of-court settlement bodies needs to be further specified** by 1) recognising the decisions or recommendations of public interest out-of-court settlement bodies as irrefutable evidence of an infringement and 2) recognising the role of national and regional ombudsmen and mediators as bodies qualified to help contending parties reach an agreement.

By being accountable to publicly elected representatives and by representing the public interest, our members lend the voice of consumers and companies equal weight when resolving disputes, thus ensuring their independence and providing a highly valued and rarely contested service. Their decisions are based on legal and technical know-how and high service standards in compliance with EU and national law. **The decisions or recommendations taken by independent not-for-profit national and regional ombudsmen and ADR bodies should therefore be considered irrefutable evidence of an infringement harming collective interests of consumers.**

Regarding (out-of-court) settlement, our members have both the legal and technical expertise and the required independence to help contending parties reach an agreement. **A reference to national and regional out-of-court settlement bodies would therefore lend additional legal certainty to the parties** and avoid a case being heard twice by different entities providing Alternative Dispute Resolution (ADR) services.

Out-of-court mediation and alternative dispute resolution mechanisms have been recognised as efficient means of protecting and enforcing collective consumer rights and interests; however, in order to be fully effective, they need to be inserted in a **coherent legal framework ensuring that national and regional ombudsmen and mediators, ADR bodies, regulators, public authorities, consumer organizations and the courts work together to achieve the same goals.** In addition, **independent national and regional mediation services and ombudsmen need to be empowered through capacity building activities and funding.** By fostering the empowerment of independent national and regional mediation services and ombudsmen, the proposal presented today is thus a welcome milestone in creating a common European framework for the protection and enforcement of consumer rights.

While we also globally welcome the proposal on a Directive on better enforcement and modernisation of EU consumer protection rules, we regret its proposed modifications to **the information requirements related to the complaint handling process of the trader and the contact information of the trader, which may potentially make it more difficult for consumers to complain.** Finally, we fear that some modifications to the articles on the right of withdrawal from a contract will lead to unnecessary legal uncertainty and create potential conflicts related to their interpretation. This may be harmful both for consumers and for traders.

About NEON:

NEON, the National Energy Ombudsmen Network, is an independent, not-for-profit network made up of national and regional ombudsmen and mediation services active in the energy sector. Our members are accountable to publicly elected representatives and work to protect the public interest in energy markets.

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