

**Neelie Kroes**

European Commissioner for Competition Policy

## **White Paper on Antitrust Damages Actions.**

Check Against Delivery  
Seul le texte prononcé fait foi  
Es gilt das gesprochene Wort

Legal Affairs Committee, European Parliament

**Brussels, 4<sup>th</sup> November 2008**

Honorable members,

I am glad to be here at the Committee on Legal Affairs to discuss the White Paper on antitrust damages actions.

I was pleased to hear that during the first Parliament committee meetings it was widely recognised that we have now moved past the question of "*should* we do something" about the injustices that victims of competition breaches are facing to *how* we can make antitrust damages actions most effective. I would also like to thank especially the Rapporteur, Mr Speroni, for his work on the draft opinion, and I look forward to discussing this important issue with you this afternoon

The contributions of the European Parliament to this debate are very important to me.

Relying on the valuable inputs from the European Parliament's report on the Green Paper, the Commission has made great efforts to strike the right balance. A balance between improving compensation for victims, and avoiding unmeritorious litigation.

As you have seen, we were very careful in the White Paper not to import any dangerous elements of the US-system and to instead offer a European model.

In our analysis of the 170 public submissions, we have noted that most of the respondents to the White Paper have acknowledged that something needs to be done, and that businesses and consumers who suffered a breach of antitrust rules can no longer wait to obtain redress.

Consumers, but also several business associations and companies, have welcomed our proposals: it must be borne in mind that businesses, whether they are small, medium or large, are also entitled to redress. By the way not surprising, that it is mainly SMEs, the backbone of our economy and job market, which are affected. They often operate in highly competitive or difficult markets, and any extra cost or charge resulting from competition law infringements upstream may have to be absorbed by the company. This is why the Commission also focuses on SMEs in its White Paper, for example as regards collective redress or the passing-on issue.

Of course not all respondents support our initiative. Some of the specific proposals in the White Paper met with a certain degree of criticism. I would like to take this opportunity to address some of these comments, and some of the points that emerged during the first exchange of views here in the European Parliament.

Many respondents, and some of the honourable Members of this Committee, have asked the Commission to clarify the relationship between the White Paper's proposal on collective redress, and the wider initiative of Commissioner Kuneva. I have also often been asked why we are opting for a sectoral approach. I want to reassure you that I have worked closely and I am in regular contact with Commissioner Kuneva, and I believe there must be consistency in the Commission's initiatives concerning collective redress mechanisms. This goes without saying.

But the need for consistency does not necessarily mean that there must be one single instrument, and it certainly cannot be an excuse for not doing anything at all, or for having unreasonable delays.

Competition cases are indeed very complicated, because they often involve complex economic analysis. This makes it even more difficult for a victim to satisfy the very high burden of proof imposed upon him. And let's not forget that competition infringements often produce damages that are scattered across the whole economy. It is easy to understand why it then becomes so difficult, costly and sometimes even impossible for consumers and businesses to recover their losses.

This specific situation requires specific solutions: this is why the White Paper puts forward a set of specific measures on collective redress, open both to consumers and to SMEs.

Some respondents have also argued that because some Member States are already in line with several of the proposals of the White Paper, this initiative at Community level is not necessary.

We of course welcome all developments in Member States, and the measures we propose in the White Paper are inspired by their experience. But is it acceptable that the right to compensation, recognised by the Treaty, is effectively available to only some EU citizens? I believe that compensation should be an effective right for all victims across Europe.

This is our objective, and I believe we should continue working towards it.

I would like to thank you again for inviting me here today, and I am looking forward to your final report on the White Paper.

It is clear that we cannot stop now. The lack of effective instruments for obtaining compensation is currently costing consumers and businesses up to 20 billion euros per year. We cannot wait any longer, or European citizens will hold us responsible: civil justice for victims of antitrust infringements must become a reality.