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POSITION PAPER

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EC CONSULTATION

“Towards a Coherent European Approach to Collective Redress”

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The European Council for Motor Trades and Repairs – CECRA - is a European federation bringing together 23 national professional associations representing the interests of motor trade and repair businesses and 15 European Dealer Councils on behalf of vehicle dealers for specific makes.

CECRA represents on a European scale:

- 380,000 enterprises of motor trade and repair businesses, of which 120,000 are authorized dealers and repairers with a contractual relationship with a vehicle manufacturer/importer (71,000 of which are selling and repairing vehicles, 42,000 only repairing and 7,000 are selling spare parts) and 260,000 independent repairers.
- Our members (sales and services) employ about 2.8 million people (of which 1.55 million are employed by authorized dealers, 1.15 million by independent repairers and 0.15 million in the distribution of spare parts). It represents 25% of the jobs in the entire automotive sector.
- The turnover of sales and service of vehicles is larger than that of the manufacturing industry and amounts to 800 billion € of which 630 billion € is from sales of new and used vehicles, 80 billion € for repair and maintenance and 90 billion € for sales of spare parts.
The net profit before tax was between 0.0 - 0.5% of the turnover in 2009.
- 12,000 motorcycle dealers with 81,000 employees and approx. 13.1 billion € turnover.
- 110,000 fuel businesses with 440,000 employees and approx. 250 billion € turnover.

The main aim of CECRA is to promote the interests of its members and above all maintain a favorable European regulatory framework for the 380,000 enterprises of motor trade and repair businesses it represents through national associations and European Dealer Councils.

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CECRA's answers to the questions asked in the public consultation paper

NB Please note that our French member CNPA does not agree with all the points and may therefore express other views regarding this dossier.

Q 1: It is a good point to introduce a mechanism of collective redress because it favours the access to justice for our members, dealers and independent repairers. It will reduce costs and make it easier to lodge a complaint.

Attention should be kept not to obtain a system where consumers would be encouraged, in an easy and quick way, to bundle their claims against our members who are in most of the cases intermediaries between the consumers and the manufacturers/importers.

Q 2: A private law claim for damage can never replace a public law possibility to maintain rules. The different aims between private en public law should not be mixed.

Q 3: If one chose to strengthen the role of national public bodies and/or private representative organisations in the enforcement of EU law, one should check the representativeness of the association that purchases damage claims.

Q 4: The principle of subsidiarity must in any case be respected and the more important initiatives could be taken in the areas under the Commission's competence.

Q 6: Both approaches have their advantages and disadvantages. In our sector we are confronted with unbalanced relationships between our members (dealers and independent repairers) and their manufacturer (car and truck brands). Since more than one year we are trying to agree on a code of conduct with minimum protection rules replacing the art. 3 of the BER 1400/2002 without success until now. The Commission could indeed elaborate non-binding rules which could serve as examples of good practices. In addition the enforcement of these rules is not so obvious, for instance in our sector we should include these measures in our contracts, because otherwise they will not bind the manufacturer.

Q 7: Yes. In any case there should be enough guarantees in order to avoid "claim-culture".

Q 8: Yes. In any case there should be enough guarantees in order to avoid "claim-culture".

Q 9: It is up to the national countries to make access to justice more or less easy and costly for the citizens.

Q 11: CECRA is of the opinion that the most important points in the collective redress system are that they reduce the length and costs of litigations both for the consumers and the SMEs. This point is of great importance for our members composed by majority of SMEs (See presentation of CECRA page 2).

Q 12: To avoid lengthy and costly litigations it is necessary that collective redress procedures should be simple, easy and less costly as possible; otherwise it will help neither the consumer nor the business.

Q 13: It belongs to the responsibility of member states to inform citizens about their rights and obligations.

Q 14: through the principle of mutual recognition these organisations should have the possibility to lodge a cross-border claim. Moreover various national entities could co-operate together.

Q 15: A good and open articulation of certain problems requesting a solution, could contribute to a solution via ADR. Long lasting legal procedures are for neither of the involved parties an attractive perspective, as experiences in the US are demonstrating.

Q 16: Yes

Q 17: Yes, by a fair balance between representatives of the business and consumer.

Q 18: Yes

Q 19: None

Q 20: The costs of the procedures and the risks in case of failure are to be well balanced.

Q 21: Yes because it guarantees that no unfunded claims are introduced.

Q 22: Only representative organisations should be allowed to bring a collective redress action. Yes the right to bring a collective redress action should be reserved for certain entities. Those entities have to fulfil representativeness requirements such as that they are standing up for the majority of stakeholders and that their representativeness should be evaluated according to their activities in the past.

Q 26: Through insurance companies.

Q 27: The costs of proceedings should indeed be recovered from the losing party.

Q 29 to 31: Unknown.

Q 32: No

Q 33 and 34: To be analysed in function of the principle of subsidiarity.



CECRA, established in 1983, is THE European Federation consisting of 23 national professional associations representing the interests of the Motor Trade and Repair Businesses and 15 European Dealer Councils. In figures CECRA represents all the more than 380,000 automotive enterprises in the EU, of which 120,000 are Authorized Dealers and Repairers and some 260,000 Independent Repairers. They employ 2.8 million people.